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9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
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Federal Register

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

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AG29

Small Business Size Standards; Educational Services; Correction

AGENCY: U.S. Small Business Administration.

ACTION: Correcting amendment.

SUMMARY: This document corrects the U.S. Small Business Administration's (SBA) final rule that appeared in the **Federal Register** on Monday, September 24, 2012. The rule, effective October 24, 2012, increased small business size standards for nine industries in North American Industry Classification System (NAICS) Sector 61, Educational Services, while retaining the existing size standards for the remaining eight industries and the Job Corps Centers exception under NAICS 611519, Other Technical and Trade Schools, within that Sector. However, the Job Corps Centers exception and its size standard were deleted in error from SBA's table of size standards. This correction reinstates the Job Corps Centers exception under NAICS 611519 and its $35.5 million size standard.

DATES: Effective June 17, 2013 and is applicable beginning October 24, 2012.

FOR FURTHER INFORMATION CONTACT: Khem Sharma, Chief, Office of Size Standards, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

SUPPLEMENTARY INFORMATION: In FR Doc. 2012–23373, appearing on page 58739 in the September 24, 2012 issue of the **Federal Register** (77 FR 58739) a correction is necessary on page 58746. Specifically, SBA increased the size standard for NAICS 611519 from $7 million to $14 million in average annual receipts but retained the $35.5 million size standard for the Job Corps Centers exception to that industry. The supplementary information in the final rule provided a detailed explanation of why SBA was retaining its current $35.5 million size standard for the Job Corps Centers exception. However, the Job Corps Centers exception to NAICS 611519 and its size standard were deleted in error from SBA's table of size standards in 13 CFR 121.201.

Need for Correction

This action is needed to correct the table in 13 CFR 121.201 by reinstating the Job Corps Centers exception under NAICS 611519 and its corresponding $35.5 million size standard. As published, the final rule and CFR can lead a reader to conclude incorrectly that SBA deleted the Job Corps Centers exception and its $35.5 million size standard from SBA's table of size standards. SBA had explained in the final rule why it was retaining the existing $35.5 million size standard for Job Corps Centers instead of changing it. When the rule was published in the **Federal Register**, the entry for ''611519'' was revised, with no change to the $35.5 million size standard for the Job Corps Centers exception under that entry. However, this appears to have been read as the removal of Job Corps Centers exception and its $35.5 million size standard, resulting in their deletion from the table in 13 CFR 121.201.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Individuals with disabilities, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth in the preamble, SBA amends 13 CFR part 121 by making the following correcting amendment:

PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 1. The authority citation for part 121 is revised to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 662, 694a(9).

■ 2. In § 121.201, in the table, revise the entry for ''611519'' to read as follows:

§ 121.201 What size standards has SBA identified by North American Industry Classification System codes?

* * * * *

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY

NAICS Code	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
*	* * * *	*	*
611519	Other Technical and Trade Schools	$14.0	
Except,	Job Corps Centers [16]	[16] 35.5	
*	* * * *	*	*

* * * * * * *

[16] *NAICS codes 611519*—Job Corps Centers. For classifying a Federal procurement, the purpose of the solicitation must be for the management and operation of a U.S. Department of Labor Job Corps Center. The activities involved include admissions activities, life skills training, educational activities, comprehensive career preparation activities, career development activities, career transition activities, as well as the management and support functions and services needed to operate and maintain the facility. For SBA assistance as a small business concern, other than for Federal Government procurements, a concern must be primarily engaged in providing the services to operate and maintain Federal Job Corps Centers.

* * * * *

Dated: June 11, 2013.

Calvin Jenkins,

Deputy Associate Administrator for Government Contracting and Business Development.

[FR Doc. 2013–14263 Filed 6–14–13; 8:45 am]

BILLING CODE 8205–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE308; Special Conditions No. 23–248–SC]

Special Conditions: Cirrus Design Corporation Model SF50 Airplane; Function and Reliability Testing; Withdrawal

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; withdrawal.

SUMMARY: The FAA is withdrawing a previously published notice granting special conditions for the Cirrus Design Corporation model SF50 airplane. We are withdrawing Special Condition No. 23–248–SC through mutual agreement with Cirrus Design Corporation.

DATES: This special condition published on August 18, 2010 at 75 FR 50853 is withdrawn, effective June 17, 2013.

FOR FURTHER INFORMATION CONTACT: J. Lowell Foster, Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, 901 Locust, Room 301, Kansas City, MO 64106; telephone (816) 329–4125; facsimile (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Background

On August 18, 2010, the FAA published Special Condition No. 23–248–SC for the Cirrus Design Corporation new model SF50 ''Vision'' Jet. The SF50 is a low-wing, five-plus-two-place (2 children), single-engine turbofan-powered aircraft. It incorporates an Electronic Flight Information System (EFIS), pressurized cabin, retractable gear, and a V-tail. The turbofan engine is mounted on the upper fuselage/tail cone along the aircraft centerline. It is constructed largely of carbon and fiberglass composite materials. Like other Cirrus products, the SF50 includes a ballistically deployed airframe parachute.

The model SF50 has a maximum operating altitude of 28,000 feet, where it cruises at speeds up to 300 Knots True Air Speed (KTAS). Its M_{MO} will not exceed 0.62 Mach. The maximum takeoff weight will be at or below 6000 pounds with a range at economy cruise of roughly 1000 nm. Cirrus intends for the model SF50 to be certified for single-pilot operations under 14 CFR part 91 and 14 CFR part 135 operating rules. The following operating conditions will be included:

- Day and Night VFR
- IFR
- Flight Into Known Icing

Discussion

Before Amendment 3–4, Section 3.19 of Civil Air Regulation (CAR) part 3 required service testing of all airplanes type certificated on or after May 15, 1947. The purpose of the testing was to ''ascertain whether there is reasonable assurance that the airplane, its components, and equipment are reliable, and function properly.''

Amendment 3–4 to CAR part 3 became effective January 15, 1951, and deleted the service test requirements in Section 3.19 for airplanes of 6,000 pounds maximum weight or less. The introductory text published in Amendment 3–4 explained that most of the significant changes in the amendment stemmed from ''the desire for simplification of the rules in this part with respect to the smaller airplanes, specifically those of 6,000 pounds maximum weight or less, which would be expected to be used mainly as personal airplanes.'' The introductory material also stated the service test requirement was removed for airplanes of 6,000 pounds maximum weight or less because ''experience seems to indicate that this rule imposes a burden upon the manufacturers not commensurate with the safety gained.'' The requirement for Function and Reliability (F&R) testing, and the exception for airplanes of 6,000 pounds or less maximum weight, is now found in 14 CFR part 21, section 21.35(b)(2).

The decision to exempt airplanes of 6,000 pounds maximum weight or less from F&R testing was based on the state of technology envisioned in 1951. At that time, airplanes of 6,000 pounds maximum weight or less were expected to be used mainly as personal airplanes. They used simple, ''stand-alone'' systems whose failure was more likely to be an inconvenience than an accident. The situation is different today. Technological advances allow airplanes weighing less than 6,000 pounds to be more complex and integrated than some transport airplanes. New part 23 airplanes can incorporate sophisticated equipment not previously used in a part 23 aircraft. Additionally, part 23 airplanes are being used for business and commercial transportation. They should no longer be envisioned mainly as personal airplanes. Therefore, a special condition to require F&R testing for airplanes weighing 6,000 pounds or less is needed where the level of sophistication is beyond evaluating failures by inspection.

The model SF50 certification project was granted an extension on September 19, 2011. 14 CFR part 21, Amendment 95, published in the **Federal Register** (76 FR 64229) on October 18, 2011, incorporated Special Condition No. 23–248–SC. On December 11, 2012, Cirrus Design Corporation elected to adjust the model SF50 certification basis to Amendment 21–95.

Reason for Withdrawal

The FAA is withdrawing Special Condition No. 23–248–SC because Cirrus elected to revise the model SF50 certification basis to Amendment 21–95.

The authority citation for this Special Condition withdrawal is 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.17; and 14 CFR 11.38 and 11.19.

Conclusion

Withdrawal of this special condition does not preclude the FAA from issuing another notice on the subject matter in the future or committing the agency to any future course of action.

Issued in Kansas City, Missouri on June 7, 2013.

Earl Lawrence,

Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–14327 Filed 6–14–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2013–0453; Special Conditions No. 25–489–SC]

Special Conditions: The Boeing Company, Model 717–200 Series Airplanes; Seats With Inflatable Lapbelts

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Special Condition; Request for Comments.

SUMMARY: These special conditions are issued for the Boeing Model 717–200 series airplanes. These airplanes will have a novel or unusual design feature

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

DATES: The effective date of these special conditions is June 12, 2013. We must receive your comments by August 1, 2013.

ADDRESSES: Send comments identified by docket number FAA–2013–0453 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.

Mail: Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

Hand Delivery or Courier: Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 8 a.m. and 5 p.m., Monday through Friday, except federal holidays.

Fax: Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/*, including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Alan Sinclair, FAA, Airframe and Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2195; facsimile 425–227–1232.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice of, and opportunity for prior public comment on, these special conditions are unnecessary because the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

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

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

Background

Model 717–200 Series Airplanes

On January 15, 2013, The Boeing Company (referred to as ''Boeing'' after this point) applied for a change to Type Certificate No. A6WE to install inflatable lapbelts on Boeing Model 717–200 series airplanes. The Model 717–200 series airplanes are narrow body airplanes with twin-jet rear-mounted engines. They are equipped with two Rolls-Royce Deutschland Ltd & Co KG BR700–715A1–30 or BR700–715C1–30 engines. The maximum takeoff weight is 121,000 pounds/154,885 kilograms. They have a 134 passenger and 6 crew member capacity.

The Model 717–200 series airplanes will use inflatable lapbelts, which are designed to limit the forward excursion of occupants in the event of an accident. This will reduce the potential for head injury, thereby reducing the head injury criteria (HIC) measurement. Inflatable lapbelts behave similarly to automotive inflatable airbags, but in these airplanes, the airbags are integrated into the lapbelts and they inflate away from the seated occupants. While inflatable airbags are now standard in the automotive industry, the use of inflatable lapbelts is novel for commercial aviation.

Regulatory Requirements Applicable to Model 717–200 Series Airplanes

Title 14, Code of Federal Regulations (14 CFR) 121.311(j) requires that no person may operate a transport category airplane type certificated after January 1, 1958, and manufactured on or after October 27, 2009, in passenger-carrying operations, after October 27, 2009, unless all passenger and flight attendant seats on an airplane operated under part 121 rules meet the requirements of § 25.562 in effect on or after June 16, 1988.

The Boeing Model 717–200 series airplanes are required to show compliance with certain aspects of § 25.562 as specified per Type Certificate Data Sheet (TCDS) A6WE. But Boeing Model 717–200 series airplanes manufactured on or after October 27, 2009, operated under part 121 must meet all of the requirements of § 25.562 for passenger and flight attendant seats. Thus, it is in the interest of installers to show full compliance to § 25.562, so that an operator under part 121 may be able to use the airplanes without having to do additional certification work. Also, some foreign civil airworthiness authorities have invoked these same operator requirements in the form of airworthiness directives.

Section 25.785 requires that occupants be protected from head injury by either ensuring that any object that could injure them is outside the striking radius of their heads or adding padding. Traditionally, this has required seats to be set back so that occupants' heads are 35 inches from any bulkhead or other rigid interior feature. If this is not practical, specified types of padding must be added. The relative effectiveness of these means of injury protection was not quantified. Amendment 25–64 to 14 CFR part 25, specifically § 25.562, created a new standard that quantifies required head injury protection.

Section 25.562 requires that for seat and restraint systems, applicants must use dynamic tests or analysis to demonstrate that persons do not suffer serious head injury under specific conditions. Section 25.562 also requires that protection must be provided or the seat must be designed so that the head impact does not exceed a HIC of 1,000 units. While the test conditions described for HIC are detailed and specific, it is the intent of the requirement that an adequate level of head injury protection be provided for passengers in a severe crash.

Because §§ 25.562 and 25.785 and associated guidance do not adequately

address seats with inflatable lapbelts, the FAA recognizes that appropriate pass/fail criteria need to be developed that do fully address the safety concerns specific to occupants of these seats.

Advantages of Inflatable Lapbelts

Inflatable lapbelts have two potential advantages over other means of head-impact protection. First, they can provide significantly greater protection than energy-absorbing pads, and, second, they can provide essentially equivalent protection for all occupants, regardless of stature. These are significant advantages from a safety standpoint, because inflatable lapbelts will likely provide a level of safety that exceeds the minimum standards of the Code of Federal Regulations. Conversely, inflatable lapbelts in general are active systems and must be relied upon to activate properly when needed, as opposed to energy-absorbing pads or upper torso restraints that are passive and always available. Therefore, the potential advantages must be balanced against this and other potential disadvantages to develop standards for this design feature.

Unique Concerns for Inflatable Lapbelts in Airplanes

While the automotive industry has extensive experience demonstrating the benefits of using inflatable airbags, the airplane environment presents unique and additional challenges. From the standpoint of a passenger safety system, inflatable lapbelts are unique in that they are both active and entirely autonomous devices. In automobiles, airbags are a supplemental system and work in conjunction with upper torso restraints. In airplanes, inflatable lapbelts are the sole means of injury protection for occupants, i.e., they are not used in conjunction with additional restraints. In addition, automobile crash events have more definable beginnings and ends, and they do not typically last as long as aviation crash events, which can simplify the activation logic.

The airplane-operating environment is also quite different from that of automobiles in terms of both the interior design and the exterior environment in which the airplane operates. Airplane cabin furnishings potentially receive greater wear and tear and unanticipated abuse conditions (for example, because of galley loading and damage from passenger baggage). Airplanes also operate at altitudes where exposure to high-intensity radiomagnetic fields (HIRF) could affect the lapbelts' activation system.

The FAA considers inflatable lapbelts to have two primary safety concerns: first, that they perform properly under foreseeable operating conditions, and second, that they do not perform (i.e., activate) in a manner or at times that would result in a hazard to the airplane or occupants. This latter point has the potential to be the more rigorous of the requirements, owing to the active nature of the system. The discussion below addresses how these special conditions address the specific issues raised by these two general concerns.

Type Certification Basis

Under the provisions of § 21.101 Boeing must show that the Model 717–200 series airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A6WE or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate No. A6WE are as follows: part 25 of the Federal Aviation Regulations as amended by Amendments 25–1 through 25–82, except where superseded. The U.S. type certification basis for the Model 717–200 series airplanes is established in accordance with 14 CFR 21.29 and 21.17 and the type certification application date. The U.S. type certification basis is listed in Type Certificate No. A6WE.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing Model 717–200 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

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

In addition to the applicable airworthiness regulations and special conditions, the Model 717–200 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.101.

Novel or Unusual Design Features

The Boeing Model 717–200 series airplanes will incorporate the following novel or unusual design features: inflatable lapbelts on certain seats of the Model 717–200 series airplanes to reduce the potential for head injury in the event of an accident. Inflatable lapbelts work similarly to automotive airbags, except the airbags are integrated with the lapbelts of the restraint system.

The CFR states the performance criteria for head injury protection in objective terms. However, none of these criteria are adequate to address the specific issues raised concerning seats with inflatable lapbelts. The FAA has therefore determined that, in addition to the requirements of part 25, special conditions are needed to address requirements particular to installation of seats with inflatable lapbelts.

Accordingly, in addition to the passenger injury criteria specified in § 25.785, these special conditions are proposed for the Boeing Model 717–200 series airplanes equipped with inflatable lapbelts. Other conditions may be developed, as needed, based on further FAA review and discussions with the manufacturer and civil aviation authorities.

Discussion

The FAA considers inflatable lapbelts to have two primary safety concerns: first, that they perform properly under foreseeable operating conditions, and second, that they do not perform (i.e., activate) in a manner or at times that would result in a hazard to the airplane or occupants.

Effective for Wide Range of Occupants

Inflatable lapbelts should be effective for a wide range of occupants. The FAA has historically considered the range from the fifth percentile female to the ninety-fifth percentile male as the range of occupants that must be taken into account. In this case, the FAA is proposing consideration of a broader range of occupants, due to the nature of the lapbelt installation and its close proximity to the occupant. In a similar vein, these persons could have assumed the brace position for accidents in which an impact is anticipated. Test data indicate that occupants in the brace position do not require supplemental protection, and so it would not be necessary to show that inflatable lapbelts will enhance the brace position.

However, the inflatable lapbelts must not introduce any hazards when they deploy into seated, braced occupants.

Another area of concern is children in these seats whether lap-held, in approved child safety seats, or occupying the seat directly. Although specifically prohibited by the FAA operating regulations, the use of the supplementary loop belt (''belly belt'') may be required by other civil aviation authorities, and should also be considered with the end goal of meeting those regulations. Similarly, if the seat is occupied by a pregnant woman, the installation needs to address such usage, either by demonstrating that it will function properly, or by adding appropriate limitation on usage.

No Resulting Hazards From Proper Functioning

To be an effective safety system, inflatable lapbelts must function properly and must not introduce any additional hazards to occupants as a result of their functioning. There are several areas where inflatable lapbelts differ from traditional occupant protection systems and require special conditions to ensure adequate performance.

Inflatable lapbelts are essentially single-use devices. As a result, they could potentially deploy under crash conditions that are not sufficiently severe as to require head injury protection from the inflatable lapbelts. Since crashes are frequently composed of a series of impacts before the airplane comes to rest, if a larger impact follows the initial impact, the inflatable lapbelts could be rendered useless. Other safety devices such as energy absorbing pads or upper torso restraints tend to provide continuous protection regardless of severity or number of impacts in a crash event. Therefore, the inflatable lapbelts should provide protection when required and they should not expend their protection during a less severe impact. Also, it is possible to have several large impact events during the course of a crash, but there will be no requirement for the inflatable lapbelts to provide protection for multiple impacts.

Each occupant's restraint system is designed to provide protection for only that occupant. However, unoccupied seats that may have active lapbelts are also a concern. It will be necessary to show that the required protection is provided for each occupant, regardless of the number of occupied seats.

Impact on Egress

Since the inflatable lapbelts likely have a large volume displacement, the inflated bags could potentially impede egress of passengers. Since the bags deflate to absorb energy, it is likely that the inflatable lapbelts would be deflated at the time that persons would be trying to leave their seats. Nonetheless, it is appropriate to specify a time interval after which the inflatable lapbelts may not impede rapid egress. Ten seconds has been chosen as a reasonable time, since this corresponds to the maximum time allowed for an exit to be opened (in accordance with § 25.809). In actuality, it is unlikely that a flight attendant would be able to prepare an exit this quickly, especially in an accident that is severe enough to deploy the inflatable lapbelts. Furthermore, the inflatable lapbelts will likely deflate much more quickly than ten seconds.

It is even more critical that the inflatable lapbelts do not impede rapid egress in the emergency exit row seats. Section 25.813 clearly requires that there must be an unobstructed passageway from the main aisle to the exit and that there must be no interference in opening the exit. The restraint system must not impede access to and the opening of the exit. In some cases, such as a Type III over-wing hatch, a passenger is the one who will open the exit. These lapbelts should be evaluated in the exit row under existing regulations (§§ 25.809 and 25.813) and guidance material. The inflatable lapbelts must also be evaluated in post-crash conditions. They should be evaluated using representative restraint systems in the bag deployed condition.

This evaluation includes reviewing the access to and opening of the exit, specifically looking for obstructions in the egress path and any interference in opening the exit. Each unique interior configuration must be considered (e.g., passageway width and single, or dual passageways with the outboard seat removed). If restraints create any obstruction or interference, they could impede rapid egress. If these restraint systems are installed at exit door rows, it is likely that project-specific guidance will be necessary.

Availability When Needed

These special conditions include requirements to ensure that inflatable lapbelts operate in the aviation environment. These special conditions also incorporate requirements to ensure that the inflatable lapbelts are protected from HIRF and meet the requirements of § 25.1316. Existing regulations regarding lightning, § 25.1316, and the existing HIRF special condition for the Boeing Model 717–200 series aircraft, Special Conditions No. 25–ANM–60 (57 FR 34511, August 5, 1992), are also applicable.

Since inflatable lapbelts will be electrically powered, the system could possibly fail if the fuselage separates. Since this system is intended as crash/post-crash protection means, failure due to fuselage separation is not acceptable. As with emergency lighting, the system should function properly if such a separation occurs at any point in the fuselage. Inflatable lapbelts will rely on electronic sensors for signaling and pyrotechnic charges for activation so that they are available when needed.

Prevention of Inadvertent Activation

Inflatable lapbelts could be susceptible to inadvertent activation, causing them to deploy in a potentially unsafe manner. The consequences of such deployment must be considered in establishing the reliability of the system. Therefore, Boeing must substantiate that if the lapbelts inadvertently deploy, they will not create a hazard to the airplane. If this cannot be substantiated, then Boeing must demonstrate that inadvertent deployment is an extremely improbable occurrence (i.e., less than 10^{-9} per flight hour). Also, if the lapbelts are inadvertently deployed, the effects on passengers or crew members who are standing or sitting close by should also be considered. A minimum reliability level will have to be established for this case, depending upon the consequences, even if the effect on the airplane is negligible.

In-service and outside environmental conditions could increase the potential for inadvertent activation. The cumulative effects of wear and tear must also be considered so that it does not increase the likelihood of an inadvertent deployment to an unacceptable level. To mitigate the effects of such cumulative damage, it is necessary to develop an appropriate inspection interval and self-test capability. Environmental conditions, such as lightning and HIRF, could potentially affect inflatable lapbelt systems. To demonstrate compliance in such conditions, it is first necessary to determine whether the lapbelts are critical or essential systems. If inadvertent deployment could cause a hazard to the airplane, inflatable lapbelts are considered a critical system; if inadvertent deployment could cause injuries to persons, the inflatable lapbelts are considered an essential system. Finally, the inflatable lapbelt installation should be protected from the effects of fire, so, for example, a rupture of the pyrotechnic squib does not create an additional hazard.

Flammability

Special Conditions No. 25–187–SC (66 FR 52017, October 12, 2001) issued

for the Boeing Model 777 series airplanes was the first special conditions to address flammability of the airbag material. The Boeing Model 717–200 series airplanes will use the similar airbag material in their inflatable lapbelts. During the development of inflatable lapbelts, the manufacturer was unable to develop a fabric that would meet the inflation requirements for the bag and the flammability requirements of part I(a)(1)(ii) of appendix F to part 25. The fabrics that were developed that meet the flammability requirement did not produce acceptable deployment characteristics. However, the manufacturer was able to develop a fabric that meets the less stringent flammability requirements of part I(a)(1)(iv) of appendix F to part 25 and has acceptable deployment characteristics.

Part I of appendix F to part 25 specifies the flammability requirements for interior materials and components. Appendix F does not explicitly reference inflatable restraint systems, because they did not exist when the flammability requirements were written. The existing requirements are based on both material types, as well as use, and have been specified in light of the state-of-the-art materials available to perform a given function. In the absence of a specific reference, the default requirement would be for the type of material used to construct the inflatable restraint, which is a fabric in this case. However, in issuing special conditions, the FAA must also consider the use of the material and whether the default requirement is appropriate. In this case, the specialized function of the inflatable restraints means that highly specialized materials are needed.

The standard normally applied to fabrics is a 12-second vertical ignition test. However, materials that meet this standard do not perform adequately as inflatable restraints. Since the safety benefits of the inflatable restraints are very significant, the flammability standard appropriate for these devices should not screen out suitable materials, thereby effectively eliminating use of inflatable restraints. The FAA will need to establish a balance between the safety benefit of the inflatable restraints and flammability performance. At this time, the 2.5-inch per minute horizontal test is considered to provide that balance. As materials standards and technology change (which is expected), the FAA may change this standard in subsequent special conditions to account for improved materials.

As discussed previously, the following special conditions can be characterized as addressing either the safety performance of the system or the system's integrity against inadvertent activation. Because a crash requiring use of the inflatable lapbelts is a relatively rare event, and because the consequences of an inadvertent activation are potentially quite severe, these latter requirements are probably the more rigorous from a design standpoint.

Finally, it should be noted that the special conditions are applicable to the inflatable lapbelt system as installed. The special conditions are not an installation approval. Therefore, while the special conditions relate to each such system installed, the overall type certificate or supplemental type certificate approval is a separate finding and must consider the combined effects of all such systems installed. For the reasons discussed above, these special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Model 717–200 series airplanes. Should Boeing apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

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

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

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Boeing Model 717–200 series airplanes equipped with inflatable lapbelts.

1. Seats with Inflatable Lapbelts. It must be shown that the inflatable lapbelt will deploy and provide protection under crash conditions where it is necessary to prevent serious head injury. The means of protection must take into consideration a range of stature from a two-year-old child to a ninety-fifth percentile male. The inflatable lapbelt must provide a consistent approach to energy absorption throughout that range of occupants. In addition, the following situations must be considered:

a. The seat occupant is holding an infant.

b. The seat occupant is a child in a child restraint device.

c. The seat occupant is a child not using a child restraint device.

d. The seat occupant is a pregnant woman.

2. The inflatable lapbelt must provide adequate protection for each occupant regardless of the number of occupants of the seat assembly, considering that unoccupied seats may have active seatbelts.

3. The design must prevent the inflatable lapbelt from being either incorrectly buckled or incorrectly installed such that the inflatable lapbelt would not properly deploy. Alternatively, it must be shown that such deployment is not hazardous to the occupant, and will provide the required head injury protection.

4. It must be shown that the inflatable lapbelt system is not susceptible to inadvertent deployment as a result of wear and tear, or inertial loads resulting from in-flight or ground maneuvers (including gusts and hard landings), and other operating and environmental conditions (vibrations, moisture, etc.) likely to be experienced in service.

5. Deployment of the inflatable lapbelt must not introduce injury mechanisms to the seated occupant, or result in injuries that could impede rapid egress. This assessment should include an occupant who is in the brace position when it deploys and an occupant whose belt is loosely fastened.

6. It must be shown that inadvertent deployment of the inflatable lapbelt, during the most critical part of the flight, will either not cause a hazard to

the airplane or its occupants, or it meets the requirement of § 25.1309(b).

7. It must be shown that the inflatable lapbelt will not impede rapid egress of occupants 10 seconds after its deployment.

8. The system must be protected from lightning and high intensity radiomagnetic fields (HIRF). The threats specified in existing regulations regarding lightning, § 25.1316, and existing HIRF special conditions for the Boeing Model 717–200 series airplanes, Special Conditions No. 25–ANM–60, are incorporated by reference for the purpose of measuring lightning and HIRF protection.

9. Inflatable lapbelts, once deployed, must not adversely affect the emergency lighting system (e.g., block proximity lights to the extent that the lights no longer meet their intended function).

10. The inflatable lapbelt must function properly after loss of normal aircraft electrical power, and after a transverse separation of the fuselage at the most critical location. A separation at the location of the lapbelt does not have to be considered.

11. It must be shown that the inflatable lapbelt will not release hazardous quantities of gas or particulate matter into the cabin.

12. The inflatable lapbelt installation must be protected from the effects of fire such that no hazard to occupants will result.

13. There must be a means for a crew member to verify the integrity of the inflatable lapbelt activation system prior to each flight, or it must be demonstrated to reliably operate between inspection intervals. The FAA considers the loss of the airbag system deployment function alone (i.e., independent of the conditional event that requires the airbag system deployment) to be a major failure condition.

14. The inflatable material may not have an average burn rate of greater than 2.5 inches/minute when tested using the horizontal flammability test as defined in 14 CFR part 25, appendix F, part I, paragraph (b)(5).

Issued in Renton, Washington, on June 12, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–14322 Filed 6–14–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0462; Directorate Identifier 2013–NM–092–AD; Amendment 39–17476; AD 2013–11–16]

RIN 2120–AA64

Airworthiness Directives; Hawker Beechcraft Corporation (Type Certificate Previously Held by Raytheon Aircraft Company) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Hawker Beechcraft Corporation (Type Certificate Previously Held by Raytheon Aircraft Company) Model BAe.125 Series 800A (including C–29A and U–125), and 800B airplanes; and Model Hawker 800 (including variant U–125A) and 800XP airplanes modified in accordance with a certain winglet supplemental type certificate. This AD requires revising the Limitations section of the airplane flight manual (AFM) and installing placards on the instrument panel. This AD was prompted by reports of several instances of severe vibration and wing/aileron oscillations. We are issuing this AD to prevent vibration and wing/aileron oscillations, which could cause structural damage or lead to divergent flutter, and result in loss of integrity of the wing, loss of control of the airplane, and in-flight breakup.

DATES: This AD is effective July 2, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of July 2, 2013.

We must receive comments on this AD by August 1, 2013.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Aviation Partners Inc., 7299 Perimeter Road South, Seattle, WA 98108; telephone 800–946–4538; email *info@aviationpartners.com;* Internet *https://www.aviationpartners.com.* You may review copies of the 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;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kathleen Arrigotti, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6426; fax: (425) 917–6590; email: *kathleen.arrigotti@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We have received reports of several instances of severe vibration and wing/aileron oscillation due to lack of sufficient flutter margin with winglets installed. This condition, if not corrected, could cause structural damage or lead to divergent flutter, and result in loss of integrity of the wing, loss of control of the airplane, and in-flight breakup.

Relevant Service Information

We reviewed Aviation Partners Service Bulletin SBH–13–001, Revision A, dated May 3, 2013. The service information describes procedures for revising the Limitations section of the AFM to include an altitude restriction, and installing placards on the instrument panel.

FAA's Determination

We are issuing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

This AD requires accomplishing the actions specified in the service information described previously.

Interim Action

We consider this AD interim action. Aviation Partners Inc. is currently developing a modification that will address the unsafe condition identified in this AD. Once this modification is developed, approved, and available, we may consider additional rulemaking. The modification is expected to remove the altitude restriction.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because severe vibration and wing/aileron oscillations could cause structural damage or lead to divergent flutter, and result in loss of integrity of the wing, loss of control of the airplane, and in-flight breakup. Therefore, we find that notice and opportunity for prior public comment are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2013–0462 and Directorate Identifier 2013–NM–092–AD at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Costs of Compliance

We estimate that this AD affects 102 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
AFM Revision	1 work-hour × $85 per hour = $85	$0	$85	$8,670
Placard Installation	1 work-hour × $85 per hour = $85	10	95	9,690

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

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

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

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

(2) Is not a ''significant rule'' under 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.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2013–11–16 Hawker Beechcraft Corporation (Type Certificate Previously Held by Raytheon Aircraft Company): Amendment 39–17476; Docket No. FAA–2013–0462; Directorate Identifier 2013–NM–092–AD.

(a) Effective Date

This AD is effective July 2, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Hawker Beechcraft Corporation (Type Certificate Previously Held by Raytheon Aircraft Company) Model BAe.125 Series 800A (including C–29A and U–125), and 800B airplanes; and Model Hawker 800 (including variant U–125A) and 800XP airplanes; certificated in any category; modified by Aviation Partners Inc. Supplemental Type Certificate (STC) ST01411SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/1b3a5d9052d875c0862577a700704eb6/$FILE/ST01411SE.pdf*).

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 27, Flight Controls; and Code 57, Wings.

(e) Unsafe Condition

This AD was prompted by reports of several instances of severe vibration and wing/aileron oscillation due to lack of sufficient flutter margin with winglets installed. We are issuing this AD to prevent vibration and wing/aileron oscillations,

which could cause structural damage or lead to divergent flutter, and result in loss of integrity of the wing, loss of control of the airplane, and in-flight breakup.

(f) Compliance

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

(g) Revise the Airplane Flight Manual

Within 45 days after the effective date of this AD: Revise the Limitations section of the airplane flight manual (AFM) by inserting the text specified in figure 1 to paragraph (g) of this AD adjacent to the page which states the Operational Limitations—Maximum Permissible Altitude.

Figure 1 to Paragraph (g) of this AD

Maximum Permissible Altitude (required by AD 2013-11-16)

Do not exceed FL340.

Note 1 to paragraph (g) of this AD: When a statement identical to that in paragraph (g) of this AD has been included in the Limitations section of the general revisions of the AFM, the general revisions may be inserted into the AFM and the statement inserted as required by paragraph (g) of this AD may be removed.

(h) Installation of the Placards

Within 45 days after the effective date of this AD: Install placards on the instrument panel, in accordance with paragraph 3.B. of the Accomplishment Instructions of Aviation Partners Service Bulletin SBH–13–001, Revision A, dated May 3, 2013.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/ certificate holding district office.

(j) Related Information

For more information about this AD, contact Kathleen Arrigotti, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6426; fax: (425) 917–6590; email: *kathleen.arrigotti@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Aviation Partners Service Bulletin SBH–13–001, Revision A, dated May 3, 2013.

(ii) Reserved.

(3) For service information identified in this AD, contact Aviation Partners Inc., 7299 Perimeter Road South, Seattle, WA 98108; telephone 800–946–4538; email *info@aviationpartners.com;* Internet *https://www.aviationpartners.com.*

(4) You may review copies of the 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.

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

Issued in Renton, Washington, on May 24, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–14247 Filed 6–14–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0228]

Safety Zone, Brandon Road Lock and Dam to Lake Michigan Including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, and Calumet-Saganashkee Channel, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a segment of the Safety Zone; Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel on all waters of the Chicago Sanitary and Ship Canal from Mile Marker 296.1 to Mile Marker 296.7 at various times on each day from June 17 through June 21, 2013. This action is necessary to protect the waterways, waterway users, and vessels from the hazards associated with the U.S. Army Corps of Engineers dispersal barriers performance testing.

During any of the below listed enforcement periods, entry into, transiting, mooring, laying-up or anchoring within the enforced area of this safety zone by any person or vessel is prohibited unless authorized by the Captain of the Port, Lake Michigan, or his or her designated representative.

DATES: These regulations will be enforced from 7 a.m. to 11 a.m. and from 1 p.m. to 5 p.m. on each day from June 17 through June 21, 2013.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call

or email MST1 Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, telephone 414–747–7148, email address *joseph.p.mccollum@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a segment of the Safety Zone; Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel, Chicago, IL, listed in 33 CFR 165.930. Specifically, the Coast Guard will enforce this safety zone between Mile Marker 296.1 to Mile Marker 296.7 on all waters of the Chicago Sanitary and Ship Canal. Enforcement will occur from 7 a.m. until 11 a.m. and 1 p.m. until 5 p.m. on each day of June 17 through June 21, 2013.

This enforcement action is necessary because the Captain of the Port, Lake Michigan has determined that the U.S. Army Corps of Engineers dispersal barriers performance testing poses risks to life and property. Because of these risks, it is necessary to control vessel movement during the operation to prevent injury and property loss.

In accordance with the general regulations in § 165.23 of this part, entry into, transiting, mooring, laying up or anchoring within the enforced area of this safety zone by any person or vessel is prohibited unless authorized by the Captain of the Port, Lake Michigan, or his or her designated representative.

Vessels that wish to transit through the safety zone may request permission from the Captain of the Port, Lake Michigan. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. Approvals will be granted on a case by case basis. The Captain of the Port may be contacted via U.S. Coast Guard Sector Lake Michigan on VHF channel 16.

This notice is issued under authority of 33 CFR 165.930 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Captain of the Port, Lake Michigan, will also provide notice through other means, which may include, but are not limited to, Broadcast Notice to Mariners, Local Notice to Mariners, local news media, distribution in leaflet form, and on-scene oral notice. Additionally, the Captain of the Port, Lake Michigan, may notify representatives from the maritime industry through telephonic and email notifications.

Dated: June 5, 2013.

M.W. Sibley,

Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.

[FR Doc. 2013–14244 Filed 6–14–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0228]

Safety Zone; Brandon Road Lock and Dam to Lake Michigan Including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, and Calumet-Saganashkee Channel, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a segment of the Safety Zone; Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel on all waters of the Chicago Sanitary and Ship Canal from Mile Marker 302.6 to Mile Marker 302.8 from 7 a.m. to 11 a.m. and from 1 p.m. until 3 p.m. on June 18, 2013. This action is necessary to protect the waterways, waterway users, and vessels from the hazards associated with the United States Geological Survey (USGS) dive operations.

During the enforcement period listed below, entry into, transiting, mooring, laying-up or anchoring within the enforced area of this safety zone by any person or vessel is prohibited unless authorized by the Captain of the Port, Lake Michigan, or his or her designated representative.

DATES: The regulations will be enforced from 7 a.m. to 11 a.m. and from 1 p.m. until 3 p.m. on June 18, 2013.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email MST1 Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, telephone 414–747–7148, email address *joseph.p.mccollum@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a segment of the Safety Zone; Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel, Chicago, IL, listed in 33 CFR 165.930. Specifically, the Coast Guard will enforce this safety zone between Mile Marker 302.6 to Mile Marker 302.8 on all waters of the Chicago Sanitary and Ship Canal. Enforcement will occur from 7 a.m. until 11 a.m. and from 1 p.m. until 3 p.m. on June 18, 2013.

This enforcement action is necessary to mitigate the risks associated with the USGS dive operations in the Chicago Sanitary and Ship Canal on June 18, 2013. The Captain of the Port, Lake Michigan has determined that conducting dive operations in a waterway with expected vessel traffic poses significant risks to life and property. Because of these risks, it is necessary to restrict vessel movement during the operation to prevent injury and property loss.

In accordance with the general regulations in § 165.23, entry into, transiting, mooring, laying up or anchoring within the enforced area of this safety zone by any person or vessel is prohibited unless authorized by the Captain of the Port, Lake Michigan, or his or her designated representative.

This notice is issued under authority of 33 CFR 165.930 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Captain of the Port, Lake Michigan, will also provide notice through other means, which may include, but are not limited to, Broadcast Notice to Mariners, Local Notice to Mariners, local news media, distribution in leaflet form, and on-scene oral notice. Additionally, the Captain of the Port, Lake Michigan, may notify representatives from the maritime industry through telephonic and email notifications.

Dated: June 4, 2013.

M.W. Sibley,

Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.

[FR Doc. 2013–14246 Filed 6–14–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AN86

Payment or Reimbursement for Emergency Services for Nonservice-Connected Conditions in Non-VA Facilities; Correction

AGENCIES: Department of Veterans Affairs.

ACTION: Correcting amendments.

SUMMARY: This document corrects a Department of Veterans Affairs (VA)

final rule that governs ''Payment or Reimbursement for Emergency Services for Nonservice-Connected Conditions in Non-VA Facilities'' regulations to conform with a statutory change that expanded veterans' eligibility for reimbursement. This document corrects a typographical error without making any substantive change to the content of the final rule.

DATES: *Effective Date:* This correction is effective June 17, 2013.

FOR FURTHER INFORMATION CONTACT: Willie Douglas, Policy Specialist, Policy Management Department (CBOPC), Department of Veterans Affairs, 3773 Cherry Creek North Drive, Suite 450, Denver, CO 80209 at (303) 331–7829. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: VA published a proposed rule in the **Federal Register** on May 26, 2011 (76 FR 30598), which, among other things, revised 38 CFR 17.1005. These revisions eliminated certain exclusions from emergency care payment or reimbursement, and defined the payment limitations for those qualifying for payment or reimbursement under the law as amended by Public Law 111–137, enacted on February 1, 2010. In the proposed rule we stated that § 17.1005 would be amended by adding new paragraphs (c) and (d). However, before VA published a final rule based on that proposed rule, on December 21, 2011 (76 FR 79071), VA published an entirely separate final rule that added new paragraphs (c) and (d) to § 17.1005. Then, VA published a final rule on April 20, 2012 (77 FR 23615), where we acknowledged that VA had already added new paragraphs (c) and (d) to § 17.1005 (in the December 21, 2011, final rule) and, accordingly, renumbered the proposed § 17.1005(c) as new § 17.1005(e). However, in the final rule published on April 20, 2012, VA inadvertently failed to correct a cross-reference in the newly renumbered § 17.1005(e)(3), from (c)(2) (in the proposed rule) to the new (e)(2) (which should have been cited in the final rule). This document corrects that error by removing (c)(2) from § 17.1005(e)(3) and adding, in its place, (e)(2).

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—Health, Grant programs—Veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

William F. Russo,

Deputy Director, Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons set forth in the preamble, the Department of Veterans Affairs is correcting 38 CFR part 17 as follows:

PART 17—MEDICAL

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

Authority: 38 U.S.C. 501, and as noted in specific sections.

■ 2. Amend § 17.1005(e)(3) by removing ''(c)'' and adding, in its place, ''(e)''.

[FR Doc. 2013–14249 Filed 6–14–13; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2012–0716; FRL–9388–2]

Fenpyroximate; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of fenpyroximate in or on multiple commodities identified and discussed later in this document. In addition, this regulation removes an established tolerance for a certain commodity superseded by this action. The Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective June 17, 2013. Objections and requests for hearings must be received on or before August 16, 2013, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2012–0716, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Sidney Jackson, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7610; email address: *jackson.sidney@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2012–0716 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or

before August 16, 2013. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2012–0716, 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 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.
- *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.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of Wednesday, November 7, 2012 (77 FR 66781) (FRL–9367–5), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 2E8072) by Interregional Research Project Number 4 (IR–4), 500 College Road East, Suite 201W, Princeton, NJ 08540. The petition requested that 40 CFR 180.566 be amended by establishing tolerances for residues of the insecticide fenpyroximate, (*E*)-1,1-dimethylethyl 4-[[[[(1,3-dimethyl-5-phenoxy-1*H*-pyrazol-4-yl)methylene]amino]oxy]methyl] benzoate and its *Z*-isomer, (*Z*)-1,1-dimethylethyl 4-[[[[(1,3-dimethyl-5-phenoxy-1*H*-pyrazol-4-yl)methylene] amino]oxy]methyl]benzoate in or on fruit, stone, group 12–12 at 2.0 ppm; fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13–07F at 1.0 ppm; and vegetable, tuberous and corm, subgroup 1C at 0.1 ppm. That document referenced a summary of the petition prepared by Nichino America, Inc., 4550 New Linden Hill Rd., Wilmington, DE 19808, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for fenpyroximate including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with fenpyroximate follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Fenpyroximate was classified as having moderate acute oral and inhalation toxicity in rats. It exhibited low dermal acute toxicity and was neither a skin nor eye irritant. Fenpyroximate was a slight to moderate sensitizer by the maximization test method. Subchronic and chronic oral exposures to fenpyroximate resulted in overall systemic toxicity (no specific target organ/tissue was identified). The most sensitive species tested was the dog. The effects reported in the dog included slight bradycardia, deficits in food consumption, body weight, body-weight gain, and an increased incidence of emesis and diarrhea. Emaciation and torpor (sluggish inactivity) were reported in female dogs at lower dose levels than males. The highest dose tested in the dog resulted in first- and second-degree heart block, increased urea concentration, decreased glucose, and altered plasma electrolyte levels among other signs of toxicity. In subchronic and chronic studies with rats, the primary effect was decreased body-weight gain in both sexes with hematological changes (e.g., higher counts of red blood cells) at higher doses.

In a rat prenatal developmental toxicity study, a fenpyroximate dose level that marginally affected maternal body weight and food consumption also resulted in an increased litter incidence of increased thoracic ribs, indicating increased prenatal (qualitative) susceptibility. In the rabbits, there were no developmental effects reported at any of the dose levels tested. In the rat 2-generation reproductive toxicity study, there was no indication of increased prenatal or postnatal susceptibility; maternal toxicity (decreased body weight) and offspring toxicity (decreased lactational weight gain in both generations) occurred at the same dose. Reproductive parameters were not affected. Acute and subchronic neurotoxicity studies in the rat show no evidence that fenpyroximate specifically targets the nervous system. In the acute neurotoxicity study, neurotoxicity signs such as decreases in motor activity occurred in the presence of other effects including decreases in body weight and food consumption, and in the absence of neuropathology. Similar results were noted in a delayed acute neurotoxicity study in the hen where no effects (neurotoxic or otherwise) were reported. The results of the rat subchronic neurotoxicity study did not indicate any neurotoxicity-specific effects; deficits in body weight and food consumption were the main effects reported. Effects reported in a rat immunotoxicity study were limited to decreased body-weight gain, indicating the fenpyroximate does not directly target the immune system. There is no evidence of carcinogenic potential for fenpyroximate based on the results of carcinogenicity studies via the oral route in either the rats or mice resulting in the carcinogenicity classification of ''not likely'' to be carcinogenic to humans. Genotoxicity studies including mutagenicity did not

demonstrate any genotoxic potential resulting from fenpyroximate exposure.

Specific information on the studies received and the nature of the adverse effects caused by fenpyroximate as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document: ''Fenpyroximate. Human-Health Risk Assessment for Proposed Section 3 Uses on Stone Fruits (Group 12–12), Tuberous and Corm Vegetables (Subgroup 1C), and Small Vine Climbing Fruits Except Kiwifruit (Subgroup 13–07F), dated May 8, 2013 at Appendix A'', p. 30 in docket ID number EPA–HQ–OPP–2012–0716–0003.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for fenpyroximate used for human risk assessment is discussed in Unit III. of the final rule published in the **Federal Register** of Wednesday, December 12, 2012 (77 FR 73945) (FRL–9360–3).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to fenpyroximate, EPA considered exposure under the petitioned-for tolerances as well as all existing fenpyroximate tolerances in 40 CFR 180.566. EPA assessed dietary exposures from fenpyroximate in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for fenpyroximate. In estimating acute dietary exposure, EPA used the Dietary Exposure Evaluation Model—Food Consumption Intake Database (DEEM–FCID, ver. 3.16), which incorporates consumption information from the U.S. Department of Agriculture (USDA) National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA); 2003–2008. As to residue levels in food, EPA assumed 100 percent crop treated (PCT), tolerance-level residues for all commodities, DEEM (ver. 7.81) default processing factors for all commodities except for apple, pear, and grape juice; grape, raisin; orange, grapefruit, tangerine, lemon and lime juice; tomato paste and puree; and peppermint and spearmint oil. Chemical-specific data were used to calculate empirical processing factors for these commodities.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 2003–2008 NHANES/WWEIA. As to residue levels in food, EPA assumed 100 PCT, tolerance-level residues for all commodities, DEEM (ver. 7.81) default processing factors for all commodities except for apple, pear, and grape juice; grape, raisin; orange, grapefruit, tangerine, lemon and lime juice; tomato paste and puree; and peppermint and spearmint oil. Chemical-specific data were used to calculate empirical processing factors for these commodities.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that fenpyroximate does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and PCT information.* EPA did not use anticipated residue or PCT information in the dietary assessment for fenpyroximate. Tolerance-level residues and/or 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening-level water exposure models in the dietary exposure analysis and risk assessment for fenpyroximate in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of fenpyroximate. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the First Index Reservoir Screening Tool (FIRST) model, the Screening Concentration in Ground Water (SCI–GROW) model, and a Provisional Cranberry Model, the Agency calculated conservative estimated drinking water concentrations (EDWCs) of fenpyroximate. Tier 1, EDWCs reflect exposure in drinking water to the residues of fenpyroximate and its isomer/degradate, its *cis* isomer M–1, and its carboxylic acid M–3, all of which are assumed to have similar toxicity.

For acute exposures, EDWCs are estimated to be 43 parts per billion (ppb) for surface water and 0.27 ppb for ground water.

For chronic exposures, EDWCs are estimated to be 8.6 ppb for surface water and 0.27 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 43 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 8.6 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticide, and flea and tick control on pets). Fenpyroximate is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found fenpyroximate to share a common mechanism of toxicity with any other substances, and fenpyroximate does not appear to produce a toxic metabolite produced by other substances. For the purposes of

this tolerance action, therefore, EPA has assumed that fenpyroximate does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There is evidence of increased prenatal (qualitative) susceptibility in a rat prenatal developmental toxicity study. A dose level that marginally affected maternal body weight and food consumption also resulted in an increased litter incidence of increased thoracic ribs. However, concern for prenatal and postnatal toxicity to fenpyroximate is low because:

i. There was a clear NOAEL in the rat prenatal developmental toxicity study;

ii. The NOAEL for this developmental study is being used as POD for the acute dietary risk assessment for the population of concern-females 13–49 years old;

iii. In the rabbit, there were no developmental effects reported at the levels tested; and

iv. In the rat 2-generation reproductive toxicity study, there was no indication of increased prenatal or postnatal susceptibility.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X for all exposure scenarios. That decision is based on the following findings:

i. The toxicity database for fenpyroximate is complete.

ii. There is no indication that fenpyroximate is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is evidence that fenpyroximate results in increased susceptibility *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study. Increased (qualitative) prenatal susceptibility was seen following oral exposures in the rat developmental toxicity study, but the concern for these effects is low, for the reasons noted in Unit III.D.2. Therefore, a 10X FQPA safety factor is not necessary to account for this increased susceptibility of infants and children.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessment utilizes tolerance-level residues (established or recommended) and 100 PCT for all proposed/established commodities. By using these assumptions, the acute and chronic exposures/risks will not be underestimated. The dietary drinking water assessment utilizes water concentration values generated by models and associated modeling parameters, which are designed to provide conservative, health-protective, high-end estimates of water concentrations that will not likely be exceeded. There are no registered or proposed residential uses. These assessments will not underestimate the exposure and risks posed by fenpyroximate.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to fenpyroximate will occupy 13% of the aPAD for females 13–49 years old and 6.2% of the aPAD for children 1–2 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to fenpyroximate from food and water will utilize 15% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. There are no residential uses for fenpyroximate.

3. *Short- and intermediate-term risks.* Short-, and intermediate-term aggregate exposure takes into account short-, and intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Short-, and intermediate-term adverse effects were identified; however, fenpyroximate is not registered for any use patterns that would result in short-, and intermediate-term residential exposures. Therefore, no further assessment of short-, and intermediate-term risks is necessary. EPA relies on the chronic dietary risk assessment for evaluating short-, and intermediate-term risks for fenpyroximate.

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, fenpyroximate is not expected to pose a cancer risk to humans.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population or to infants and children from aggregate exposure to fenpyroximate residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (gas chromatography method with nitrogen/phosphorus detection (GC/NPD), Method S19) is available to enforce the tolerance expression. Method S19 has passed an Agency validation and has a limit of quantitation (LOQ) of 0.05 ppm for the combined residues of fenpyroximate and M–1 in snap beans and avocados. A data-gathering liquid chromatography/mass spectroscopy/mass spectroscopy (LC/MS/MS) method is also available.

These methods may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the

international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

Codex MRLs are established for residues of fenpyroximate per se in grapes (fresh and dried). Harmonization with the Codex MRLs is not possible because the U.S. tolerance expression includes an additional isomer and the U.S. use pattern requires a higher numerical value.

C. Revisions to Petitioned-For Tolerances

As EPA explained in its latest crop group rulemaking (77 FR 50617, August 22, 2012), EPA will attempt to conform petitions seeking tolerances for crop groups to the newer established crop groups, rather than establish new tolerances under the pre-existing crop groups, as part of its effort to eventually convert tolerances for any pre-existing crop group to tolerances with coverage under the revised crop group. Therefore, although the petitioner requested tolerances for ''Fruit, stone, group 12'', EPA evaluated and is establishing tolerances for the crop group ''Fruit, stone, group 12–12.''

Lastly, the Agency is removing the entry for ''grape'' from the table at 40 CFR 180.566 (a)(1) since the tolerance for ''Fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13–07F'' at 1.0 ppm established by this action will subsume the existing tolerance.

V. Conclusion

Therefore, tolerances are established for residues the insecticide fenpyroximate, including its metabolites and degradates, in or on the commodities Fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13–07F at 1.0 ppm; Fruit, stone, group 12–12 at 2.0; and Vegetable, tuberous and corm, subgroup 1C at 0.10 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 3, 2013.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.566 is amended by removing the entry for ''grape, 1.0'' and by alphabetically adding the following entries to the table in paragraph (a)(1) to read as follows:

§ 180.566 Fenpyroximate; tolerances for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
* * * * *	
Fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13–07F	1.0
Fruit, stone, group 12–12	2.0
* * * * *	
Vegetable, tuberous and corm, subgroup 1C	0.10

* * * * *

[FR Doc. 2013–14213 Filed 6–14–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2013–0002]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

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

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

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

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ^ Elevation in meters (MSL) Modified	Communities affected
Iberville Parish, Louisiana, and Incorporated Areas Docket No.: FEMA–B–1216			
Mississippi River	Approximately 1.67 miles upstream of the White Castle-Carville Ferry.	+38	City of Plaquemine, Town of White Castle.
	Approximately 2 miles upstream of the White Castle-Carville Ferry.	+38	
	Approximately 0.75 mile downstream of the Bayou Plaquemine confluence.	+42	
	Approximately 0.70 mile upstream of the Bayou Plaquemine confluence.	+42	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
^ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Plaquemine

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Maps are available for inspection at 58050 Meriam Street, Plaquemine, LA 70764.			
Town of White Castle			
Maps are available for inspection at 32535 Bowie Street, White Castle, LA 70788.			
Yellowstone County, Montana, and Incorporated Areas Docket No.: FEMA–B–1117			
Cove Creek	Approximately 200 feet upstream of Rimrock Road	+3375	City of Billings, Unincorporated Areas of Yellowstone County.
	Approximately 270 feet downstream of Molt Road	+3571	
Cove Creek East Overflow	Approximately 25 feet upstream of Rimrock Road	+3370	City of Billings, Unincorporated Areas of Yellowstone County.
	Approximately 1,700 feet upstream of Rimrock Road	+3382	
Fivemile Creek	Downstream of Old Fivemile Creek Road	+3085	City of Billings, Unincorporated Areas of Yellowstone County.
	Approximately 55 feet downstream of Alexander Road	+3225	
Yellowstone River	Approximately 150 feet upstream of Musselshell Trail Road.	+2728	City of Billings, Unincorporated Areas of Yellowstone County.
	Approximately 545 upstream of U.S. Route 212 South	+3274	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Billings
Maps are available for inspection at 510 North Broadway, 4th Floor, Billings, MT 59101.

Unincorporated Areas of Yellowstone County
Maps are available for inspection at 217 North 27th Street, Billings, MT 59101.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 3, 2013.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–14294 Filed 6–14–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2013–0002]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain

management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

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

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

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

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ^Elevation in meters (MSL) Modified	Communities affected
Maricopa County, Arizona, and Incorporated Areas Docket No.: FEMA–B–1216			
Bonita Dike Channel	Approximately 100 feet upstream of the Wash 13 East confluence.	+1409	Unincorporated Areas of Maricopa County.
	Approximately 1,500 feet upstream of the Wash 13 East confluence.	+1418	
Camp Creek Tributary A	At the downstream limit of detailed study	+2249	City of Scottsdale, Unincorporated Areas of Maricopa County.
	Approximately 1,300 feet upstream of 136th Avenue	+2717	
Camp Creek Tributary A1	Approximately 500 feet upstream of the Camp Creek Tributary A confluence.	+2325	Unincorporated Areas of Maricopa County.
	Approximately 1.0 mile upstream of the Camp Creek Tributary A confluence.	+2492	
Camp Creek Tributary A2	Approximately 300 feet upstream of the Camp Creek Tributary A confluence.	+2517	Unincorporated Areas of Maricopa County.
	Approximately 400 feet upstream of Hawknest Road	+2599	
Camp Creek Tributary B	At the downstream limit of detailed study	+2263	City of Scottsdale, Unincorporated Areas of Maricopa County.
	Approximately 0.9 mile upstream of 136th Avenue	+2816	
Camp Creek Tributary B1	Approximately 600 feet upstream of the Camp Creek Tributary B confluence.	+2366	Unincorporated Areas of Maricopa County.
	Approximately 1.4 miles upstream of the Camp Creek Tributary B confluence.	+2598	
Camp Creek Tributary B2	Approximately 600 feet upstream of the Camp Creek Tributary B confluence.	+2612	Unincorporated Areas of Maricopa County.
	Approximately 1.0 mile upstream of the Camp Creek Tributary B confluence.	+2746	
Camp Creek Tributary C	At the downstream limit of detailed study	+2443	Unincorporated Areas of Maricopa County.
	Approximately 0.9 mile upstream of the Camp Creek Tributary C3 confluence.	+2996	
Camp Creek Tributary C1	Approximately 500 feet upstream of the Camp Creek Tributary C confluence.	+2558	Unincorporated Areas of Maricopa County.
	Approximately 1.3 miles upstream of the Camp Creek Tributary C confluence.	+2857	
Camp Creek Tributary C2	Approximately 400 feet upstream of the Camp Creek Tributary C confluence.	+2767	Unincorporated Areas of Maricopa County.
	Approximately 1.0 mile upstream of the Camp Creek Tributary C confluence.	+2937	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ^Elevation in meters (MSL) Modified	Communities affected
Camp Creek Tributary C3	Approximately 700 feet upstream of the Camp Creek Tributary C confluence.	+2881	Unincorporated Areas of Maricopa County.
	Approximately 0.7 mile upstream of the Camp Creek Tributary C confluence.	+2997	
Camp Creek Tributary D	Approximately 600 feet upstream of the Camp Creek Tributary C confluence.	+2473	Unincorporated Areas of Maricopa County.
	Approximately 0.6 mile upstream of the Camp Creek Tributary C confluence.	+2605	
Circle City Area Wash 1	Approximately 1.2 miles downstream of Black Mountain Road.	+1782	Unincorporated Areas of Maricopa County.
	At the upstream side of Black Mountain Road	+1846	
Fan 6A	At the downstream limit of detailed study	+2495	City of Scottsdale.
	At the upstream limit of detailed study	+2542	
Fan 6A North	Approximately 500 feet downstream of Preserve Way	+2542	City of Scottsdale.
	Approximately 500 feet upstream of North Boulder View Drive.	+3059	
Fan 6A South	Approximately 700 feet downstream of Preserve Way	+2549	City of Scottsdale.
	Approximately 1,100 feet upstream of East Stagecoach Pass Road.	+2843	
Fan 6C	Approximately 400 feet upstream of East Dove Valley Road.	+2390	City of Scottsdale.
	Approximately 700 feet upstream of North Legend Trail Parkway.	+2654	
Fan 6C North Branch	Approximately 300 feet downstream of North 84th Street	+2407	City of Scottsdale.
	Approximately 1,300 feet upstream of North 84th Street	+2452	
Iona Wash	Approximately 0.4 mile upstream of the Central Arizona Project Canal.	+1555	Town of Surprise, Unincorporated Areas of Maricopa County.
	Approximately 2.1 miles upstream of U.S. Route 60	+2039	
Iona Wash East	Approximately 1,400 feet downstream of Deer Valley Road.	+1464	Town of Surprise.
	Approximately 1.3 miles upstream of Pinnacle Peak Road	+1544	
Iona Wash East Split 1	Approximately 1,000 feet upstream of the Trilby Wash confluence.	+1612	Unincorporated Areas of Maricopa County.
	At the Iona Wash divergence	+1824	
Iona Wash East Split 2	Approximately 1,900 feet upstream of the Iona Wash confluence.	+1556	Town of Surprise, Unincorporated Areas of Maricopa County.
	At the Iona Wash divergence	+1615	
Iona Wash North West Split 1	Approximately 500 feet upstream of the Iona Wash confluence.	+2007	Unincorporated Areas of Maricopa County.
	At the Iona Wash divergence	+2033	
Iona Wash West	Approximately 0.6 mile downstream of Deer Valley Road	+1461	Town of Surprise.
	At the Iona Wash East divergence	+1523	
Jackrabbit Wash	At the Hassayampa River confluence	+1113	Town of Buckeye, Unincorporated Areas of Maricopa County.
	Approximately 900 feet upstream of the Central Arizona Project Canal.	+1372	
Multiple Shallow Flooding Sources.	At the upstream side of I–10	+1394	Unincorporated Areas of Maricopa County.
Multiple Shallow Flooding Sources.	At the upstream side of the Central Arizona Project Canal	+1532	City of Peoria.
New River West Tributary 10	Approximately 0.5 mile upstream of the New River confluence.	+1497	City of Peoria, City of Phoenix, Unincorporated Areas of Maricopa County.
	Approximately 0.4 mile upstream of Lake Pleasant Road	+1598	
New River West Tributary 15	Approximately 0.5 mile upstream of the New River confluence.	+1500	City of Peoria, City of Phoenix.
	At the upstream limit of detailed study	+1572	
New River West Tributary 20	Approximately 0.5 mile downstream of Old Carefree Highway.	+1537	City of Peoria, City of Phoenix.
	Approximately 0.6 mile upstream of New River Road	+1653	
New River West Tributary 20, Tributary 10.	Approximately 400 feet upstream of the New River West Tributary 20 confluence.	+1573	City of Peoria, City of Phoenix.
	Approximately 0.4 mile upstream of New River Road	+1622	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧Elevation in meters (MSL) Modified	Communities affected
New River West Tributary 20, Tributary 5.	Approximately 400 feet upstream of the New River West Tributary 20 Tributary 10 confluence.	+1590	City of Peoria.
	Approximately 0.4 mile upstream of New River Road	+1618	
New River West Tributary 25 ...	Approximately 2,000 feet upstream of the New River confluence.	+1554	City of Peoria, City of Phoenix.
	Approximately 1.2 miles upstream of the New River confluence.	+1598	
New River West Tributary 30 ...	Approximately 1,000 feet upstream of the New River West Split confluence.	+1569	City of Peoria, City of Phoenix, Unincorporated Areas of Maricopa County.
	Approximately 700 feet upstream of New River Road	+1675	
New River West Tributary 35 ...	Approximately 600 feet upstream of the New River West Split confluence.	+1585	City of Phoenix.
	Approximately 1.0 mile upstream of the New River West Split confluence.	+1643	
New River West Tributary 40 ...	Approximately 1,000 feet upstream of the Sweat Canyon Wash confluence.	+1625	City of Peoria, City of Phoenix.
	Approximately 0.7 mile upstream of the Sweat Canyon Wash confluence.	+1663	
New River West Tributary 45 ...	Approximately 500 feet upstream of the Sweat Canyon Wash confluence.	+1639	City of Peoria, City of Phoenix.
	Approximately 1,800 feet upstream of New River Road	+1707	
New River West Tributary 5	Approximately 0.6 mile upstream of the New River confluence.	+1482	City of Peoria.
	Approximately 0.7 mile upstream of Old Carefree Highway	+1608	
New River West Tributary 50 ...	Approximately 600 feet upstream of the Sweat Canyon Wash confluence.	+1646	City of Peoria, City of Phoenix.
	Approximately 0.4 mile upstream of New River Road	+1731	
New River West Tributary 50, Tributary 5.	Approximately 200 feet upstream of the New River West Tributary 50 confluence.	+1677	City of Peoria, City of Phoenix.
	Approximately 0.5 mile upstream of New River Road	+1730	
New River West Tributary 55 ...	Approximately 560 feet downstream of New River Road ...	+1657	City of Phoenix.
	At the upstream limit of detailed study	+1784	
New River West Tributary 55, Tributary 10.	Approximately 700 feet upstream of the New River West Tributary 55 confluence.	+1665	City of Peoria, City of Phoenix.
	Approximately 1.8 miles upstream of the New River West Tributary 55 Tributary 5 confluence.	+1916	
New River West Tributary 55, Tributary 15.	At the New River West Tributary 55 confluence	+1688	City of Peoria, City of Phoenix.
	Approximately 1.4 miles upstream of KV Power Road	+1882	
New River West Tributary 55, Tributary 20.	Approximately 400 feet upstream of the New River West Tributary 55 confluence.	+1708	City of Phoenix.
	At the upstream limit of detailed study	+1747	
New River West Tributary 55, Tributary 30.	Approximately 600 feet upstream of the New River West Tributary 55 confluence.	+1680	City of Phoenix.
	Approximately 0.5 mile upstream of Saddle Mountain Road.	+1714	
New River West Tributary 55, Tributary 5.	Approximately 600 feet upstream of the New River West Tributary 55 Tributary 10 confluence.	+1735	City of Peoria.
	Approximately 0.6 mile upstream of the New River West Tributary 55 Tributary 10 confluence.	+1776	
Shallow Flooding	At the upstream side of I–10	+1364	Unincorporated Areas of Maricopa County.
Shallow Flooding	At the upstream side of I–10	+1371	Unincorporated Areas of Maricopa County.
Shallow Flooding	At the upstream side of I–10	+1375	Unincorporated Areas of Maricopa County.
Shallow Flooding	At the upstream side of I–10	+1382	Unincorporated Areas of Maricopa County.
Shallow Flooding	At the upstream side of I–10	+1389	Unincorporated Areas of Maricopa County.
Shallow Flooding	At the upstream side of I–10	+1393	Unincorporated Areas of Maricopa County.
Shallow Flooding	At 243rd Avenue	#1	Unincorporated Areas of Maricopa County.
Shallow Flooding	At the upstream side of the Central Arizona Project Canal	+1531	City of Peoria.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧Elevation in meters (MSL) Modified	Communities affected
Shallow Flooding	At upstream side of the Central Arizona Project Canal	+1545	Town of Surprise.
Shallow Flooding	At the upstream side of the Central Arizona Project Canal	+1550	City of Peoria, Unincorporated Areas of Maricopa County.
Shallow Flooding	At the upstream side of the Central Arizona Project Canal	+1552	Unincorporated Areas of Maricopa County.
Shallow Flooding	At the upstream side of the Central Arizona Project Canal	+1553	Unincorporated Areas of Maricopa County.
Shallow Flooding	At the upstream side of the Central Arizona Project Canal	+1553	Town of Surprise.
Shallow Flooding	At the upstream side of the Central Arizona Project Canal	+1555	Town of Surprise, Unincorporated Areas of Maricopa County.
Stage Coach Pass Wash	At the upstream side of Scottsdale Road	+2270	City of Scottsdale, Town of Carefree.
	At the downstream side of North Lone Mountain Parkway	+2962	
Trilby Wash	Approximately 1.1 miles upstream of U.S. Route 60	+1921	Unincorporated Areas of Maricopa County.
	Approximately 2.1 miles upstream of U.S. Route 60	+1994	
Upper Boulders Wash	At the downstream side of Winfield Drive	+2315	City of Scottsdale.
	Approximately 2,000 feet upstream of North Legend Trail Parkway.	+2667	
Upper Fan 5	Approximately 700 feet downstream of North Pima Road	+2397	City of Scottsdale.
	Approximately 2.0 miles upstream of East Seven Palms Drive.	+2770	
Wash 1 East	Approximately 460 feet upstream of the Wash 1 West confluence.	+1495	Town of Surprise, Unincorporated Areas of Maricopa County.
	At the downstream side of the Central Arizona Project Canal.	+1543	
Wash 1 West	Approximately 0.5 mile downstream of West Deer Valley Road.	+1351	Town of Surprise, Unincorporated Areas of Maricopa County.
	Approximately 0.5 mile upstream of West Patton Road	+1552	
Wash 10 East	Approximately 1.0 mile downstream of Briles Road	+1357	Town of Surprise, Unincorporated Areas of Maricopa County.
	At the downstream side of the Central Arizona Project Canal.	+1540	
Wash 10 East Split 1	At the upstream side of Skinner Road	+1493	Town of Surprise, Unincorporated Areas of Maricopa County.
	At the Wash 10 East divergence	+1528	
Wash 10 East Split 2	Approximately 0.8 mile downstream of Briles Road	+1359	Town of Surprise, Unincorporated Areas of Maricopa County.
	At the Wash 10 East divergence	+1455	
Wash 11 East	Approximately 600 feet upstream of the Beardsley Canal	+1348	Town of Surprise, Unincorporated Areas of Maricopa County.
	At the downstream side of the Central Arizona Project Canal.	+1535	
Wash 12 East	Approximately 700 feet downstream of West Dynamite Boulevard.	+1440	City of Peoria, Unincorporated Areas of Maricopa County.
	At the downstream side of the Central Arizona Project Canal.	+1536	
Wash 12 East Split	At the Wash 12 East confluence	+1492	Town of Surprise, Unincorporated Areas of Maricopa County.
	At the Wash 12 East divergence	+1514	
Wash 13 East	Approximately 1,400 feet downstream of Jomax Road	+1372	Town of Surprise, Unincorporated Areas of Maricopa County.
	At the downstream side of West Dynamite Boulevard	+1423	
Wash 14 East	At the Wash 13 East confluence	+1401	Unincorporated Areas of Maricopa County.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ^Elevation in meters (MSL) Modified	Communities affected
	Approximately 0.5 mile upstream of the Wash 13 East confluence.	+1417	
Wash 2 East (North of the Central Arizona Project Canal).	Approximately 400 feet downstream of West Lone Mountain Road.	+1608	Town of Surprise, Unincorporated Areas of Maricopa County.
	Approximately 400 feet upstream of West Dove Valley Road.	+1679	
Wash 2 East (South of the Central Arizona Project Canal).	Approximately 0.4 mile downstream of North Citrus Road	+1391	Town of Surprise, Unincorporated Areas of Maricopa County.
	Approximately 1.3 miles upstream of U.S. Route 60	+1536	
Wash 2 East Tributary	Approximately 600 feet downstream of West Lone Mountain Road.	+1606	Town of Surprise, Unincorporated Areas of Maricopa County.
	Approximately 500 feet upstream of West Dove Valley Road.	+1675	
Wash 2 West (North of the Central Arizona Project Canal).	At the upstream side of the Central Arizona Project Canal	+1554	Town of Surprise, Unincorporated Areas of Maricopa County.
	Approximately 200 feet upstream of 227th Avenue	+1671	
Wash 2 West (South of the Central Arizona Project Canal).	Approximately 1.6 miles downstream of West Deer Valley Road.	+1352	Town of Surprise, Unincorporated Areas of Maricopa County.
	At the downstream side of the Central Arizona Project Canal.	+1546	
Wash 2 West Tributary 1	Approximately 1,500 feet upstream of the Wash 2 West confluence.	+1585	Unincorporated Areas of Maricopa County.
	Approximately 1,300 feet upstream of West Dove Valley Road.	+1720	
Wash 2 West Tributary 2	Approximately 0.4 mile downstream of Patton Road	+1552	Unincorporated Areas of Maricopa County.
	Approximately 1,100 feet upstream of West Lone Mountain Road.	+1662	
Wash 3 East	Approximately 0.6 mile downstream of West Deer Valley Road.	+1353	Town of Surprise, Unincorporated Areas of Maricopa County.
	At the downstream side of the Central Arizona Project Canal.	+1542	
Wash 3 West	Approximately 1,900 feet downstream of 243rd Avenue	+1546	Town of Surprise, Unincorporated Areas of Maricopa County.
	Approximately 2.4 miles upstream of West Patton road	+1745	
Wash 4 East	Approximately 1,900 feet upstream of the Wash 3 East confluence.	+1457	Town of Surprise, Unincorporated Areas of Maricopa County.
	At the downstream side of the Central Arizona Project Canal.	+1545	
Wash 5 East	At the downstream side of 163rd Avenue	+1390	Town of Surprise, Unincorporated Areas of Maricopa County.
	At the downstream side of the Central Arizona Project Canal.	+1543	
Wash 6 East	Approximately 1,100 feet downstream of 163rd Avenue	+1412	Town of Surprise, Unincorporated Areas of Maricopa County.
	At the downstream side of the Central Arizona Project Canal.	+1544	
Wash 6 East South	At the downstream limit of detailed study	+1374	Town of Surprise, Unincorporated Areas of Maricopa County.
	At the Wash 6 East and Wash 8 East confluence	+1417	
Wash 7 East	Approximately 1,000 feet upstream of the Central Arizona Project Canal.	+1556	Unincorporated Areas of Maricopa County.
	Approximately 0.8 mile upstream of the Central Arizona Project Canal.	+1586	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧Elevation in meters (MSL) Modified	Communities affected
Wash 7 East East Split	Approximately 1,100 feet upstream of the Wash 8 East confluence.	+1483	Town of Surprise, Unincorporated Areas of Maricopa County.
	At the Wash 7 East West Split divergence	+1530	
Wash 7 East Tributary	Approximately 1,000 feet downstream of 169th Avenue	+1560	Unincorporated Areas of Maricopa County.
	Approximately 0.5 mile upstream of Quail Run Road	+1638	
Wash 7 East West Split	Approximately 1,100 feet upstream of the Wash 6 East confluence.	+1508	Town of Surprise, Unincorporated Areas of Maricopa County.
	At the downstream side of the Central Arizona Project Canal.	+1543	
Wash 8 East	At the Wash 6 East confluence	+1419	Town of Surprise, Unincorporated Areas of Maricopa County.
	Approximately 400 feet upstream of West Windstone Trail	+1542	
Wash 9 East	Approximately 0.9 mile downstream of West Jomax Road	+1376	Town of Surprise, Unincorporated Areas of Maricopa County.
	Approximately 600 feet upstream of West Windstone Trail	+1540	
Wash 9 East Split	At the Wash 9 East confluence	+1428	Unincorporated Areas of Maricopa County.
	At the Wash 9 East divergence	+1447	
Wash T2N–R5W–S27N	At the Hassayampa River confluence	+1056	Unincorporated Areas of Maricopa County.
	At the Jackrabbit Wash divergence	+1165	
Wash T4N–R3W–S07W	Approximately 1,000 feet upstream of the Wash T4N–R3W–S17 confluence.	+1599	Unincorporated Areas of Maricopa County.
	Approximately 1.8 miles upstream of the Wash T4N–R3W–S17 confluence.	+1657	
Wash T4N–R3W–S08E	Approximately 500 feet upstream of the Wash 3 West confluence.	+1565	Unincorporated Areas of Maricopa County.
	Approximately 200 feet upstream of 259th Avenue	+1725	
Wash T4N–R3W–S08W	Approximately 300 feet upstream of the Wash 3 West confluence.	+1576	Unincorporated Areas of Maricopa County.
	Approximately 600 feet upstream of 255th Avenue	+1684	
Wash T4N–R3W–S09W	Approximately 200 feet upstream of the Wash 3 West confluence.	+1561	Town of Surprise, Unincorporated Areas of Maricopa County.
	At the downstream side of West Patton Road	+1647	
Wash T4N–R3W–S10N	Approximately 1,200 feet upstream of the Central Arizona Project Canal.	+1554	Town of Surprise, Unincorporated Areas of Maricopa County.
	At the downstream side of West Jomax Road	+1594	
Wash T4N–R3W–S10W Reach 1.	Approximately 1,000 feet upstream of the Central Arizona Project Canal.	+1545	Town of Surprise.
	Approximately 1.2 miles upstream of the Central Arizona Project Canal.	+1571	
Wash T4N–R3W–S10W Reach 2.	Approximately 1,200 feet upstream of the Central Arizona Project Canal.	+1545	Town of Surprise.
	Approximately 0.6 mile upstream of the Central Arizona Project Canal.	+1556	
Wash T4N–R3W–S17	Approximately 800 feet upstream of the Wash T4N–R3W–S18W confluence.	+1555	Town of Surprise, Unincorporated Areas of Maricopa County.
	Approximately 1.6 miles upstream of 251st Avenue	+1633	
Wash T4N–R3W–S18E	Approximately 1,200 feet upstream of the Wash T4N–R3W–S18W confluence.	+1569	Town of Buckeye, Town of Surprise, Unincorporated Areas of Maricopa County.
	Approximately 0.5 mile upstream of West Patton Road	+1697	
Wash T4N–R3W–S18W	Approximately 1,800 feet downstream of 243rd Avenue	+1547	Town of Buckeye, Town of Surprise, Unincorporated Areas of Maricopa County.
	Approximately 2.8 miles upstream of 251st Avenue	+1637	
Wash T5N–R2W–S07	Approximately 1,200 feet upstream of the Wash T5N–R2W–S19W confluence.	+1735	Unincorporated Areas of Maricopa County.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧Elevation in meters (MSL) Modified	Communities affected
	Approximately 1,800 feet upstream of West Galvin Street	+1808	
Wash T5N–R2W–S19E	At the downstream limit of detailed study	+1602	Town of Surprise, Unincorporated Areas of Maricopa County.
	At the downstream side of West Dove Valley Road	+1694	
Wash T5N–R2W–S19W	At the downstream limit of detailed study	+1628	Town of Surprise, Unincorporated Areas of Maricopa County.
	At the upstream side of West Cloud Road	+1823	
Wash T5N–R3W–S01S	Approximately 0.4 mile upstream of the Wash T5N–R2W–S07 confluence.	+1793	Unincorporated Areas of Maricopa County.
	At the upstream side of West Cloud Road	+1821	
Wash T5N–R3W–S19	Approximately 1,000 feet upstream of the Wash T4N–R3W–S08E confluence.	+1715	Unincorporated Areas of Maricopa County.
	At the downstream side of West Lone Mountain Road	+1728	
Wash T5N–R3W–S24E	At the downstream side of Wildcat Drive	+1632	Unincorporated Areas of Maricopa County.
	Approximately 1.1 miles upstream of Dove Valley Road	+1760	
Wittman Wash	At the downstream side of the 203rd Avenue Bypass	+1554	Unincorporated Areas of Maricopa County.
	Approximately 2.5 miles upstream of Center Street	+1827	
Wittman Wash North Split	Approximately 200 feet upstream of the Wittman Wash confluence.	+1684	Unincorporated Areas of Maricopa County.
	At the Wittman Wash divergence	+1697	
Wittman Wash South Split	At the upstream side of the 203rd Avenue Bypass	+1551	Unincorporated Areas of Maricopa County.
	Approximately 1,200 feet upstream of West Peakview Road.	+1588	
Wittman Wash Tributary	Approximately 1,200 feet upstream of the Wittman Wash confluence.	+1714	Unincorporated Areas of Maricopa County.
	Approximately 1,200 feet upstream of West Peakview Road.	+1588	
Wittman Wash Tributary	Approximately 1,200 feet upstream of the Wittman Wash confluence.	+1714	Unincorporated Areas of Maricopa County.
	Approximately 0.6 mile upstream of West Galvin Street	+1824	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Peoria
Maps are available for inspection at 8401 West Monroe Street, Peoria, AZ 85345.

City of Phoenix
Maps are available for inspection at 200 West Washington Street, 7th Floor, Phoenix, AZ 85003.

City of Scottsdale
Maps are available for inspection at 3939 North Drinkwater Boulevard, Scottsdale, AZ 85251.

Town of Buckeye
Maps are available for inspection at 530 East Monroe Avenue, Buckeye, AZ 85326.

Town of Carefree
Maps are available for inspection at 8 Sundial Circle, Carefree, AZ 85377.

Town of Surprise
Maps are available for inspection at 16000 North Civic Center Plaza, Surprise, AZ 85374.

Unincorporated Areas of Maricopa County
Maps are available for inspection at 2801 West Durango Street, Phoenix, AZ 85003.

Muhlenberg County, Kentucky, and Incorporated Areas
Docket No.: FEMA–B–1095

Brier Creek (backwater effects from Green River).	From the confluence with Pond River to approximately 1,390 feet downstream of Phillips Town Road.	+389	Unincorporated Areas of Muhlenberg County.
Caney Creek	Approximately 0.5 mile upstream of North Main Street	+413	City of Greenville, Unincorporated Areas of Muhlenberg County.
	At the Caney Creek Tributary 27 confluence	+423	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧Elevation in meters (MSL) Modified	Communities affected
Caney Creek Tributary 27.1 (backwater effects from Caney Creek).	From the Caney Creek confluence to approximately 0.7 mile upstream of the Caney Creek confluence.	+424	City of Greenville, Unincorporated Areas of Muhlenberg County.
Caney Creek Tributary 31 (backwater effects from Caney Creek).	From the Caney Creek confluence to approximately 0.6 mile upstream of the Caney Creek confluence.	+413	Unincorporated Areas of Muhlenberg County.
Canfield Branch (backwater effects from Green River).	From the Mud River confluence to approximately 340 feet upstream of Forest Oak Church Road.	+404	Unincorporated Areas of Muhlenberg County.
Cypress Creek (backwater effects from Green River).	From approximately 0.6 mile downstream of KY–175 to approximately 0.7 mile upstream of KY–81.	+393	Unincorporated Areas of Muhlenberg County.
Cypress Creek Tributary 1 (backwater effects from Green River).	From the Cypress Creek confluence to approximately 0.8 mile upstream of Coffman Schoolhouse Road.	+393	Unincorporated Areas of Muhlenberg County.
Green River	At the confluence with Mud River	+393	City of South Carrollton, Unincorporated Areas of Muhlenberg County.
	Approximately 2.6 miles upstream of CSX Railroad	+404	
Irwin Creek (backwater effects from Green River).	From the Isaacs Creek confluence to approximately 2,000 feet upstream of the Isaacs Creek confluence.	+389	Unincorporated Areas of Muhlenberg County.
Isaacs Creek (backwater effects from Green River).	From the Green River confluence to approximately 1,035 feet upstream of the Irwin Creek confluence.	+389	Unincorporated Areas of Muhlenberg County.
Jacobs Creek (backwater effects from Green River).	From the Green River confluence to approximately 2.0 miles upstream of Riverside Road.	+402	Unincorporated Areas of Muhlenberg County.
Jacobs Creek Tributary 7 (backwater effects from Green River).	From the Jacobs Creek confluence to approximately 370 feet upstream of Riverside Road.	+402	Unincorporated Areas of Muhlenberg County.
Little Cypress Creek	Approximately 190 feet upstream of West Whitmer Street	+405	Unincorporated Areas of Muhlenberg County, City of Central City.
	Just upstream of Front Street	+408	
Little Cypress Creek Tributary 16 (backwater effects from Little Cypress Creek).	From the Little Cypress Creek confluence to approximately 2,507 feet upstream of the Little Cypress Creek confluence.	+405	City of Central City, Unincorporated Areas of Muhlenberg County.
Little Cypress Creek Tributary 8 (backwater effects from Little Cypress Creek).	From the Little Cypress Creek confluence to approximately 1,100 feet upstream of the Little Cypress Creek confluence.	+422	Unincorporated Areas of Muhlenberg County.
Log Creek (backwater effects from Green River).	From the Pond River confluence to approximately 3,900 feet upstream of Millport Sacramento Road.	+389	Unincorporated Areas of Muhlenberg County.
Mud River (backwater effects from Green River).	From the Green River confluence to approximately 535 feet upstream of the Canfield Branch confluence.	+404	Unincorporated Areas of Muhlenberg County.
Muddy Fork (backwater effects from Green River).	From the Cypress Creek confluence to approximately 0.8 mile upstream of the Cypress Creek confluence.	+393	Unincorporated Areas of Muhlenberg County.
Nelson Creek (backwater effects from Green River).	From the Green River confluence to approximately 0.4 mile upstream of Green River Haul Road.	+398	Unincorporated Areas of Muhlenberg County.
Opossum Run (backwater effects from Sandlick Creek).	From the Sandlick Creek confluence to approximately 1,175 feet upstream of Opossum Lane.	+430	Unincorporated Areas of Muhlenberg County.
Plum Creek (backwater effects from Green River).	From the Pond Creek confluence to approximately 300 feet downstream of the Plum Creek Tributary 4 confluence.	+401	City of Drakesboro, Unincorporated Areas of Muhlenberg County.
Plum Creek Tributary 5 (backwater effects from Green River).	From the Plum Creek confluence to approximately 0.65 mile upstream of the Plum Creek confluence.	+401	Unincorporated Areas of Muhlenberg County.
Pond Creek (backwater effects from Green River).	From the Green River confluence to approximately 1,280 feet upstream of I–431.	+401	Unincorporated Areas of Muhlenberg County.
Pond Creek (backwater effects from Sandlick Creek).	From the Sandlick Creek confluence to just downstream of Johnson Road.	+421	Unincorporated Areas of Muhlenberg County.
Pond Creek Tributary 29 (Backwater effects from Green River).	From the Pond Creek confluence to approximately 1,000 feet upstream of KY–2107.	+401	Unincorporated Areas of Muhlenberg County.
Pond Creek Tributary 30 (backwater effects from Green River).	From the Pond Creek confluence to approximately 1.4 miles upstream of the Pond Creek confluence.	+401	Unincorporated Areas of Muhlenberg County.
Pond River (backwater effects from Green River).	From the Green River confluence to approximately 1.0 mile upstream of KY–70.	+389	Unincorporated Areas of Muhlenberg County.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧Elevation in meters (MSL) Modified	Communities affected
Sandlick Creek Tributary 2 (backwater effects from Sandlick Creek).	From the Sandlick Creek confluence to approximately 1,600 feet upstream of the Sandlick Creek confluence.	+449	Unincorporated Areas of Muhlenberg County.

* National Geodetic Vertical Datum.
+North American Vertical Datum.
#Depth in feet above ground.
∧Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Central City
Maps are available for inspection at City Hall, 214 North 1st Street, Central City, KY 42330.

City of Drakesboro
Maps are available for inspection at City Hall, 212 West Mose Rager Boulevard, Drakesboro, KY 42337.

City of Greenville
Maps are available for inspection at City Hall, 118 Court Street, Greenville, KY 42345.

City of South Carrollton
Maps are available for inspection at City Hall, 10515 U.S. Route 431, South Carrollton, KY 42374.

Unincorporated Areas of Muhlenberg County
Maps are available for inspection at the Muhlenberg County Judicial Building, 136 South Main Street, Greenville, KY 42345.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 3, 2013.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–14292 Filed 6–14–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF DEFENSE

Defense Acquisitions Regulations System

48 CFR Parts 204, 225, 235, and 252

RIN 0750–AH70

Defense Federal Acquisition Regulation Supplement; Defense Trade Cooperation Treaties With Australia and the United Kingdom (DFARS 2012–D034)

AGENCY: Defense Acquisition Regulations System; Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has adopted as final, with changes, the interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement requirements of the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation (the U.S.-U.K. DTC Treaty) and the Security Cooperation Act of 2010 regarding export control regulations between the United States and the United Kingdom. The final rule also implements the Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation.

DATES: *Effective Date:* June 17, 2013.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published an interim rule in the **Federal Register** at 77 FR 30361 on May 22, 2012, to implement requirements of the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation (the U.S.-U.K. DTC Treaty) and the Security Cooperation Act of 2010 regarding export control regulations between the United States and the United Kingdom. The public comment period ended on July 23, 2012. Two respondents submitted comments.

The Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation (the U.S.-Australia DTC Treaty) was approved by Congress simultaneously with the U.S.-U.K. DTC Treaty in Title I of the Security Trade Cooperation Act of 2010. The Department of State implementing regulation was published in the **Federal Register** on April 11, 2013, at 78 FR 21523, effective when the U.S.-Australia DTC Treaty entered into force on May 16, 2013. This final rule also implements the U.S.-Australia DTC Treaty, the associated Implementing Arrangement, and the Department of State implementing regulations, which all have provisions that generally parallel the provisions of the U.S.-U.K. DTC Treaty and its implementing arrangements and regulations.

This rule streamlines the export control regulations between the United States and Australia and the United States and the United Kingdom under specified circumstances.

The U.S. Government controls exports of defense articles, technical data, and defense services. The governing law is the Arms Export Control Act (22 U.S.C. 2778 *et seq.*) and implementing regulations in the International Traffic in Arms Regulations (ITAR) (22 CFR 120–130).

Under the ITAR, the Department of State manages an export licensing system in which numerous government approvals are often necessary for companies to hold discussions about potential projects, pursue joint activities, ship hardware, or transfer know-how to one another, and even sometimes to transfer engineers and

other company employees from one country to another. This process can be challenging and time consuming for U.S. exporters and for foreign firms in their supply chains.

The U.S. concluded the DTC Treaties with Australia and the United Kingdom to enable their militaries, security authorities, and their approved industries to exchange defense articles, technical information, and defense services more freely. The DTC Treaties establish certain exemptions from ITAR requirements. Other exports and transfers remain governed by the Arms Export Control Act and the ITAR.

The DTC Treaties, Implementing Arrangements, and other useful resources may be accessed at *http://pmddtc.state.gov/treaties/index.html.*

The implementing legislation is in Title I of Pub. L. 111–266, the Security Cooperation Act of 2010.

The U.S. Department of State regulations implementing the Treaties with Australia and the United Kingdom are at 22 CFR parts 120 and 126.

II. Discussion and Analysis of the Public Comments

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

A. Summary of Significant Changes From the Interim Rule

The final rule has added implementation of the U.S.-Australia DTC Treaty, the associated Implementing Arrangement, and the Department of State implementing regulations, comparable to the implementation of the U.S.-U.K. DTC Treaty.

B. Analysis of Public Comments

1. Support the Intent of the Interim Rule

Comment: Both respondents support the Defense Cooperation Treaty with the United Kingdom and the intent to facilitate trade by streamlining the export of defense articles. One respondent commended the Defense Acquisition Regulations (DAR) Council on recognizing the importance of the implementation of the U.S.-U.K DTC Treaty. The respondent also commended the DAR Council on designating portions of the solicitations that are (or are not) subject to the Treaty. This provides offerors with a common understanding of the export control requirements of a particular acquisition. Second, the respondent views the interim rule as heightening awareness of export controls.

Response: Noted.

2. Identification of Line Items That Are U.S. DoD Treaty-Eligible Requirements

Comment: The same respondent, however, was of the opinion that DoD does not have legal authority to make de facto jurisdictional determinations regarding whether a particular product is a U.S. DoD Treaty-eligible requirement. According to the respondent, contractors do have the right to self-classify, but the only Government entity that can make a definitive determination is the Department of State, Directorate of Defense Trade Controls. The respondent recommended that the final rule establish a process for program managers and contracting officers to coordinate with the Directorate of Defense Trade Controls with respect to determinations regarding solicitations and contract line items that would be suitable for U.S.-U.K. DTC Treaty treatment, so that companies can rely on the determination.

Response: DoD and the U.K. Ministry of Defence have jointly established a Management Board to resolve such issues, adopted a detailed management plan, and conducted Pathfinder Exercises to test the process with industry participants.

DoD slightly revised the wording of the final rule at DFARS 225.7902–4 to address the concern that the program manager and contracting officer do not have the authority to determine Treaty eligibility.

3. Representation

Comment: One respondent questioned the need for the representation, because a failure to comply with the ITAR provides an independent basis for regulatory enforcement against an offending contractor by the Department of State or the Department of Justice, and neither the Treaty nor the ITAR suggest the need for additional representations or certifications.

Another respondent recommended changing the contractor's representation in the provision at 252.225–7046, which requires the offeror to check one of two boxes (that exports or transfers were made and complied with the Treaty, or no such exports or transfers were made) to a more general statement requiring the contractor to acknowledge the contractor's obligation to comply with all treaty provisions. The respondent's rationale for this change was that large DoD contractors with separate departments responsible for Government contracting and ITAR compliance will need to establish complex procedures to gather the necessary data to support an affirmative or negative representation.

Response: DoD has retained the representation in the final rule without change. The clause at DFARS 252.225–7047, Exports by Approved Community Members in Performance of the Contract, applies only to performance after contract award. The provision at DFARS 252.225–7046, Exports by Approved Community Members in Response to the Solicitation, including the representation, is necessary in order to ensure compliance by offerors prior to contract award.

It is not apparent how an offeror could accurately respond to the representation that it has complied with all Treaty provisions, as proposed by the respondent, without gathering an equal amount of data as that required by the representation in the interim rule, to know whether any exports or transfers of qualifying defense articles were made, and that any such exports or transfers were made in accordance with the Treaty.

C. Other Changes

1. The final rule uses the correct full title of the Treaty at 225.7900(b) and then refers to the Treaty as ''the U.S.-U.K. DTC Treaty,'' in order to more specifically identify the Treaty and to distinguish it from the U.S.-Australia DTC Treaty.

2. The final rule reflects changes in the wording of the clauses 252.225–7046 and 252.225–7047 to use the term ''Treaty-eligible'' and ''not Treaty-eligible'' consistently in the rule, in order to avoid possible confusion that introduction of the term ''exemption'' invited.

3. DFARS 225.79, Export Control, and the associated clause at DFARS 252.204–7008, Export-Controlled Items, are moved to DFARS 225.7901 and 252.225–7048, respectively, to co-locate related coverage on export control in one subpart. A conforming change was made to DFARS 235.071.

II. Executive Orders 12866 and 13563

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

flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

DoD does not expect this final rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule does not impose burdens on small businesses. Small businesses that are exporters will benefit from being able to use the streamlined treaty process to make exports that are associated with responding to DoD solicitations and performance of DoD contracts. However, a final regulatory flexibility analysis has been performed and is summarized as follows:

This rule implements requirements of—

The Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation (U.S.-Australia DTC Treaty); and

The Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation (the U.S.-U.K. DTC Treaty).

The objective of the rule is to streamlines the export control regulations between the United States and Australia and between the United States and the United Kingdom under specified circumstances. The legal basis for the rule is the Security Cooperation Act of 2010 (Pub. L. 111–266), enacted October 8, 2010.

There were no significant issues raised by the public in response to the initial regulatory flexibility analysis. The Chief Counsel for Advocacy of the Small Business Administration did not file any comments in response to the rule.

The great majority of industry members of the Approved Community are not small businesses due to the specialized knowledge of export control regulations and the cost involved in compliance. Small businesses that are exporters will benefit from being able to use the streamlined treaty process to make exports that are associated with responding to DoD solicitations and performance of DoD contracts.

Although the interim rule added a representation that required the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*, the net effect will be to significantly streamline and reduce paperwork requirements under the systems set forth in the DTC Treaties and regulated by the ITAR by no longer requiring individual export control licenses within the Approved Community. In short, one representation per offeror will replace multiple requirements under the present system.

This rule implements Treaties and statute and DoD is not aware of any alternative methods of achieving the objectives of the rule. Furthermore, the net impact of the rule is expected to be beneficial to small businesses.

IV. Paperwork Reduction Act

The rule contains information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35). OMB has cleared this information collection requirement under OMB Control Number 0704–0488, titled: Defense Trade Cooperation Treaty with the United Kingdom.

The annual reporting burden is estimated as follows:

Respondents: 110.

Responses per respondent: 1.

Total annual responses: 110.

Preparation hours per response: 0.1.

Total response burden hours: 11.

This rule will result in a significantly streamlined process and reduced paperwork requirements overall under the processes set forth in the DTC Treaties as implemented by the ITAR by no longer requiring individual export licenses within the Approved Community. In short, one representation per offeror will streamline the current process.

List of Subjects in 48 CFR Parts 204, 225, 235, and 252

Government procurement.

Kortnee Stewart,

Editor, Defense Acquisition Regulations System.

Therefore, DoD amends 48 CFR parts 204, 225, 235, and 252 as follows:

■ 1. The authority citation for parts 204, 225, 235, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR Chapter 1.

PART 204—ADMINISTRATIVE MATTERS

Subpart 204.73—[Removed]

■ 2. Remove subpart 204.73.

PART 225—FOREIGN ACQUISITION

■ 3. Subpart 225.79 is revised to read as follows:

225.7900 Scope of subpart.

This subpart implements—

(a) Section 890(a) of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110–181); and

(b) The requirements regarding export control of Title I of the Security Cooperation Act of 2010 (Pub. L. 111–266); the Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation (the U.S.-Australia DTC Treaty); and the Treaty Between the Government of the United States of America and the Government the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation (the U.S.-U.K. DTC Treaty). See *PGI 225.7902* for additional information.

225.7901 Export-controlled items.

This section implements section 890(a) of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110–181).

225.7901–1 Definitions.

''Export-controlled items,'' as used in this section, is defined in the clause at *252.225–7048.*

225.7901–2 General.

Certain types of items are subject to export controls in accordance with the Arms Export Control Act (22 U.S.C. 2751, *et seq.*), the International Traffic in Arms Regulations (22 CFR parts 120–130), the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*), and the Export Administration Regulations (15 CFR parts 730–774). See PGI 225.7901–2 for additional information.

225.7901–3 Policy.

(a) It is in the interest of both the Government and the contractor to be aware of export controls as they apply to the performance of DoD contracts.

(b) It is the contractor's responsibility to comply with all applicable laws and regulations regarding export-controlled items. This responsibility exists independent of, and is not established or limited by, this section.

225.7901–4 Contract clause.

Use the clause at *252.225–7048*, Export-Controlled Items, in all solicitations and contracts.

225.7902 Defense Trade Cooperation Treaties.

This section implements the Defense Trade Cooperation (DTC) Treaties with Australia and the United Kingdom and the associated Implementing Arrangements for DoD solicitations and contracts that authorize prospective contractors and contractors to use the DTC Treaties to respond to DoD solicitations and in the performance of DoD contracts.

225.7902–1 Definitions.

''Approved community,'' ''defense articles,'' ''Defense Trade Cooperation (DTC) Treaty'', ''export,'' ''Implementing Arrangement,'' ''qualifying defense articles,'' ''transfer,'' and ''U.S. DoD Treaty-eligible requirements'' are defined in contract clause DFARS *252.225–7047*, Exports by Approved Community Members in Performance of the Contract.

225.7902–2 Purpose.

The DTC Treaties permit the export of certain U.S. defense articles, technical data, and defense services, without U.S. export licenses or other written authorization under the International Traffic in Arms Regulation (ITAR) into and within the Approved Community, as long as the exports are in support of purposes specified in the DTC Treaties. All persons must continue to comply with statutory and regulatory requirements outside of DFARS and ITAR concerning the import of defense articles and defense services or the possession or transfer of defense articles, including, but not limited to, regulations issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives found at 27 CFR parts 447, 478, and 479, which are unaffected by the DTC Treaties. The Approved Community consists of U.S. entities that are registered with the Department of State and are eligible exporters, the U.S. Government, and certain governmental and commercial facilities in Australia and the United Kingdom that are approved and listed by the U.S. Government. See *PGI 225.7902–2* for additional information.

225.7902–3 Policy.

DoD will facilitate maximum use of the DTC Treaties by prospective contractors responding to DoD solicitations and by contractors eligible to export qualifying defense articles under DoD contracts in accordance with 22 CFR 126.16(g) and 22 CFR 126.17(g).

225.7902–4 Procedures.

(a) For all solicitations and contracts that may be eligible for DTC Treaty coverage (see *PGI 225.7902–4*(1)), the program manager shall identify in writing and submit to the contracting officer prior to issuance of a solicitation and prior to award of a contract—

(1) The qualifying DTC Treaty Scope paragraph (Article 3(1)(a), 3(1)(b), or 3(1)(d) of the U.S.-Australia DTC Treaty or Article (3)(1)(a), (3(1)(b), or 3(1)(d) of the U.S.-U.K. DTC Treaty); and

(2) The qualifying defense article(s) using the categories described in 22 CFR 126.16(g) and 22 CFR 126.17(g).

(b) If applicable, the program manager shall also identify in writing and submit to the contracting officer any specific Part C, DTC Treaty-exempted technology list items, terms and conditions for applicable contract line item numbers (See *PGI 225.7902–4*(2)).

225.7902–5 Solicitation provision and contract clause.

(a) Use the provision at *252.225–7046*, Exports by Approved Community Members in Response to the Solicitation, in solicitations containing the clause at *252.225–7047.*

(b)(1) Use the clause at *252.225–7047*, Exports by Approved Community Members in Performance of the Contract, in solicitations and contracts when—

(i) Export-controlled items are expected to be involved in the performance of the contract and the clause at *252.204–7008* is used; and

(ii) At least one contract line item is intended to satisfy a U.S. DoD Treaty-eligible requirement.

(2) The contracting officer shall complete paragraph (b) of the clause using information the program manager provided as required by *225.7902–4*(a).

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

235.071 [Amended]

■ 4. Section 235.071 is amended by removing ''Subpart 204.73'' and adding ''225.7901'' in its place.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.204–7008 [Removed and Reserved]

■ 5. Remove and reserve section 252.204–7008.

■ 6. Section 252.225–7046 is revised to read as follows:

252.225–7046 Exports by Approved Community Members in Response to the Solicitation.

As prescribed in *225.7902–5*(a), use the following provision:

Exports by Approved Community Members in Response to the Solicitation (June 2013)

(a) *Definitions.* The definitions of ''Approved Community'', ''defense articles'', ''Defense Trade Cooperation (DTC) Treaty'', ''export'', ''Implementing Arrangement'', ''qualifying defense articles'', ''transfer'', and ''U.S. DoD Treaty-eligible requirements'' in DFARS clause *252.225–7047* apply to this provision.

(b) All contract line items in the contemplated contract, except any identified in this paragraph, are intended to satisfy U.S. DoD Treaty-eligible requirements. Specific defense articles that are not U.S. DoD Treaty-eligible will be identified as such in those contract line items that are otherwise U.S. DoD Treaty-eligible.

CONTRACT LINE ITEMS NOT INTENDED TO SATISFY U.S. DoD TREATY-ELIGIBLE REQUIREMENTS:

[*Enter Contract Line Item Number(s) or enter ''None''*]

(c) Approved Community members responding to the solicitation may only export or transfer defense articles that specifically respond to the stated requirements of the solicitation.

(d) Subject to the other terms and conditions of the solicitation and the contemplated contract that affect the acceptability of foreign sources or foreign end products, components, parts, or materials, Approved Community members are permitted, but not required, to use the DTC Treaties for exports or transfers of qualifying defense articles in preparing a response to this solicitation.

(e) Any conduct by an offeror responding to this solicitation that falls outside the scope of the DTC Treaties, the Implementing Arrangements, and the implementing regulations of the Department of State in 22 CFR 126.16 (Australia), 22 CFR 126.17 (United Kingdom), and 22 CFR 126 Supplement No. 1 (exempted technologies list) is subject to all applicable International Traffic in Arms Regulations (ITAR) requirements, including any criminal, civil, and administrative penalties or sanctions, as well as all other United States statutory and regulatory requirements outside of ITAR.

(f) If the offeror uses the procedures established pursuant to the DTC Treaties, the offeror agrees that, with regard to the export or transfer of a qualifying defense article associated with responding to the solicitation, the offeror shall—

(1) Comply with the requirements and provisions of the applicable DTC Treaties, the Implementing Arrangements, and corresponding regulations (including the ITAR) of the U.S. Government and the government of Australia or of the United Kingdom, as applicable; and

(2) Prior to the export or transfer of a qualifying defense article—

(i) Mark, identify, transmit, store, and handle any defense articles provided for the purpose of responding to such solicitations, as well as any defense articles provided with or developed pursuant to their responses to such solicitations, in accordance with the

DTC Treaties, the Implementing Arrangements, and corresponding regulations of the United States Government and the government of Australia or the government of the United Kingdom, as applicable, including, but not limited to, the marking and classification requirements described in the applicable regulations;

(ii) Comply with the re-transfer or re-export provisions of the DTC Treaties, the Implementing Arrangements, and corresponding regulations of the United States Government and the government of Australia or the government of the United Kingdom, as applicable, including, but not limited to, the re-transfer and re-export requirements described in the applicable regulations; and

(iii) Acknowledge that any conduct that falls outside or in violation of the DTC Treaties, Implementing Arrangements, and implementing regulations of the applicable government including, but not limited to, unauthorized re-transfer or re-export in violation of the procedures established in the applicable Implementing Arrangement and implementing regulations, remains subject to applicable licensing requirements of the government of Australia, the government of the United Kingdom, and the United States Government, as applicable, including any criminal, civil, and administrative penalties or sanctions contained therein.

(g) *Representation.* The offeror shall check one of the following boxes and sign the representation:

☐ The offeror represents that export(s) or transfer(s) of qualifying defense articles were made in preparing its response to this solicitation and that such export(s) or transfer(s) complied with the requirements of this provision.

Name/Title of Duly Authorized Representative Date

☐ The offeror represents that no export(s) or transfer(s) of qualifying defense articles were made in preparing its response to this solicitation.

Name/Title of Duly Authorized Representative Date

(h) *Subcontracts.* The offeror shall flow down the substance of this provision, including this paragraph (h), but excluding the representation at paragraph (g), to any subcontractor at any tier intending to use the DTC Treaties in responding to this solicitation.

(End of provision)

■ 7. Section 252.225–7047 is revised to read as follows:

252.225–7047 Exports by Approved Community Members in Performance of the Contract.

As prescribed in *225.7902–5*(b), use the following clause:

Exports by Approved Community Members in Performance of the Contract (June 2013)

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

''Approved Community'' means the U.S. Government, U.S. entities that are registered and eligible exporters, and certain government and industry facilities in Australia or the United Kingdom that are approved and listed by the U.S. Government.

''Australia Community member'' means an Australian government authority or nongovernmental entity or facility on the Australia Community list accessible at *http://pmddtc.state.gov/treaties/index.html*.

''Defense articles'' means articles, services, and related technical data, including software, in tangible or intangible form, listed on the United States Munitions List of the International Traffic in Arms Regulations (ITAR), as modified or amended.

''Defense Trade Cooperation (DTC) Treaty'' means—

(1) The Treaty Between the Government of the United States of America and the government of the United Kingdom of Great Britain and Northern Ireland concerning Defense Trade Cooperation, signed at Washington and London on June 21 and 26, 2007; or

(2) The Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation, signed at Sydney on September 5, 2007].

''Export'' means the initial movement of defense articles from the United States Community to the United Kingdom Community.

''Implementing Arrangement'' means—

(1) The Implementing Arrangement Pursuant to the Treaty between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, signed on February 14, 2008; or

(2) The Implementing Arrangement Pursuant to the Treaty between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation, signed on March 14, 2008.

''Qualifying defense articles'' means defense articles that are not exempt from the scope of the DTC Treaties as defined in 22 CFR 126.16(g) and 22 CFR 126.17(g).

''Transfer'' means the movement of previously exported defense articles within the Approved Community.

''United Kingdom Community member'' means a United Kingdom government authority or nongovernmental entity or facility on the United Kingdom Community list accessible at *http://pmddtc.state.gov*.

''United States Community'' means—

(1) Departments and agencies of the U.S. Government, including their personnel, with, as appropriate, security accreditation and a need-to-know; and

(2) Nongovernmental U.S. entities registered with the Department of State and eligible to export defense articles under U.S. law and regulation, including their employees, with, as appropriate, security accreditation and a need-to-know.

''U.S. DoD Treaty-eligible requirements'' means any defense article acquired by the DoD for use in a combined military or counterterrorism operation, cooperative research, development, production or support program, or DoD end use, as described in Article 3 of the U.S.-U.K. DTC Treaty and sections 2 and 3 of the associated Implementing Arrangement; and Article 3 of the U.S.-Australia DTC Treaty and sections 2 and 3 of the associated Implementing Arrangement.

(b) All contract line items in this contract, except any identified in this paragraph, are intended to satisfy U.S. DoD Treaty-eligible requirements. Specific defense articles that are not U.S. DoD Treaty-eligible will be identified as such in those contract line items that are otherwise U.S. DoD Treaty-eligible.

CONTRACT LINE ITEMS NOT INTENDED TO SATISFY U.S. DoD TREATY-ELIGIBLE REQUIREMENTS:

[*Enter Contract Line Item Number(s) or enter ''None''*]

(c) Subject to the other terms and conditions of this contract that affect the acceptability of foreign sources or foreign end products, components, parts, or materials, Approved Community members are permitted, but not required, to use the DTC Treaties for exports or transfers of qualifying defense articles in performance of the contract.

(d) Any conduct by the Contractor that falls outside the scope of the DTC Treaties, the Implementing Arrangements, and 22 CFR 126.16(g) and 22 CFR 126.17(g) is subject to all applicable ITAR requirements, including any criminal, civil, and administrative penalties or sanctions, as well as all other United States statutory and regulatory requirements outside of ITAR, including, but not limited to, regulations issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives found at 27 CFR parts 447, 478, and 479, which are unaffected by the DTC Treaties.

(e) If the Contractor is an Approved Community member, the Contractor agrees that—

(1) The Contractor shall comply with the requirements of the DTC Treaties, the Implementing Arrangements, the ITAR, and corresponding regulations of the U.S. Government and the government of Australia or the government of the United Kingdom, as applicable; and

(2) Prior to the export or transfer of a qualifying defense article the Contractor—

(i) Shall mark, identify, transmit, store, and handle any defense articles provided for the purpose of responding to such solicitations, as well as any defense articles provided with or developed pursuant to their responses to such solicitations, in accordance with the DTC Treaties, the Implementing Arrangements, and corresponding regulations of the United States Government and the government of Australia or the government of the United Kingdom, as applicable, including, but not limited to, the marking and classification requirements described in the applicable regulations;

(ii) Shall comply with the re-transfer or re-export provisions of the DTC Treaties, the Implementing Arrangements, and corresponding regulations of the United States Government and the government of Australia or the government of the United

Kingdom, as applicable, including, but not limited to, the re-transfer and re-export requirements described in the applicable regulations; and

(iii) Shall acknowledge that any conduct that falls outside or in violation of the DTC Treaties, Implementing Arrangements, and implementing regulations of the applicable government including, but not limited to, unauthorized re-transfer or re-export in violation of the procedures established in the applicable Implementing Arrangement and implementing regulations, remains subject to applicable licensing requirements of the government of Australia, the government of the United Kingdom, and the United States Government, including any criminal, civil, and administrative penalties or sanctions contained therein.

(f) The contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts that may require exports or transfers of qualifying defense articles in connection with deliveries under the contract.

■ 8. Add section 252.225–7048 to read as follows:

252.225–7048 Export-Controlled Items.

As prescribed in *225.7901–4*, use the following clause:

Export-Controlled Items (June 2013)

(a) *Definition.* ''Export-controlled items,'' as used in this clause, means items subject to the Export Administration Regulations (EAR) (15 CFR Parts 730–774) or the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120–130). The term includes—

(1) ''Defense items,'' defined in the Arms Export Control Act, 22 U.S.C. 2778(j)(4)(A), as defense articles, defense services, and related technical data, and further defined in the ITAR, 22 CFR Part 120; and

(2) ''Items,'' defined in the EAR as ''commodities'', ''software'', and ''technology,'' terms that are also defined in the EAR, 15 CFR 772.1.

(b) The Contractor shall comply with all applicable laws and regulations regarding export-controlled items, including, but not limited to, the requirement for contractors to register with the Department of State in accordance with the ITAR. The Contractor shall consult with the Department of State regarding any questions relating to compliance with the ITAR and shall consult with the Department of Commerce regarding any questions relating to compliance with the EAR.

(c) The Contractor's responsibility to comply with all applicable laws and regulations regarding export-controlled items exists independent of, and is not established or limited by, the information provided by this clause.

(d) Nothing in the terms of this contract adds, changes, supersedes, or waives any of the requirements of applicable Federal laws, Executive orders, and regulations, including but not limited to—

(1) The Export Administration Act of 1979, as amended (50 U.S.C. App. 2401, *et seq.*);

(2) The Arms Export Control Act (22 U.S.C. 2751, *et seq.*);

(3) The International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*);

(4) The Export Administration Regulations (15 CFR Parts 730–774);

(5) The International Traffic in Arms Regulations (22 CFR Parts 120–130); and

(6) Executive Order 13222, as extended.

(e) The Contractor shall include the substance of this clause, including this paragraph (e), in all subcontracts.

(End of clause)

[FR Doc. 2013–14298 Filed 6–14–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 222

Defense Federal Acquisition Regulation Supplement; Technical Amendments

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making a technical amendment to the Defense Federal Acquisition Regulation Supplement (DFARS) to provide needed editorial changes.

DATES: *Effective Date:* June 17, 2013.

FOR FURTHER INFORMATION CONTACT: Ms. Kortnee Stewart, Defense Acquisition Regulations System, OUSD(AT&L)DPAP(DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6100; facsimile 571–372–6094.

SUPPLEMENTARY INFORMATION: This final rule amends the DFARS to insert a PGI pointer at Subpart 222.7404(c).

List of Subjects in 48 CFR Part 222

Government procurement.

Kortnee Stewart

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 222 is amended as follows:

PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

■ 1. The authority citation for 48 CFR part 222 continue to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Section 222.7404(c) is amended by inserting the words ''and PGI 222.7404(c)'' after the word ''procedures''.

[FR Doc. 2013–14295 Filed 6–14–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120815345–3525–02]

RIN 0648–BC41

Snapper-Grouper Fishery Off the Southern Atlantic States; Regulatory Amendment 13

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

ACTION: Final rule.

SUMMARY: NMFS implements management measures described in a regulatory amendment (Regulatory Amendment 13) to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), as prepared by the South Atlantic Fishery Management Council (Council). This final rule revises the annual catch limits (ACLs), including sector ACLs, for 37 snapper-grouper species based on updated landings data. The purpose of this rule is to ensure that the ACLs are based on the best scientific information available, and to prevent unnecessary negative socio-economic impacts to participants in the snapper-grouper fishery and fishing community that could occur if the ACLs are not revised, in accordance with the provisions set forth in the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: This rule is effective July 17, 2013.

ADDRESSES: Electronic copies of the regulatory amendment, which includes an environmental assessment, regulatory impact review, Regulatory Flexibility Act analysis, and fishery impact statement, may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sf/SASnapperGrouperHomepage.htm.*

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, Southeast Regional Office, NMFS, telephone: 727–824–5305, or email: *Nikhil.Mehta@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South

Atlantic is managed under the FMP and includes 60 species, 37 of which are addressed in Regulatory Amendment 13 and this final rule. These 37 snapper-grouper species do not have stock assessments; their acceptable biological catch estimates (ABCs) are greater than zero; and their ABCs were specified using a formula established in the Comprehensive ACL Amendment. Species in the fishery management unit with stock assessments and species with an ABC equal to zero are not addressed in Regulatory Amendment 13. For assessed species, adjustments to landings data will be made during assessment updates or revisions. Species with an ABC of zero are prohibited harvest species and are outside the scope of the amendment. The FMP was prepared by the Council and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

On March 21, 2013, NMFS published a proposed rule for the regulatory amendment and requested public comments (78 FR 17336). The proposed rule and the regulatory amendment outline the rationale for the actions contained in this final rule. A summary of the actions implemented by this final rule are provided below.

The purpose of this rule and Regulatory Amendment 13 is to revise the ABCs, ACLs (including sector ACLs) and annual catch targets (ACTs) implemented by the South Atlantic Comprehensive ACL Amendment (77 FR 15916, March 16, 2012) using improved data. If the ABCs, ACLs (including sector ACLs), and ACTs are not updated using the new data, there could be a disconnect between how the ACLs were calculated and how the landings are calculated to determine if ACLs are met and AMs are triggered.

Management Measures Contained in This Final Rule

This final rule revises ACLs for the following species and species complexes: Deep-water complex species (yellowedge grouper, blueline tilefish, silk snapper, misty grouper, sand tilefish, queen snapper, black snapper, and blackfin snapper); shallow-water groupers (red hind, rock hind, yellowmouth grouper, yellowfin grouper, coney, and graysby); snappers (gray snapper, lane snapper, cubera snapper, dog snapper, and mahogany snapper), jacks (almaco jack, banded rudderfish, and lesser amberjack), grunts (white grunt, sailor's choice, tomtate, and margate); porgies (jolthead porgy, knobbed porgy, saucereye porgy, scup, and whitebone porgy); Atlantic spadefish; blue runner; bar jack; gray triggerfish; scamp; and hogfish. NMFS monitors landings throughout a fishing season to ensure they do not exceed the ACLs. Because the ACLs trigger the AMs that were established in the Comprehensive ACL Amendment it is important that data used to calculate the ACLs is consistent with the data used to monitor landings.

The commercial AMs for the species and species complexes in this final rule specify that if the commercial ACL for a species or species complex is reached or projected to be reached during a fishing year, the sector will close for the remainder of that fishing year for that species or species complex. If a complex is closed, sale and purchase of any species in that complex is prohibited. If a species, or a single member of a species complex, is designated as overfished and the commercial ACL is exceeded, then during the following fishing year the commercial sector ACL would be reduced by the amount of the commercial ACL overage in the prior fishing year.

The recreational AMs for the species and species complexes are as follows: If the recreational ACL is exceeded for a species or species complex in a fishing year, then during the next fishing year the NMFS Regional Administrator will monitor the recreational landings for a persistence in increased landings, and will reduce the length of the recreational fishing season as necessary to ensure the recreational landings do not exceed the recreational ACL.

This final rule ensures that the methodology used to calculate the ACLs is consistent with the methodology used to monitor landings and to determine when it is necessary to trigger the AMs.

Additional Measures Contained in Regulatory Amendment 13

In addition to the ACL revisions in this final rule, Regulatory Amendment 13 revises the ABCs and ACTs for these 37 snapper-grouper species using the improved data methods as previously described.

Comments and Responses

A total of 16 comment submissions were received on the proposed rule for Regulatory Amendment 13. Comments were received from individuals, an environmental organization, a recreational fishing association, and a Federal agency. Of the comments received, some were generally opposed to any regulations, and others were supportive of the action in the regulatory amendment. There were also comments outside the scope of this rulemaking. Several of those questioned the species groupings and the formula used to establish the ACLs, which were actions included in the South Atlantic Comprehensive ACL Amendment and are not reconsidered in Regulatory Amendment 13. Specific comments related to the actions contained in Regulatory Amendment 13 and NMFS' responses are summarized below.

Comment 1: NMFS states in Regulatory Amendment 13 that the ''best scientific information available'' is used. Provide the legal definition of the term ''best scientific information available'' and the timeline for the revision of National Standard 2.

Response: National Standard 2 requires that ''conservation and management measures shall be based upon the best scientific information available,'' 16 U.S.C. 1851(a)(2). The Magnuson-Stevens Act does not define the phrase ''best scientific information available'' but NMFS has published National Standard 2 guidelines to provide guidance on how this phrase should be interpreted in the development of fishery management actions. See 50 CFR 600.315. On December 9, 2009, NMFS published a proposed rule that would revise the National Standard 2 Guidelines (74 FR 65724). NMFS is reviewing the comments received on the proposed rule and expects to publish a final rule in the near future.

Comment 2: Regulatory Amendment 13 results in allocations that favor the recreational sector more than the commercial sector.

Response: NMFS disagrees. Sector allocations were established by a formula selected by the Council in the Comprehensive ACL Amendment in 2012. Regulatory Amendment 13 did not consider modifications to the allocation formula but uses updated data, including MRIP data, to revise the ABCs, ACLs, and ACTs for 37 snapper-grouper species. The use of updated data changes the percentage of allocations for these species but as shown in Table 2.2 of Regulatory Amendment 13, the differences are generally small and do not favor one sector over the other.

Changes From the Proposed Rule

On April 17, 2013, NMFS published in the **Federal Register** an interim final rule to reorganize the regulations in 50 CFR part 622 for the Gulf of Mexico, the South Atlantic, and the Caribbean (78 FR 22950). That interim final rule did not create any new rights or obligations; it reorganized the existing regulatory requirements in the Code of Federal Regulations into a new format. This final rule incorporates this new format into the regulatory text; it does not

change the specific regulatory requirements that were contained in the proposed rule. Therefore, as a result of this reorganization, the ACLs previously located at § 622.49 are now located at § 622.193.

Classification

The Regional Administrator, Southeast Region, NMFS has determined that the actions contained in this final rule and regulatory amendment are necessary for the conservation and management of the snapper-grouper fishery and are consistent with the Magnuson-Stevens Act and other applicable laws.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published in the proposed rule and is not repeated here. No comments were received regarding the certification and NMFS has not received any new information that would affect its determination. No changes to the final rule were made in response to public comments. As a result, a regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 622

ACLs, Fisheries, Fishing, Snapper-Grouper, South Atlantic.

Dated: June 11, 2013.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, Performing the functions and duties of the Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.193, the first sentence in each of paragraphs (h)(1)(i), (h)(2), (i)(1)(i), (i)(2), (j)(1)(i), (j)(2), (l)(1)(i), (l)(2), (m)(1)(i), (m)(2), (p)(1)(i), (p)(2), (q)(1)(i), (q)(2), (s)(1)(i), (s)(2), (t)(1)(i), (t)(2), (u)(1)(i), (u)(2), (w)(1)(i), (w)(2), (x)(1)(i), and (x)(2) are revised to read as follows:

§ 622.193 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

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(h) * * *

(1) * * *

(i) If commercial landings for the deep-water complex, as estimated by the SRD, reach or are projected to reach the commercial ACL of 376,469 lb (170,763 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for this complex for the remainder of the fishing year. * * *

* * * * *

(2) * * * If recreational landings for the deep-water complex, as estimated by the SRD, exceed the recreational ACL of 334,556 lb (151,752 kg), round weight, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. * * *

(i) * * *

(1) * * *

(i) If commercial landings for scamp, as estimated by the SRD, reach or are projected to reach the commercial ACL of 333,100 lb (151,092 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. * * *

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(2) * * * If recreational landings for scamp, as estimated by the SRD, exceed the recreational ACL of 176,688 lb (80,144 kg), round weight, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. * * *

(j) * * *

(1) * * *

(i) If commercial landings for other SASWG, as estimated by the SRD, reach or are projected to reach the commercial ACL of 49,776 lb (22,578 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for this complex for the remainder of the fishing year. * * *

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(2) * * * If recreational landings for other SASWG, as estimated by the SRD, exceed the recreational ACL of 46,656 lb (21,163 kg), round weight, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. * * *

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(l) * * *

(1) * * *

(i) If commercial landings for lesser amberjack, almaco jack, and banded rudderfish, combined, as estimated by the SRD, reach or are projected to reach their combined commercial ACL of 189,422 lb (85,920 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for this complex for the remainder of the fishing year. * * *

* * * * *

(2) * * * If recreational landings for the complex (lesser amberjack, almaco jack, and banded rudderfish), combined, as estimated by the SRD, exceed the recreational ACL of 267,799 lb (121,472 kg), round weight, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. * * *

(m) * * *

(1) * * *

(i) If commercial landings for bar jack, as estimated by the SRD, reach or are projected to reach the commercial ACL of 5,265 lb (2,388 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. * * *

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(2) * * * If recreational landings for bar jack, as estimated by the SRD, exceed the recreational ACL of 19,515 lb (8,852 kg), round weight, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational

landings do not exceed the recreational ACL in the following fishing year. * * *

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(p) * * *

(1) * * *

(i) If commercial landings combined for this other snappers complex, as estimated by the SRD, reach or are projected to reach the combined complex commercial ACL of 215,662 lb (97,823 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for this complex for the remainder of the fishing year. * * *

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(2) * * * If the combined recreational landings for this snappers complex, as estimated by the SRD, exceed the recreational ACL of 728,577 lb (330,477 kg), round weight, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL for this complex in the following fishing year. * * *

(q) * * *

(1) * * *

(i) If commercial landings for gray triggerfish, as estimated by the SRD, reach or are projected to reach the commercial ACL of 272,880 lb (123,776 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. * * *

* * * * *

(2) * * * If recreational landings for gray triggerfish, as estimated by the SRD, exceed the recreational ACL of 353,638 lb (160,407 kg), round weight, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. * * *

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(s) * * *

(1) * * *

(i) If commercial landings for blue runner, as estimated by the SRD, reach or are projected to reach the commercial ACL of 177,506 lb (80,515 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. * * *

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(2) * * * If recreational landings for blue runner, as estimated by the SRD, exceed the recreational ACL of 948,223 lb (430,107 kg), round weight, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. * * *

(t) * * *

(1) * * *

(i) If commercial landings for Atlantic spadefish, as estimated by the SRD, reach or are projected to reach the commercial ACL of 35,108 lb (15,925 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. * * *

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(2) * * * If recreational landings for Atlantic spadefish, as estimated by the SRD, exceed the recreational ACL of 154,352 lb (70,013 kg), round weight, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. * * *

(u) * * *

(1) * * *

(i) If commercial landings for hogfish, as estimated by the SRD, reach or are projected to reach the commercial ACL of 49,469 lb (22,439 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. * * *

* * * * *

(2) * * * If recreational landings for hogfish, as estimated by the SRD, exceed the recreational ACL of 85,355 lb (38,716 kg), round weight, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. * * *

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(w) * * *

(1) * * *

(i) If commercial landings for jolthead porgy, knobbed porgy, whitebone porgy, scup, and saucereye porgy, combined, as estimated by the SRD, reach or are projected to reach the commercial complex ACL of 36,348 lb (16,487 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for this complex for the remainder of the fishing year. * * *

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(2) * * * If recreational landings for jolthead porgy, knobbed porgy, whitebone porgy, scup, and saucereye porgy, combined, as estimated by the SRD, exceed the recreational ACL of 106,914 lb (48,495 kg), round weight, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season for this complex by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. * * *

(x) * * *

(1) * * *

(i) If commercial landings for white grunt, sailor's choice, tomtate, and margate, combined, as estimated by the SRD, reach or are projected to reach the commercial complex ACL of 218,539 lb (99,128 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for this complex for the remainder of the fishing year. * * *

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(2) * * * If recreational landings for white grunt, sailor's choice, tomtate, and margate, as estimated by the SRD, exceed the recreational ACL of 588,113 lb (266,764 kg), round weight, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season for this complex by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. * * *

[FR Doc. 2013–14334 Filed 6–14–13; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 121210694–3514–02]

RIN 0648–XC392

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Annual Specifications

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement the annual catch limit (ACL), harvest guideline (HG), and associated annual reference points for Pacific sardine in the U.S. exclusive economic zone (EEZ) off the Pacific coast for the fishing season of January 1, 2013, through December 31, 2013. These specifications were determined according to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). The 2013 maximum HG for Pacific sardine is 66,495 metric tons (mt). The initial overall commercial fishing HG, which has been distributed across the three allocation periods for sardine management, is 57,495 mt. This amount has been divided across the three seasonal allocation periods for the directed fishery the following way: January 1–June 30—19,123 mt; July 1–September 14—21,998 mt; and September 15–December 31—13,374 mt with an incidental set-aside of 1,000 mt for each of the three periods. This rule is intended to conserve and manage the Pacific sardine stock off the U.S. West Coast.

DATES: Effective July 17, 2013 through December 31, 2013.

FOR FURTHER INFORMATION CONTACT: Joshua Lindsay, Southwest Region, NMFS, (562) 980–4034.

SUPPLEMENTARY INFORMATION: NMFS issues this rule under authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* During public meetings each year, the estimated biomass for Pacific sardine is presented by NMFS scientists to the Pacific Fishery Management Council's (Council) Coastal Pelagic Species (CPS) Management Team (Team), the Council's CPS Advisory Subpanel (Subpanel), and the Council's Scientific and Statistical Committee (SSC), and the biomass and the status of the fisheries are reviewed and discussed. The biomass estimate is then presented to the Council along with the calculated overfishing limit (OFL), available biological catch (ABC), annual catch limit (ACL) and harvest guideline (HG), along with recommendations and comments from the Team, Subpanel, and SSC. Following review by the Council and after hearing public comment, the Council adopts a biomass estimate and makes its catch level recommendations to the National Marine Fisheries Service (NMFS).

After review of the Council's recommendations and public comments, NMFS implements through this rule the 2013 ACL, HG, and other annual catch references, including the OFL and an ABC that takes into consideration uncertainty surrounding the current estimate of biomass for Pacific sardine in the U.S. EEZ off the Pacific coast. The CPS FMP and its implementing regulations require NMFS to set these annual catch levels for the Pacific sardine fishery based on the annual specification framework in the FMP. This framework includes a harvest control rule that determines the maximum HG, the primary management target for the fishery, for the current fishing season. The HG is based, in large part, on the current estimate of stock biomass. The harvest control rule in the CPS FMP is HG = [(Biomass – CUTOFF) * FRACTION * DISTRIBUTION] with the parameters described as follows:

1. *Biomass.* The estimated stock biomass of Pacific sardine age one and above for the 2013 management season is 659,539 mt.

2. *CUTOFF.* This is the biomass level below which no commercial fishery is allowed. The FMP established this level at 150,000 mt.

3. *DISTRIBUTION.* The average portion of the Pacific sardine biomass estimated in the EEZ off the Pacific coast is 87 percent.

4. *FRACTION.* The harvest fraction is the percentage of the biomass above 150,000 mt that may be harvested.

At the November 2012 Council meeting, the Council adopted the 2013 Stock Assessment of the Pacific sardine resource completed by NMFS Southwest Fisheries Science Center and the resulting Pacific sardine biomass estimate of 659,539 mt. Based on the framework in the CPS FMP and recommendations from its SSC and other advisory bodies, the Council recommended and NMFS is implementing, an OFL of 103,284 mt, ABC of 94,281 mt, an ACL of 94,281 mt (equal to the ABC) and a maximum HG (HGs under the CPS FMP are operationally similar to annual catch targets (ACT)) of 66,495 metric tons (mt) for the 2013 Pacific sardine fishing year. Due to an approximately 33 percent decrease in the biomass estimate from 2012, the result of the HG formula is approximately 40,000 mt less than the 2012 HG. As described above, annual biomass estimates are a parameter of the various harvest control rules, therefore as estimated biomass decreases or increases from one year to the next, the resulting allowable catch levels, such as the HG, will necessarily decrease or increase too. These catch specifications are based on the most recent stock assessment and the control rules established in the CPS FMP.

The Council also recommended, and NMFS is implementing, a reduced initial overall commercial fishing HG of 57,495 mt allocated across the three allocation periods for sardine management. This number has been reduced from the maximum HG of 66,495 mt by 9,000 mt: (i) For potential harvest by the Quinault Indian Nation of up to 6,000 mt; and (ii) 3,000 mt, which is initially reserved for potential use under an exempted fishing permit(s) (EFPs). The Council also recommended and NMFS is implementing that incidental catch set asides be put in place for each allocation period. The purpose of the incidental set-aside allotments and allowance of an incidental catch-only fishery is to allow for the restricted incidental landings of Pacific sardine in other fisheries, particularly other CPS fisheries, when a seasonal directed fishery is closed. The intent of this measure is to reduce of Pacific sardine in other CPS fisheries and allow for continued prosecution of these other important fisheries that may incidentally catch sardine if and when the sardine fishery is closed.

For the 2013 Pacific sardine fishing season, the incidental set asides and adjusted directed harvest levels for each period are shown in the following table in metric tons:

	January 1–June 30	July 1–September 14	September 15–December 31	Total
Total Seasonal Allocation	20,123 (35%)	22,998 (40%)	14,374 (25%)	57,495

	January 1–June 30	July 1–September 14	September 15–December 31	Total
Incidental Set Aside	1,000	1,000	1,000	3,000
Adjusted Directed Harvest Allocation	19,123	21,998	13,374	54,495

The 2013 HG is already well below the ACL, and additional inseason accountability measures are in place to ensure the actual catch levels never exceed the HG. If during any of the seasonal allocation periods the applicable directed harvest allocation is projected to be taken, fishing will be closed to directed harvest and only incidental harvest would be allowed. For the remainder of the period, any incidental Pacific sardine landings will be counted against that period's incidental set-aside. As an additional accountability measure, the incidental fishery will also be constrained to a 40 percent by weight incidental catch rate when Pacific sardine are landed with other CPS so as to minimize the targeting of Pacific sardine and reduce potential discard of sardine. In the event that an incidental set-aside is projected to be attained, the incidental fishery will be closed for the remainder of the period. If the set-aside is not fully attained or is exceeded in a given seasonal period, the directed harvest allocation in the following seasonal period will automatically be adjusted upward or downward accordingly to account for the discrepancy. Additionally, if during any seasonal period the directed harvest allocation is not fully attained or is exceeded, then the following period's directed harvest total will be adjusted to account for the discrepancy as well.

If the total HG or these apportionment levels for Pacific sardine are reached or are expected to be reached, the Pacific sardine fishery will be closed until it re-opens either the next period per the allocation scheme or at the beginning of the next fishing season. The NMFS Southwest Regional Administrator will publish a notice in the **Federal Register** announcing the date of any closure to either directed or incidental fishing. Additionally, to ensure that the regulated community is informed of any closure, NMFS will also make announcements through other means available, including fax, email, and mail to fishermen, processors, and state fishery management agencies.

At the March 2013 Council meeting, the Council approved and subsequently made a recommendation to NMFS to approve an EFP for all of the 3,000 mt EFP set-aside. NMFS will likely make a decision on whether to issue an EFP for Pacific sardine sometime prior to the start of the second seasonal period (July 1, 2013). Any set-aside attributed to an EFP designed to be conducted during the closed fishing time in the second allocation period (prior to September 15), but not utilized, will roll into the third allocation period's directed fishery.

As explained in the proposed rule, 6,000 mt of the HG is being set aside for use by the Quinault Indian Nation. NMFS will consult with Quinault Department of Fisheries staff and Quinault Fisheries Policy representatives at the end of the second allocation period to determine whether any part of this set-aside is available for transfer into the non-tribal directed fishery.

Detailed information on the fishery and the stock assessment are found in the report ''Assessment of the Pacific Sardine Resource in 2012 for U.S. Management in 2013'' (see **ADDRESSES**).

On January 31, 2013, NMFS published a proposed rule for this action and solicited public comments (78 FR 6794). NMFS received multiple comments from one commenter regarding the Pacific sardine annual specifications.

Comment 1: The commenter requested that NMFS disapprove the proposed action because the annual catch limit, harvest guideline (HG), and associated reference points such as the OFL, do not reflect the best available science for setting catch levels and will result in catch levels that fail to prevent overfishing, fail to achieve optimum yield (OY), are detrimental to the sardine stock as well as sardine predators and that ecological factors were not considered during the process of developing these specifications. Specifically, the commenter states that the value used for the F_{MSY} parameter in the OFL control rule for 2013 does not represent the best available information, questions the use of the mid-year biomass estimate from the stock assessment used to determine the 2013 catch levels, and suggests that the distribution parameter be revised because it does not reflect catch levels in Mexico and Canada. Additionally, the commenter questions the values used for the CUTOFF and FRACTION parameters of the HG control rule as well as the overfished criteria for Pacific sardine.

Response: The CPS FMP and its implementing regulations require NMFS to set an OFL, ABC, ACL and HG for the Pacific sardine fishery using the control rules set in the FMP. Reconsideration of the existing control rules and their parameters, as well as other aspects of Pacific sardine management such as overfished criteria, is beyond the scope of this rulemaking. However, in addition to responding to the comments about the 18% F_{MSY} parameter used in the OFL control rule, the mid-year biomass estimate used for setting 2013 harvest levels (OFL, ABC/ACL and HG), *for information purposes only,* NMFS will respond to some aspects of the comments that are beyond the scope of this action, such the distribution parameter used in the three control rules.

Disapproving this action, as requested by the commenter because of their perceived conservation concerns (as explained above), would allow the fishery to take place without any HG or quota. The HG and seasonal allocations, along with the OFL and ABC, are the principal mechanisms for preventing overfishing of Pacific sardine and managing the fishery at a level that will achieve OY while allowing equitable access to all sectors of the fishery.

The commenter stated that the 2013 harvest levels do not achieve OY, do not prevent overfishing, and that ecological factors were not considered in the setting of the 2013 catch levels. With regard to OY, as described in the FMP, catch levels determined from the HG formula will result in OY. The 2013 HG (i.e., the directed fishing management target for the 2013 season) was determined using this HG formula. Directed commercial fishing is not allowed above this level and management measures are in place to prevent the fishery from exceeding it (i.e., in-season catch monitoring, in-season closures and incidental catch set-asides). As it relates to overfishing, the 2013 HG catch level is approximately 36,000 mt below the 2013 OFL, providing a large buffer against overfishing. This lower HG is the result of OY considerations, including ecological, and the management strategy in the CPS FMP that for 2013 establishes a catch level much lower than is needed to simply avoid overfishing or because of a risk of exceeding the ABC/ACL due to management uncertainty. These

considerations and precautions are based on the environmentally driven dynamic nature of the Pacific sardine stock as well as its importance in the ecosystem as forage for other species. Additionally, the HG control rule explicitly protects the stock from approaching an overfished condition (while explicitly reducing fishing if biomass decreases) through the use of a 150,000 mt CUTOFF parameter (level at fishing is prohibited) that is three times that of the overfished level (50,000 mt). Although not the subject of this rulemaking, the commenter questions the values used for the CUTOFF parameter as well as the overfished level. NMFS notes that the use of a CUTOFF parameter is not a requirement of the MSA or National Standard Guidelines and it is a proactive and precautionary policy choice of the CPS FMP to have an explicit rebuilding mechanism built into the control rule. With regards to the overfished level, it represents the best available science and is the level that on average can be expected to rebuild the stock in ten years. Additionally, low biomass conditions for Pacific sardine may result from overfishing, unfavorable environmental conditions, or both acting in concert. Experience with CPS stocks around the world indicates that overfished/low biomass conditions usually occur when unfavorable environmental conditions and high fishing mortality rates occur at the same time. Management measures for sardine do not, however, depend on whether a low biomass condition was due to excess fishing or unfavorable environmental conditions, because reductions in fishing mortality are required in either case.

Furthermore, ecological factors such as the life-cycles, distributions, and population dynamics of the Pacific sardine, as well as their role as forage were considered and evaluated in developing the various control rules. Beyond the ecological factors used in the development of the control rules, other ecological information related to the annual management of CPS is presented to the Council through the annual CPS Stock Assessment and Fishery Evaluation which contains a chapter titled Ecosystem Considerations. In this chapter, information on climate and oceanographic conditions such as El Niño and the Pacific Decadal Oscillation are presented, as well as ecosystem trends and indicators relevant to CPS such as sea surface temperature, ocean productivity and copepod abundance. Additionally, NMFS also considered ecological information in its review of the 2013 Pacific sardine specifications through both the Environmental Assessment (EA) and the Essential Fish Habitat consultation. The EA analyzed the effects of the proposed action on the environment, which included an examination of available ecosystem and predator/prey modeling efforts. NMFS is unaware of any additional ecological factors that warranted changes to the proposed 2013 Pacific sardine specifications.

Contrary to the opinion of the commenter, the 2013 Pacific sardine ACL, HG, and associated annual reference points are based on the best available science. As explained above under **SUPPLEMENTARY INFORMATION**, this year's biomass estimate used for the 2013 specifications went through extensive review, and along with the resulting OFL and ABC, was endorsed by the Council's SSC and NMFS as the best available science. As noted by the commenter, the SSC did recommend that future evaluations of the harvest control rules consider basing annual management on the biomass estimate from the stock assessment that aligns with at the start of the fishing year (currently management is based on the mid-year biomass estimate versus the end-year biomass from the stock assessment), however such a change has not been formally evaluated and the SSC did not recommend deviating from using the mid-year biomass estimate (which has been the practice for the last ten years) for management in 2013.

As it relates to the 2013 OFL, the commenter voiced concern with regard to the value (18 percent) used for the F_{MSY} parameter in the OFL and ABC control rules. The value of the F_{MSY} parameter used in the OFL and the ABC control rules is not prescribed in the FMP. The value used for 2013 of 18 percent represented the best available science and was endorsed by the SSC and NMFS. This value was also recommended as best available science for setting the 2012 annual specifications. Using 18% (the result of modeling work in 2011) was recommended for both 2012 and 2013 as an alternative to the default option of applying the temperature-stock relationship that is used for determining the FRACTION parameter due to uncertainty surrounding this relationship. The default option would have resulted in an F_{MSY} of 19.85%. NMFS acknowledges that future work, particularly work involving sardine recruitment success and environmental variables, may provide alternative ways of estimating F_{MSY} for these control rules, however a new approach would need to be analyzed and then reviewed by the SSC, the Council, and NMFS before it could be used in management.

In the three control rules, the U.S. catch levels for Pacific sardine are prorated by an ''estimate of the portion of the stock resident in U.S. waters'' using a ''distribution parameter'' of 87%. This approach is laid out in the FMP itself, and is intended to account for the fact that some level of the sardine stock exists outside of US waters and can therefore be subject to harvest by fisheries in neighboring countries. The 87% was chosen based on the best information available, and in light of the absence of an international agreement governing management of Pacific sardine off the West Coast. The commenter however, inappropriately conflates *stock biomass* distribution with *catch* distribution. The distribution parameter, as defined in the FMP, is an estimate of the long-term average of the portion of total stock biomass occurring in U.S. waters, and is simply a way to prorate the biomass estimate used to calculate U.S. catch levels, it is not a prescription of actual catch levels by fishing vessels of the U.S., Canada and Mexico in any given year.

As part of the rationale presented by the commenter as to why the current value of 87 percent for the DISTRIBUTION parameter is incorrect, the commenter points to sardine catch in Mexico and the fact that Mexico caught 51 percent of the total coastwide catch in 2011. The commenter states that because Mexico caught 51 percent of the total Pacific sardine *catch* that year, and this value exceeds 13 percent (the percent of total *biomass* assumed under the current default approach to occur outside U.S. waters), that the 87 percent biomass distribution used in the FMP is therefore incorrect. However, this rationale confuses the concepts of catch and biomass with other incorrect assumptions. For instance, the sardine control rules were not developed with the assumption that the entire sardine biomass is readily available to the U.S. fleet, that there are no other fishing restrictions, or that U.S. fishing restrictions match those of other countries. Obviously, these assumptions are not correct. For instance due to the seasonal allocation structure of the U.S. sardine HG and seasonal closures that occurred 2011 the U.S. fishery was only open for 83 days that year, while Mexico and Canada were not bound by this same restriction. The U.S. fishery is also bound by other restrictions such as limited entry and trip limits that likely reduce the total amount of sardines caught in U.S. waters. In fact, the U.S. only caught 34 percent of the total

coastwide catch in 2011, which resulted in only a 5 percent stock exploitation rate by the U.S. Additionally, because of the migratory nature of the sardine stock and their movement between spawning grounds and feeding grounds, both of which change annually and seasonally, the biomass in any given year is not evenly distributed along the coast and therefore not equally available to any country or evenly distributed among specific fleet or port complexes within the U.S. Therefore, the 87% distribution parameter is not ''incorrect'' merely because it does not reflect catch levels between the three countries in any one year; it was neither intended to reflect catch levels nor keep total catches under a certain level as the commenter states.

Additionally, the commenter points to ongoing work by the NMFS Southwest Fisheries Science Center that is examining sardine stock structure along the west coast; along with potential ways to determine and differentiate the two subpopulations of Pacific sardine within landings in Southern California and Mexico. Although such research, as that referenced by the commenter, may eventually help distinguish the catch of the two sardine subpopulations, 87 percent still represents the best available science with regard to overall biomass distribution and is therefore appropriate for use in the sardine control rules.

NFMS recognizes that properly accounting for the trans-boundary nature of stocks, such as Pacific sardine, is difficult. The CPS FMP sets sardine harvest levels for U.S. fisheries by prorating the biomass used to calculate the target harvest level according to the portion of the stock estimated to be in U.S. waters on average over time. The primary advantage of prorating the total target harvest level is that U.S. fisheries can be managed unilaterally in a responsible manner that is consistent with the MSA. Although estimates of Mexican and Canadian landings are not considered explicitly in determining annual harvest levels for U.S. waters, landings and fishery data from both Mexico and Canada are used to assess the coastwide biomass. Therefore, because the allowable harvest level in U.S. waters ultimately depends on this biomass estimate, U.S. harvest will be reduced if the stock is depleted by fishing in either Mexico or Canada.

Finally, with regard to the commenter's concern that U.S. fishing levels exceed a combined United States, Mexico and Canada overfishing limit, this is unfounded because there is no such coastwise limit: Pacific sardine is not managed under an international agreement, and the FMP does not prescribe an international overfishing level. However, NMFS will continue to monitor the total exploitation status of the stock to assess whether the stock is becoming overfished. Additionally, recent years' exploitation rates have been relatively conservative and well below levels that are likely to cause the stock to become overfished. The total international exploitation rate on the stock has averaged approximately only 13 percent over the last 10 years and in 2011 was about 15 percent, with U.S. annual exploitation rates averaging 7 percent since 2000; the 2011 U.S. exploitation rate was about 5 percent. Beyond prorating the biomass to calculate U.S. harvest, the Council and NOAA might consider alternative ways of accounting for the transboundary nature of the stock in the future.

Additionally, because sardine is a variable stock that undergoes extended periods of low and high biomass even in the absence of fishing, to help ensure Pacific sardine is not overfished, under the FMP's harvest policy whether sardine biomass decreases as a result of fishing pressure or environmental conditions, harvest in U.S. waters will automatically decrease as well. Because of this precautionary feature of the harvest control rule, the approximately 33 percent decline in biomass from 2012 to 2013, has resulted in a 60 percent decrease in the 2013 HG compared to 2012.

Comment 2: The same commenter also stated that the Environmental Assessment (EA) prepared for this action was inadequate because it should have included a greater range of alternatives, and because alternative methods for determining the annual specifications should be analyzed in an Environment Impact Statement (EIS).

Response: This year's specifications fall within the analysis in the EIS prepared for the CPS FMP under the National Environmental Policy Act. The EA completed for this action demonstrates that the implementation of the 2013 catch levels for the Pacific sardine fishery based on the HG and ABC control rules in the FMP will not significantly impact the quality of the human environment. Therefore a new EIS is not necessary.

With regard to the scope and range of alternatives, the six alternatives analyzed in the EA was a reasonable number and covered an appropriate scope based on the limited nature of this action, which is described above. The six alternatives (including the proposed action) were objectively evaluated in recognition of the purpose and need of this action and the framework process in place based on the HG and ABC control rules for setting catch levels for Pacific sardine. The CPS FMP describes a specific framework process for annually setting required catch levels and reference points. Although there is some flexibility built into this process concerning determinations of scientific and management uncertainty, there is little discretion in the OFL control rules (level for determining overfishing), the ABC control rule (used to determine the ACL), or the HG control rule (level at which directed fishing is stopped), with the annual biomass estimate being the primary determinant in both these levels.

Classification

The Administrator, Southwest Region, NMFS, determined that this action is necessary for the conservation and management of the Pacific sardine fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This final rule is exempt from review under Executive Order 12866.

The results of the Final Regulatory Flexibility Analysis (FRFA) completed for this action are below. For copies of the complete FRFA, please see the **ADDRESSES** section above. No issues were raised by public comments in response to the Initial Regulatory Flexibility Analysis (IRFA) prepared pursuant to the Regulatory Flexibility Act for this action or on the economic impacts of the rule generally. As well as stated below, a description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble.

The purpose of this action is to implement the 2013 annual specifications for Pacific sardine in the U.S. EEZ off the Pacific coast. The CPS FMP and its implementing regulations require NMFS to set an OFL, ABC, ACL and HG or ACT for the Pacific sardine fishery based on the specified harvest control rules in the FMP. A specific harvest control rule is applied to the current stock biomass estimate to derive the annual HG, which is used to manage the directed commercial take of Pacific sardine.

The HG is apportioned based on the following allocation scheme: 35 percent of the HG is allocated coastwide on January 1; 40 percent of the HG, plus any portion not harvested from the initial allocation is then reallocated coastwide on July 1; and on September 15 the remaining 25 percent, plus any portion not harvested from earlier allocations will be released. If the total

HG or these apportionment levels for Pacific sardine are reached at any time, the Pacific sardine fishery will close until either it re-opens per the allocation scheme or the beginning of the next fishing season. There is no limit on the amount of catch that any single vessel can take during an allocation period or the year; the HG and seasonal allocations are available until fully utilized by the entire CPS fleet.

The U.S. Small Business Administration defines small businesses engaged in fishing as those vessels with annual revenues of or below $4 million. The small entities that would be affected by this action are the vessels that compose the West Coast CPS small purse seine fleet. In 2012 there were approximately 96 vessels permitted to operate in the directed sardine fishery component of the CPS fishery off the U.S. West Coast; 55 are vessels in the Federal CPS limited entry fishery off California (south of 39 N. lat.), and a combined 23 vessels in Oregon and Washington's state Pacific sardine fisheries. The annual per vessel revenue in 2012 for the West Coast CPS finfish fleet was well below $4 million and no vessels reported revenue of greater than $4 million; therefore, all of these vessels are considered small businesses under the RFA. Because each affected vessel is a small business, this action has an equal effect on all of these small entities, and there will not be any disproportionate impact on small entities.

The profitability of these vessels as a result of this action is based on the average Pacific sardine ex-vessel price per mt. NMFS used average Pacific sardine ex-vessel price per mt to conduct a profitability analysis because cost data for the harvesting operations of CPS finfish vessels was unavailable.

For the 2012 fishing year approximately 105,000 mt were available for harvest by the directed fishery. Approximately 95,000 mt (21,000 in California and 74,000 mt in Oregon and Washington) of this HG were harvested during the 2012 fishing season, for an estimated ex-vessel value of $20 million. Using these figures, the average 2012 ex-vessel price per mt of Pacific sardines was approximately $208.

The directed commercial fishing HG for the 2013 Pacific sardine fishing season (January 1, 2013 through December 31, 2013) is 57,495 (mt). This HG is approximately 47,000 mt less than the directed commercial fishing HG for 2012. If the fleet were to take the entire 2013 HG, and assuming a coastwide average ex-vessel price per mt of $204 (average of 2011 and 2012 ex-vessel), the potential revenue to the fleet would be approximately $12 million. Therefore, this action will decrease the affected small entities' potential profitability compared to last season, due to the lower HG this fishing season. However, although there will likely be a drop in profitability to sardine harvesting vessels based on this rule compared to last season, from 2007 through 2011 the average coastwide annual ex-vessel revenue was $12.5 million; therefore, at current ex-vessel price per mt, the HG for 2013 should provide similar revenue to the five years preceding 2012. Furthermore, as occurred in 2012, unused sardine from the potential EFP or the release of any unused portion of the 6,000-mt set-aside for the Quinault Indian Nation might be used to supplement the amount available to the directed fishery during the third allocation period (September 15 through December 31), thereby slightly increasing the potential revenue to the fleet.

Additionally, revenue derived from harvesting Pacific sardine is typically only one factor determining the overall revenue for a majority of the vessels that harvest Pacific sardine; as a result, the economic impact to the fleet from this action cannot be viewed in isolation. From year to year, depending on market conditions and availability of fish, most CPS/sardine vessels supplement their income by harvesting other species. Many vessels in California also harvest anchovy, mackerel, and in particular squid, making Pacific sardine only one component of a multi-species CPS fishery. For example, market squid have been readily available to the fishery in California over the last three years with total annual ex-vessel revenue averaging approximately $66 million over that time, compared to an annual average ex-vessel from sardine of $16 million over that same time period. Additionally, many sardine vessels that operate off of Oregon and Washington also fish for salmon in Alaska or squid in California during times of the year when sardine are not available.

These vessels typically rely on multiple species for profitability because abundance of sardine, like the other CPS stocks, is highly associated with ocean conditions and different times of the year, and therefore are harvested at various times and areas throughout the year. Because each species responds to ocean conditions in its own way, not all CPS stocks are likely to be abundant at the same time; therefore, as abundance levels and markets fluctuate, it has necessitated that the CPS fishery as a whole rely on a group of species for its annual revenues. Therefore, although there will be a potential reduction in sardine revenue for the small entities affected by this action as compared to the previous season, it is difficult to predict exactly how this reduction will impact overall annual revenue for the fleet.

There are no significant alternatives to this action that would accomplish the objectives of the Magnuson-Stevens Act and would also minimize any significant economic impact of this action on the affected small entities. The CPS FMP and its implementing regulations require NMFS to set an annual HG for the Pacific sardine fishery based on the harvest formula in the FMP. The harvest formula is applied to the current stock biomass estimate to determine the HG. Therefore, if the estimated biomass decreases or increases from one year to the next, the HG will necessarily decrease or increase too. Because the current stock biomass estimate decreased from 2012 to 2013, the HG also decreased. Determining the annual HG merely implements the established procedures of the FMP with the goal of continuing to provide expected net benefits to the nation, regardless of what the specific allowable harvest of Pacific sardine is determined to be for 2013.

There are no reporting, record-keeping, or other compliance requirements required by this rule. Additionally, no other Federal rules duplicate, overlap, or conflict with this rule.

Small Business Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a notice to fishermen that also serves as a small entity compliance guide (guide) was prepared and will be distributed to fishermen and processors. The guide is also available on the internet at *http://swr.nmfs.noaa.gov.* Copies of this final rule and guide, i.e., the notice to fishermen, will be available upon request from the Southwest Regional Office (see **ADDRESSES**).

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

Dated: June 11, 2013.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, performing the functions and duties of the Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–14335 Filed 6–14–13; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 680

[Docket No. 120806311–3530–02]

RIN 0648–BC25

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Crab Rationalization Program

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement Amendment 42 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP). These regulations revise the annual economic data reports (EDRs) currently required of participants in the Crab Rationalization Program (CR Program) fisheries. The EDRs include cost, revenue, ownership, and employment data the North Pacific Fishery Management Council (Council) and NMFS use to study the economic impacts of the CR Program on harvesters, processors, and affected communities. This action is necessary to eliminate redundant reporting requirements, standardize reporting across participants, and reduce costs associated with the data collection. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the FMP, and other applicable laws.

DATES: Effective July 17, 2013.

ADDRESSES: Electronic copies of Amendment 42 to the FMP, the Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), and the Categorical Exclusion prepared for this action may be obtained from *http://www.regulations.gov* or from the Alaska Region Web site at *http://alaskafisheries.noaa.gov.* The Environmental Impact Statement, RIR, and Social Impact Assessment prepared for the CR Program are available from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.* Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted to NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Sebastian, Records Officer; in person at NMFS Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; and by email to *OIRA_Submission@omb.eop.gov* or faxed to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Karen Palmigiano, 907–586–7091.

SUPPLEMENTARY INFORMATION: This final rule implements Amendment 42 to the FMP. NMFS published a notice of availability (NOA) for Amendment 42 on March 12, 2013 (78 FR 15677). The comment period on NOA for Amendment 42 ended on May 13, 2013. The Secretary approved Amendment 42 on June 5, 2013, after accounting for information from the public, and determining that Amendment 42 is consistent with the FMP, the MSA, and other applicable law. NMFS published a proposed rule to implement Amendment 42 on March 21, 2013 (78 FR 17341). The comment period on the proposed rule ended on April 22, 2013. NMFS received a total of 5 comment letters from 3 persons during the comment periods on Amendment 42 and the proposed rule to implement the amendment. The letters contained 18 separate topics. A summary of these comments and NMFS's responses are provided in the Comments and Responses section of this preamble.

Amendment 42 and this final rule apply to the CR Program's annual economic data collection program and the annual EDRs. At the beginning of the CR Program, the Council recommended and NMFS implemented a comprehensive economic data collection program. The CR Program requires participants to complete an annual EDR based on harvesting and processing activities for the associated fishing season. The Council and NMFS use the annual EDRs to assess the success of the CR Program and develop amendments to the FMP necessary to mitigate any unintended consequences of the CR Program. An annual EDR is currently required for four categories of participants in the CR Program fisheries: catcher vessels, catcher/processors, shoreside processors, and stationary floating processors. Data submission is mandatory.

The EDR Program is administered by NMFS through contracts with the Pacific States Marine Fisheries Commission (PSMFC). NMFS collects fees from CR Program participants to recover the costs of administering the EDR Program.

As described in the proposed rule to implement Amendment 42, the Council initiated an analysis in 2010 to modify the EDR based on its data quality review process and public comment received during the Council's 5-year review of the CR Program. In February 2012, the Council recommended Amendment 42 to the FMP to modify the EDR. Following the Council's recommendation of Amendment 42, additional industry outreach and Council review of the proposed EDR revisions ensured that the revisions were compatible with industry recordkeeping procedures and consistent with the intent of the Council recommendations. In October 2012, the Council reviewed three proposed EDR forms developed for this action and the draft Paperwork Reduction Act (PRA) submission. Following this review, the Council confirmed its support for Amendment 42.

The Council recommended Amendment 42 to address its concerns with accuracy and consistency of reported data, redundant data reporting, and reducing industry's reporting burden. Those concerns are discussed in detail in the proposed rule to implement Amendment 42 (78 FR 17341, March 21, 2013) and are briefly summarized here.

Data that is inconsistently or inaccurately reported is not useful to the Council or NMFS. For example, reporting labor information for each crab fishery, including average processing positions, does not provide an accurate estimate of the number of staff used, as staff may be reassigned to non-crab tasks with changing plant needs. Therefore, the Council recommended removing this data-reporting requirement, as inaccurately or inconsistently reported data has limited analytical use.

In addition to data quality limitations, several data elements removed from the EDR by this final rule are currently collected under other NMFS or State of Alaska data collection programs. For example, the requirement for catcher vessels to report their fishing activity, including fish ticket numbers, days fishing, and days transiting and offloading, by crab fishery are also collected by the State of Alaska and then shared with NMFS through a data sharing agreement. The Council and NMFS believe these data elements are useful for examining operational efficiencies; however, each of these data

elements is individually available through other data collection sources.

Finally, the cost to industry, both directly through data submission and indirectly through cost recovery funding of program administration, exceeds the estimates of administering and complying with the EDR that NMFS provided in the initial RIR/IRFA of the CR Program (see **ADDRESSES**). NMFS' administrative costs associated with the current EDRs result from the production and distribution of data collection forms, processing completed forms, data entry, data verification, and data management. Annually, these costs are then ''billed'' to CR Program participants through the CR Program's cost recovery fee system.

For CR Program participants required to submit the EDRs, the amount of time needed to complete the current crab EDRs is higher than originally estimated when the EDR Program was developed. To complete an EDR form, CR Program participants are required to consult both annual fishing (*i.e.,* days fishing, days traveling, and days processing) and financial (*i.e.,* landings by share type, sales by species, and fuel costs) information, which are not often recorded in the same format. In the original PRA statement for the initial EDR Program, the estimates of time required to accurately complete each EDR was 7.5 hours per vessel. In 2012, during public testimony, the Council was advised that the time required to complete each of the current EDR forms was approximately 45 to 50 hours. The EDR modifications implemented by this rule will remove data elements that are already reported through other data collection programs. This will reduce the amount of information industry participants are required to report in each EDR and reduce the amount of time it takes to complete the EDRs.

Response to Comments

NMFS received 5 letters of public comment from 3 individuals during the public comment periods for Amendment 42 and the proposed rule. A summary of the comments received and NMFS' responses follow.

Comment 1: The proposed rule is consistent with Amendment 42 as adopted by the Council. We urge the Secretary to adopt Amendment 42 to the FMP for the Bering Sea/Aleutian Islands King and Tanner crab as soon as legally permissible.

Response: NMFS acknowledges this comment.

Comment 2: The quality of data this agency works with is poor. The information is inaccurate and unrealistic.

Response: NMFS disagrees. This action ensures that EDRs collect the best data currently available. The purpose of Amendment 42 and this final rule is to address the current problems with the EDR Program so that the data collected is accurate and informative to the Council, not redundant with existing reporting requirements, and can be reported by industry and administered at a reasonable cost. Regulations implementing the EDR found at 50 CFR 680.6(f) also provide for verification of information to ensure that the data collected is error-free.

Comment 3: NMFS and the Council need to be more responsive to the MSA requirements for economic data collection and analysis and do a better job of explaining why meeting those requirements should be beneficial to the industry and the public.

Response: NMFS disagrees. NMFS and the Council both believe they have responded adequately to the MSA requirements for economic data collection. Section 313(j)(1) of the MSA required the Secretary to approve and implement the CR Program approved by the Council, which included a requirement to collect economic data. Under the CR Program, the EDR data will be used ''to study the impacts of the crab rationalization program'' and to ensure that the program will achieve ''equity between the harvesting and processing sectors'' and to monitor the ''economic stability for harvesters, processors, and coastal communities''. The CR Program required by section 313(j)(1) of the MSA also provides specific guidance on the type of data to be collected, requirements for selecting a data collection agent, verification of data, and treatment and distribution of confidential data that are included in this collection.

The CR Program EDR provides information to aid the public at-large, industry, and decision makers in reviewing the impacts of the CR Program. NMFS has determined that this final rule is consistent with the MSA and other applicable law.

Comment 4: The proposed rule and Amendment 42 would substantially decrease the economic data that are available to the Council and NMFS.

Response: NMFS disagrees. NMFS acknowledges that this action will quantitatively reduce the number of reported data elements. However, NMFS has worked with the Council and industry to ensure that data that can be accurately, reliably, and consistently reported will be collected in this revised EDR. The Council and NMFS are eliminating particular data elements, which were determined to be inaccurate or inconsistently reported after a careful, comprehensive multi-year CR Program EDR review as described in detail in the preamble to the proposed rule (78 FR 17341, March 21, 2013) and the RIR/IRFA prepared for this action (see **ADDRESSES**). NMFS will continue to work with the Council and industry to collect the best information available.

Comment 5: A fundamental problem with the initial EDR Program was that the Council and NMFS decided that it be limited to collecting purely crab fishery data and exclude the collection of economic data associated with other activities of the fishing vessels and processors that participate in the crab fisheries.

Response: NMFS disagrees. The EDR Program collects data necessary to understand the CR Program's effects and performance. The EDR Program's original goals and implementing regulations focused on crab fishery data collection. The EDR Program was established this way to provide more detailed information for analyses, as the individual crab fisheries differ in their prosecution. Regulations implementing the EDR Program were intended to meet a specific purpose and need to collect crab fishery data. The alternatives considered, and the revisions implemented by this action are consistent with that purpose and need.

Comment 6: A fundamental problem with the initial EDR Program was that the EDR data are maintained by a third party data manager who provides those data to analysts in a blind format that does not allow analysts to directly identify the source of any observations. Additionally, an alternative that allowed for the removal of blind formatting was discussed in the RIR/IRFA for this action, but the discussion is not complete.

Response: NMFS disagrees. According to the PRA support statement from the original EDR Program, Congress required that an independent third party data collection agent (DCA) administer the collection and dissemination of EDR data to address concerns for strict control over sensitive economic data. NMFS then selected PSMFC to be the DCA. Additionally, NFMS and the Council considered the information provided in the RIR/IRFA prepared for Amendment 42, as well as public testimony, in determining whether or not to remove the blind formatting requirement. Section 2.5.1 of the RIR/IRFA discusses the potential impacts of removing the requirements of removing blind formatting. This section was reviewed by the public, the Council's Scientific and Statistical Committee (SSC) and Advisory Panel (AP), and the

Council. Based on the information presented in the RIR, and public concern that the removal of blind formatting could result in the release of sensitive business information, NMFS and the Council concluded that maintaining blind formatting would reduce the risk of releasing sensitive business information when providing data to analysts.

Comment 7: The RIR/IRFA was incomplete, did not include suggestions from the SSC or the Alaska Fisheries Science Center (AFSC), appears to be biased towards industry, and does not clearly state the objectives of the action.

Response: NMFS disagrees. The RIR/IRFA was developed by Council staff, in cooperation with individuals from NMFS, the SSC, the AFSC, and the AP. Information found in the RIR/IRFA is taken directly from the multi-year review of the quality of data collected through the EDRs, as well as reports from the AFSC, the Council, and PSMFC. The RIR/IRFA was also made available to the public beginning in early 2012. The public has had several opportunities to provide comment on the revised EDR forms and the RIR/IRFA. NMFS has determined that the RIR/IRFA provides a comprehensive review of the objectives of Amendment 42 and meets the requirements of Executive Order 12866 and other applicable law.

Comment 8: Were the RIR/IRFA objectives specified clearly or at all for Amendment 42?

Response: NMFS acknowledges this comment. The objectives for data collection for the CR Program were clearly identified in the original RIR/IRFA for the Program, as well as in the development of Amendments 18 and 19 to the FMP, which established the CR Program. In revising the EDR collection, the Council provided a ''purpose and need statement'' in the RIR/IRFA for Amendment 42. The Council developed the purpose and need statement after its assessment of the original EDR Program. The purpose and need statement identified objectives as follows: ''To address these problems, the Council intends to amend the EDR process so that the data collected is accurate, informative to the Council, not redundant with existing reporting requirements, and can be reported by industry and administered at a reasonable cost. The Council expressly wants to limit the EDR to the collection of data that have been demonstrated, through the development of the EDR metadata, and other reviews of the data, to be sufficiently accurate.'' NMFS has determined that this final rule is consistent with the objectives found in the purpose and need statement for Amendment 42.

Comment 9: The examples of redundant reporting are not documented well and the redundancies may be overstated. There appears to be little or no considerations of methods for improving the scope, quality and access to economic data from other sources (*e.g.* elandings, fish ticket, and Restricted Access Management [RAM] data).

Response: NMFS disagrees. Several data quality assessments were conducted prior to the development of the RIR/IRFA. Information taken from those assessments has been summarized in the RIR/IRFA and is referenced in section 2.5.6. These assessments describe the EDR Program data inaccuracy and collection redundancy concerns. These initial assessments were published in the ''Bering Sea and Aleutian Islands Crab Economic Data Report Database Metadata Documentation'' report available on the NOAA Fisheries Web site at *http://www.fakr.noaa.gov/sustainablefisheries/crab/rat/edr/default.htm.* These data quality assessments were reviewed by the Council and were used in the development of the RIR/IRFA. The EDR data assessment included determining whether the data was available through other federal and state sources. In instances where another source provided EDR data, or more accurate data, NMFS and the Council determined that it was more efficient and less burdensome to industry to remove the data element from the crab EDR and rely on data from the other source. The Council and NMFS will review the EDR Program periodically, and use the opportunity to determine whether additional CR Program data is available from other sources.

Comment 10: Too much weight is given to the objective of reducing the data collection on the industry and insufficient weight to having adequate economic data for these fisheries.

Response: NMFS disagrees. NMFS and the Council only considered removing EDR data elements after several reviews of the CR Program and the EDRs. While every effort is made to ensure that the best available data are collected in the EDRs, NMFS and the Council are required to balance data that can be accurately and consistently reported with the industry's reporting burden. Based on the assessments of the CR Program data, the RIR/IRFA prepared for this action, and public testimony, the Council recommended, and NMFS agrees, that the EDR revisions implemented by this final rule achieve this balance.

Comment 11: We note the annual submission date for the EDR forms is June 28 of each year. If this action does not move forward expeditiously, data submitters will be subjected to another year of an overly burdensome reporting requirement that yields data of questionable quality and utility.

Response: NMFS acknowledges the comment. NMFS has worked to finalize Amendment 42 and this rule as expeditiously as possible. NMFS and the PSMFC will coordinate with affected CR Program participants to implement the EDR requirements.

Comment 12: Are the statements that the ''Council was advised that for the current EDR the actual time required to complete the forms was approximately 45 to 50 hours'' and that ''in the majority of cases, the data collected in the EDRs are already collected under other programs reported elsewhere'' consistent? If the data reporting burden is excessive, more efficient data collection methods are probably preferable to severely curtailing the EDR Program.

Response: NMFS acknowledges this comment. The statements are consistent. During the development of this action, the Council and NMFS were presented with information from the affected CR Program participants that demonstrated that some of the EDR data requested was already available through other data collection programs. For example, EDR forms required submitters to specify the number of days fishing by a catcher vessel. This information could be gleaned from the state fish ticket data by looking at the date the first gear was set and the day the last gear was hauled. However, traditionally this information was obtained through catcher vessel logbooks, which collect date and time of setting and hauling for each string, catch in each string, and offload date. Using the data from the logbooks required the EDR submitter to do additional calculations to provide the information requested in the EDR. Industry participants voiced concern that the process of aggregating or disaggregating data already collected is a considerable time burden. Based on their testimony and the assessments of the data, NMFS and the Council removed the information on fishing days and days traveling. Instead NMFS and the Council will refer to the information already submitted through fish tickets to obtain information on fishing days. The same process was followed in instances where industry participants were able to demonstrate that information required by the EDR was already available through a different data collection program.

Additionally, Executive Order 13563, Section 6(a), requires that ''[t]o facilitate the periodic review of existing significant regulations, agencies shall consider how best to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.'' In compliance with E.O. 13563, NMFS analyzed the EDR Program and found areas where data collection was ineffective and excessively burdensome. In response, NMFS has modified the EDR Program accordingly.

Comment 13: Does the EDR data element ''Health Insurance and Retirement Benefits—available for captain and crew'' on the proposed EDR forms refer to the type of benefits or their costs?

Response: NMFS acknowledges this comment. The question regarding ''Health Insurance and Retirement Benefits'' specifically asks, ''Did you provide paid health insurance or retirement benefits to captain or crew members in addition to labor payments reported above?'' CR Program participants will only be required to complete a ''yes/no'' check box in order to report whether or not such benefits are offered to captain and crew for the EDR entity and will not be required to report the types of benefits or their costs.

Comment 14: If the shoreside processor and floating processor EDR forms are essentially the same, it makes sense to combine them, but it is not clear why that would be a ''major change'' as stated in the proposed rule.

Response: NMFS acknowledges this comment. Both NMFS and the Council believed that a reduction from four EDR forms to three constituted one of the larger changes made to the EDR Program under this action. However, neither the Council nor NMFS meant to imply that this change was in any way more important or significant than any of the other changes to the EDR Program made by this action.

Comment 15: The crew member contracts and settlement sheets could provide a wealth of information with a minimal reporting burden for the industry. That option may have been discarded without adequate consideration of the benefits of those data.

Response: NMFS disagrees. Both NMFS and the Council weighed the cost and benefits of collecting crew contract information. Additionally, public testimony was given in regard to requiring crew contract submittal as part of the EDR Program. The majority of that testimony did not support the collection of crew contracts. The public had concerns over the collection of personally identifiable information (*i.e.,* addresses) that is contained in crew contracts. NFMS and the Council also determined that collecting crew contracts and settlement sheets would substantially increase the administrative costs of the EDR Program. Additionally, the data from crew contracts may not be accurate, may not include all compensation, and may not provide more information than what is already requested in the revised EDR forms. Therefore, NMFS and the Council suggested that CR Program participants continue to submit aggregated crew compensation information.

Comment 16: What's the difference between ''variable input quantities and prices'' and ''input quantities and prices'' as indicated on page 9 of the RIR?

Response: NMFS acknowledges this comment. The information on page 9 (section 2.4.2) of the RIR/IRFA was taken from the original PRA supporting statement from the initial EDR Program. The original document appears to have a typographical error, which was carried forward to the RIR. NMFS updated the RIR/IRFA to remove the second phrase ''input quantities and prices''.

Comment 17: The RIR/IRFA states that ''This element [leased pounds and lease costs] would remove those complications by limiting reporting to market transactions for exclusively monetary compensation'', but it does not discuss the huge reporting loophole this would create in the data on transfers of crab quota share and individual fishing quota.

Response: NMFS disagrees. In determining which data elements to collect, the Council and NMFS had to weigh the usefulness and accuracy of the data being collected against the accuracy and burden of the specific data element. For the data element ''leased pounds and lease costs'', the Council and NMFS believed that it was most beneficial and least costly to CR Program participants to collect this information by fishery for ''arm's length transactions and monetary payments'' only. While it does leave out those transfers that are not ''arm's length'' or may include non-monetary assets, the Council and NMFS determined that including those elements would complicate the reporting requirement. By including transactions that are not ''arm's length'' or transactions that include non-monetary payments, CR Program participants would be required to report each transaction separately to isolate transactions that are non-market or that would require the valuation of non-monetary assets. By only requiring share transfers for monetary payments, CR Program participants are able to avoid collecting information concerning assets that are more difficult to value. NMFS and the Council believe limiting the requirement will result in more consistent and accurate reporting by all CR Program participants.

Comment 18: Footnote 11 on page 17, of the RIR, states that ''Depending on the specific reporting requirements established for crew under the revised C share active participation requirements adopted by the Council [Amendment 31 to the FMP] and pending Secretarial approval, this information could be available through other sources. Regulations for that action should be finalized in early 2012.'' These regulations have not yet been finalized, so the date is incorrect.

Response: NMFS acknowledges the comment and revised the RIR/IRFA to indicate that NMFS is developing a proposed rule for Amendment 31 to the FMP.

Changes From the Proposed Rule to the Final Rule

NMFS made three changes from the proposed to final rule to clarify who is required to submit an annual EDR. Although the proposed rule preamble and RIR/IRFA described these persons and the need to obtain EDRs from them, the regulations in the proposed rule did not clearly identify crab buyers—primarily registered crab receiver (RCR) permit holders—who did not operate a plant that processed CR crab but purchased processed CR crab (*i.e.,* custom processed-only buyers) as persons who must submit an EDR. The Council intended to include any person contracting for custom processing, as those persons are not currently required to report custom processing costs or revenues from sales (section 2.2.2 of the RIR/IRFA). NMFS changed the regulations for the economic data reports at § 680.6(a)(1) to include those persons who obtained custom processing for CR crab in the list of persons who must submit an annual EDR. NMFS also changed the regulations at § 680.6(b) to clarify that any person who is required under section § 680.6(a) to submit an annual EDR is also required to submit the EDR certification page. Lastly, NMFS added the regulations at § 680.6(e)(2) to require submission of the Annual stationary floating crab processor (SFCP) and shoreside crab processor EDR by any holder of a RCR permit that obtained custom processing for CR Program crab.

The changes to § 680.6(b) and § 680.6(e) were necessitated by the previous regulation change to § 680.6(a).

While not resulting in a change to the final rule, NMFS notes a misstatement found on page 17344 of the proposed rule, in the middle of the second paragraph under ''Annual Shoreside Processor/Stationary Floating Processor Crab EDR''. There, the preamble states that revenues from custom processing (an arrangement under which a person processes crab on behalf of another) would be added to the EDR, explaining that the data is currently unavailable from other sources.

That information is incorrect. Revenues from custom processing are currently collected and would still be collected, along with quantities of custom processed crab products. Custom processing services purchased are collected by crab fishery, identifying pounds of raw crab processed and finished product amounts together with the payments for services. Thus, consistent with the Council motion, NMFS intends to continue to collect this data and mistakenly indicated that it was not currently collected. NMFS received no comments on this point.

Classification

Pursuant to sections 304(b) and 305(b) of the MSA, the NMFS Assistant Administrator has determined that Amendment 42 and this final rule are consistent with the FMP, other provisions of the MSA, and other applicable law.

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

Regulatory Impact Review (RIR)

An RIR/IRFA was prepared to assess all costs and benefits of available regulatory alternatives. The RIR/IRFA considers all quantitative and qualitative measures. A copy of this analysis is available from NMFS (see **ADDRESSES**). The Council recommended Amendment 42 based on the benefits it will provide to the Nation, which will be derived from the updating and revision of the current EDRs. Specific aspects of the economic analysis are discussed below.

Final Regulatory Flexibility Analysis (FRFA)

This final regulatory flexibility analysis (FRFA) incorporates the Initial Regulatory Flexibility Analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' response to those comments, and a summary of the analyses completed to support the action.

NMFS published a proposed rule to implement Amendment 42 on March 22, 2013 (78 FR 17341). An IRFA was prepared and summarized in the Classification section of the preamble to the proposed rule. The description of this action, its purpose, and its legal basis are described in the preamble to the proposed rule and are not repeated here.

NMFS received 18 public comments on Amendment 42 and the proposed rule. Several of the comments touched on subjects that were covered in the IRFA, including the action objectives (comment 8) and reporting requirements (comments 9 and 10). The full comments and responses can be found in the ''Response to Comments'' section of this final rule.

Number and Description of Small Entities Regulated by the Action

The EDR is required to be submitted by 74 catcher vessel owners. Based on the definition of a small entity (see section 3.1.1 of the RIR/IRFA for the full definition and discussion of what a ''small entity'' is), only one vessel owner would be considered a small entity. Instead, because crabs are relatively high value, the majority of harvesters join cooperatives, which allows them to pool their quota.

Three catcher/processor owners are required to submit catcher/processor data reporting forms under the proposed action. None of the catcher/processors are considered small entities. Nineteen shore-based or floating processors are required to submit their EDR data. Of these nineteen, four are small entities that are controlled by community development corporations or non-profit entities, and five are estimated to be small entities because they employ fewer than 500 individuals.

This action requires all catcher vessel and catcher/processor operators to report categories of information: Ex vessel revenues; market lease revenues; crew compensation; bait, food, and provision purchases; and fuel use by crab fishery. Catcher vessel and catcher/processor operators would also be required to report annual fuel and labor costs aggregated across all fisheries and identify whether the vessel operated as a tender. Processors and catcher/processors would be required to report crab purchases, custom processing services provided and purchased, crab sales revenue, and processing labor costs.

The reporting requirement under this action is substantially less than was required under the previous regulations. The changes to the EDR Program will reduce the record keeping and reporting requirements substantially from the status quo, resulting in reduced administrative expenses for both small and large entities.

Description of Significant Alternatives to the Final Action That Minimize Adverse Impacts on Small Entities

A FRFA must describe the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statues, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency that affect the impact on small entities was rejected. ''Significant alternatives'' are those that achieve the stated objectives for the action, consistent with prevailing law with potentially lesser adverse economic impacts on small entities, as a whole. No significant alternatives were developed for this action. This action minimizes the economic impacts of the status quo on small entities by requiring participants to only submit those data elements that were assessed and were found to be the most accurately and consistently reported by industry members. By reducing the amount of data collected, the burden on industry members to report has been reduced.

Duplicate, Overlapping, or Conflicting Federal Rules

No duplication, overlap, or conflict between this action and existing Federal rules has been identified.

Recordkeeping and Reporting Requirements

The recordkeeping, reporting, and other compliance requirements will be reduced by this action. The initial data collection program, which was created through the creation of the CR Program, required more data to be submitted than what is required under this new action. After assessing the data, the Council and NMFS both worked with industry, the SSC, the AP, and the public to ensure that only those data that can be reliably, consistently, and accurately reported are included in the revised EDR. Submission of the annual EDR is mandatory.

The professional skills necessary to comply with reporting and recordkeeping requirements for small entities impacted by this rule include the ability to read, write, and understand English, and the ability to

use a personal computer and the internet. The person also must have authority to take actions on behalf of the designated signatory. Each of the small entities must be capable of complying with the requirements of this rule. Each small entity should have financial resources to obtain legal or technical expertise that they might require to fulfill the EDR requirement.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule and shall designate such publications as ''small entity compliance guides''. The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, NMFS has posted a small entity compliance guide on the NMFS Alaska Region Web site: *http://alaskafisheries.noaa.gov/sustainablefisheries/crab/rat/progfaq.htm.* Contact NMFS to request a hard copy of the guide.

Collection-of-Information Requirements

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA), which have been approved by the Office of Management and Budget (OMB) under OMB Control No. 0648–0518.

Public reporting burden is estimated to average 10 hours for Annual Catcher Vessel Crab EDR; 10 hours for Annual Catcher/processor Crab EDR; 10 hours for combined Annual stationary floating crab processor and shoreside crab processor EDR (replacing formerly two separate EDRs); and 8 hours for Verification of Data. Public reporting burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comment regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden to NMFS (see **ADDRESSSES**) and by email to *OIRA_Submission@omb.eop.gov*, or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to penalty for failure to comply with, a collection of information subject to the requirement of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 680

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: June 11, 2013.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, Performing the functions and duties of the Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 680 as follows:

PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 680 continues to read as follows:

Authority: 16 U.S.C. 1862; Pub. L. 109–241; Pub. L. 109–479.

■ 2. Section 680.6 is revised to read as follows:

§ 680.6 Crab economic data report (EDR).

(a) *Requirements.* (1) Any owner or leaseholder of a vessel or processing plant, or a holder of a registered crab receiver permit that harvested, processed, custom processed, or obtained custom processing for CR crab, during a calendar year, must submit a complete Economic Data Report (EDR) by following the instructions on the applicable EDR form.

(2) A completed EDR or EDR certification pages must be submitted to the DCA for each calendar year on or before 1700 hours, A.l.t., July 31 of the following year.

(3) Annual EDR forms for catcher vessels, catcher/processors, shoreside crab processors, and stationary floating crab processors are available on the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov* or the Pacific States Marine Fisheries Commission (PSMFC) Alaska Crab Rational Program Web site at *www.psmfc.org/alaska_crab/*, or by contacting NMFS at 1–800–304–4846.

(b) *EDR certification pages.* Any person required to submit an annual EDR under paragraph (a) of this section must submit the EDR certification pages as either:

(1) *Part of the entire EDR.* Persons submitting the completed EDR certification pages as part of the entire EDR must attest to the accuracy and completion of the EDR by signing and dating the certification pages; or

(2) *A separate document.* Persons submitting the completed EDR certification pages only must attest that they meet the conditions exempting them from submitting the entire EDR, by signing and dating the certification pages.

(c) *Annual catcher vessel crab EDR*—Any owner or leaseholder of a catcher vessel that landed CR crab in the previous calendar year must submit to the DCA, electronically or at the address provided on the form, a completed catcher vessel EDR for annual data for the previous calendar year.

(d) *Annual catcher/processor crab EDR*—Any owner or leaseholder of a catcher/processor that harvested or processed CR crab in the previous calendar year must submit to the DCA, electronically or at the address provided on the form, a completed catcher/processor EDR for annual data for the previous calendar year.

(e) *Annual stationary floating crab processor (SFCP) and shoreside crab processor EDR*—(1) Any owner or leaseholder of an SFCP or a shoreside crab processor that processed CR crab, including custom processing of CR crab performed for other crab buyers, in the previous calendar year must submit to the DCA, electronically or at the address provided on the form, a completed processor EDR for annual data for the previous calendar year.

(2) Any holder of a registered crab receiver (RCR) permit that obtained custom processing for CR Program crab in the previous calendar year must submit to the DCA, electronically or at the address provided on the form, a completed processor EDR for annual data for the previous calendar year.

(f) *Verification of data.* (1) The DCA shall conduct verification of information with the owner or leaseholder.

(2) The owner or leaseholder must respond to inquiries by the DCA within 20 days of the date of issuance of the inquiry.

(3) The owner or leaseholder must provide copies of additional data to facilitate verification by the DCA. The DCA auditor may review and request copies of additional data provided by the owner or leaseholder, including but not limited to previously audited or reviewed financial statements, worksheets, tax returns, invoices, receipts, and other original documents substantiating the data.

(g) *DCA authorization.* The DCA is authorized to request voluntary submission of economic data specified in this section from persons who are not required to submit an EDR under this section.

Table 2 to Part 680 [Removed]

■ 3. Remove Table 2 to Part 680.

Tables 3c, 4, 5, and 6 to Part 680 [Removed]

■ 4. Remove Tables 3c, 4, 5, and 6 to part 680.

[FR Doc. 2013–14332 Filed 6–14–13; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 78, No. 116
Monday, June 17, 2013

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0477; Directorate Identifier 2011–SW–015–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France (Eurocopter) Model Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede an existing airworthiness directive (AD) for Eurocopter Model AS350B, BA, B1, B2, C, D, and D1 helicopters and Model AS355E, F, F1, F2, and N helicopters with certain part-numbered tail gearbox (TGB) control levers installed. The existing AD currently requires repetitive visual inspections of the TGB control lever for a crack and replacing a cracked TGB control lever with an airworthy TGB control lever. Since we issued that AD, we have received reports of cracking on the opposite area of the TGB control lever. This proposed AD would retain the current requirements and would also require inspecting other areas of the TGB control lever not previously inspected and at additional inspection intervals. The proposed actions are intended to prevent failure of the TGB control lever, loss of tail rotor control, and subsequent loss of control of the helicopter.

DATES: We must receive comments on this proposed AD by August 16, 2013.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments 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 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the economic 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 service information identified in this proposed AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.eurocopter.com/techpub.*

You may review service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Robert Grant, Aviation Safety Engineer, Rotorcraft Directorate, Safety Management Group, 2601 Meacham Blvd., Fort Worth, TX 76137, telephone 817–222–5110, email *robert.grant@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

On August 2, 2010, we issued AD 2010–11–51, Amendment 39–16396 (75 FR 50874, August 18, 2010) for Eurocopter Model AS350B, BA, B1, B2, C, D, and D1 helicopters and Model AS355E, F, F1, F2, and N helicopters with certain part-numbered TGB control levers installed. AD 2010–11–51 requires repetitive visual inspections of the TGB control lever for a crack and replacing a cracked TGB control lever with an airworthy TGB control lever. AD 2010–11–51 also contains optional terminating actions for the inspection requirements by either replacing a TBG control lever with an airworthy TGB control lever that is marked with an ''X'' near the part number, or stripping and dye-penetrant inspecting the rework area for a crack and either requires reworking and marking the TGB control lever if there is no crack or removing and replacing the cracked TGB control lever if there is a crack. AD 2010–11–51 was prompted by Emergency AD No. 2010–0082–E, dated April 27, 2010, and corrected April 28, 2010 (AD No. 2010–0082–E), issued by the European Aviation Safety Agency (EASA), which is the Technical Agent for Member States of the European Union. The actions in AD 2010–11–51 are intended to prevent failure of the TGB control lever, loss of tail rotor control, and subsequent loss of control of the helicopter.

Actions Since Existing AD Was Issued

Since we issued AD 2010–11–51 (75 FR 50874, August 18, 2010), we have received reports of cracking in a TGB control lever on the area opposite the area required to be inspected. EASA has issued EASA Emergency AD No. 2011–0038–E, dated March 4, 2011 (AD No. 2011–0038–E), and superseding EASA

Emergency AD No. 2010–0082–E, to correct an unsafe condition for the specified Eurocopter model. EASA advises that since issuing EASA Emergency AD No. 2010–0082–E, Eurocopter found cracks on the area opposite the area required to be inspected on the affected control levers. EASA Emergency AD No. 2011–0038–E retains the requirements of EASA Emergency AD No. 2010–082–E and adds repetitive inspections for the area opposite the control levers.

FAA's Determination

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other helicopters of these same type designs.

Related Service Information

Eurocopter has issued one Eurocopter Emergency Alert Service Bulletin (EASB), Revision 2, dated February 28, 2011, with four different numbers. EASB No. 05.00.62 is for Model AS350 helicopters; EASB No. 05.00.57 is for Model AS355 helicopters; EASB No. 05.00.38 is for military Model AS550 helicopters; and EASB No. 05.00.35 is for military Model AS555 helicopters. The military models are not type-certificated in the United States. The EASB specifies visually inspecting the TGB control lever for a crack at the last flight of each day, without exceeding 10 flying hours between inspections. The EASB also describes a rework procedure for affected TGB control levers, which must be done within 660 flying hours and no later than June 30, 2011. Completion of the rework procedure is indicated by marking the control lever with a letter ''X.'' EASA classified this EASB as mandatory and issued AD No. 2011–0038–E to ensure the continued airworthiness of these helicopters.

Proposed AD Requirements

This proposed AD would retain the requirements in AD 2010–11–51 (75 FR 50874, August 18, 2010) to perform repetitive visual inspections in a certain area on each TGB control lever not marked with an ''X'' and would require replacing a cracked part with a part not listed in the applicability paragraph of the AD. This proposed AD would also require inspecting another area of each TGB control lever at additional inspection intervals. Also, this proposed AD would require, within a specified time, replacing each TGB control lever with a reworked TGB control lever marked with an ''X'' near the P/N or with a TGB control lever with a P/N not listed in the applicability of the AD.

Differences Between This Proposed AD and the EASA AD

This AD differs from EASA Emergency AD No. 2011–0038–E as follows:

- We include the Eurocopter Model AS350C and AS350D1 helicopters that may contain the affected TGB control lever. We do not include the Eurocopter Model AS350BB helicopter because it is not type-certificated in the United States.
- We do not require an ''after last flight''of the day inspection.
- We do not allow a pilot to inspect for a crack.
- We do not require reworking noninstalled control levers.
- We do not include a calendar compliance time for reworking the TGB control lever if there is not a crack.
- We do not require you to contact Eurocopter if a crack is found during any inspection.

Costs of Compliance

We estimate that this proposed AD would affect 791 helicopters of U.S. registry. We estimate that operators may incur the following costs in order to comply with this proposed AD: The initial and repetitive inspections for a crack in the TGB control lever would take a minimal amount of time. If necessary, replacing a control lever would take about 3 work hours at an average labor rate of $85 per work hour. The required parts would cost about $2,103 per helicopter. Based on these figures, we estimate the total cost of the proposed AD on U.S. operators would be $2,358 per helicopter to replace the control lever.

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, 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 to the extent that it justifies making a regulatory distinction; 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.

We prepared an economic evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

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) 2010–11–51, Amendment 39–16396 (75 FR 50874, August 18, 2010), and adding the following new AD:

Eurocopter France: Docket No. FAA–2013–0477; Directorate Identifier 2011–SW–015–AD.

(a) Applicability

This AD applies to Model AS350B, BA, B1, B2, C, D, and D1 helicopters and Model

AS355E, F, F1, F2, and N helicopters, with a tail gearbox (TGB) control lever, part number (P/N) 350A33–1058–00, P/N 350A33–1058–01, P/N 350A33–1058–02, or P/N 350A33–1058–03, both with and without an ''X'' marked near the P/N, installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as a crack in the TGB control lever. This condition could result in failure of the TGB control lever, loss of tail rotor control, and subsequent loss of control of the helicopter.

(c) Affected ADs

This AD supersedes AD 2010–11–51, Amendment 39–16396 (75 FR 50874, August 18, 2010).

(d) Comments Due Date

We must receive comments by August 16, 2013.

(e) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(f) Required Actions

(1) For helicopters with a lever not marked with an ''X'' near the P/N, within 10 hours time-in-service (TIS), and thereafter at intervals not to exceed 10 hours TIS, using a mirror and appropriate light source, visually inspect the TGB control lever for a crack as shown in area ''A'' of Figure 2 of Eurocopter Emergency Alert Service Bulletin (EASB), Revision 2, dated February 28, 2011, No. 05.00.62 for Model AS350 helicopters and No. 05.00.57 for Model AS355 helicopters (EASB). If there is a crack, before further flight, replace each cracked TGB control lever with a TGB control lever with a P/N not listed in paragraph (a) of this AD.

(2) For Model AS355N helicopters, within 110 hours TIS, or if the helicopter has reached 100 or more hours TIS, within the next 10 hours TIS, and thereafter at intervals not to exceed 110 hours TIS, using a mirror and appropriate light source, inspect each TGB control lever for a crack as shown in area ''C'' of Figure 8 of the EASB.

(3) Within 660 hours TIS, replace each TGB control lever with a reworked TGB control lever marked with an ''X'' near the P/N or with a TGB control lever with a P/N not listed in paragraph (a) of this AD.

(4) For all model helicopters except Model AS355N, within 660 hours TIS, or if the helicopter has reached 605 or more hours TIS within the next 55 hours TIS, and thereafter at intervals not to exceed 660 hours TIS, using a mirror and appropriate light source, inspect each TGB control lever for a crack as shown in area ''C'' of figure 8 of the EASB.

(5) If there is a crack, before further flight, replace each cracked TGB control lever with a TGB control lever with a P/N not listed in paragraph (a) of this AD.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Robert Grant, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Safety Management Group, 2601 Meacham Blvd., Fort Worth, TX 76137, telephone (817) 222–5110, email *robert.grant@faa.gov*.

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

(h) Additional Information

(1) Eurocopter Alert Service Bulletin No. 05.00.62 and No. 05.00.57, Revision 2, dated February 28, 2011, are co-published as one document along with EASB No. 05.00.38 and EASB No. 05.00.35, which are not incorporated by reference in this AD.

(2) For service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.eurocopter.com/techpub*. You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(3) The subject of this AD is addressed in European Aviation Safety Agency Emergency AD No. 2011–0038–E, dated March 4, 2011.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 6720 Tail Rotor Control System.

Issued in Fort Worth, Texas, on May 28, 2013.

Kim Smith,

Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–14279 Filed 6–14–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–1341; Airspace Docket No. 12–ASO–47]

Proposed Establishment of Class E Airspace; Cleveland, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM), withdrawal.

SUMMARY: A notice of proposed rulemaking published in the **Federal Register** of March 6, 2013, to establish Class E airspace at Cleveland Regional Jetport, Cleveland, TN, is being withdrawn. Upon review, the FAA found that, for clarity, combining this proposed rulemaking with another proposal to amend existing airspace is necessary.

DATES: As of June 17, 2013, the proposed rule published March 6, 2013, at 78 FR 14475, is withdrawn.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

History

On March 6, 2013, a NPRM was published in the **Federal Register** establishing Class E airspace at Cleveland, TN to accommodate new standard instrument approach procedures for Cleveland Regional Jetport (78 FR 14475). Subsequent to publication the FAA found that existing information for Bradley Memorial Hospital was omitted in the Cleveland, TN proposed rule. Also, there is another proposed rulemaking for Dayton, TN, with Bradley Memorial Hospital information. To avoid confusion this proposed rule is being withdrawn and will be combined with the Dayton, TN, proposed rulemaking.

Lists of Subjects in 14 CFR Part 71:

Airspace, Incorporation by reference, Navigation (air).

The Withdrawal

Accordingly, pursuant to the authority delegated to me, the Notice of Proposed Rulemaking, as published in the **Federal Register** on March 6, 2013 (78 FR 14475) (FR Doc 2013–05210.), is hereby withdrawn.

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

Issued in College Park, Georgia, on May 28, 2013.

Barry A. Knight,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2013–13103 Filed 6–14–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 655

[FHWA Docket No. FHWA–2012–0118]

National Standards for Traffic Control Devices; Manual on Uniform Traffic Control Devices for Streets and Highways

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notification; response to comments.

SUMMARY: The Manual on Uniform Traffic Control Devices (MUTCD) is incorporated in our regulations, approved by the Federal Highway Administration, and recognized as the national standard for traffic control devices used on all streets, highways, bikeways, and private roads open to public travel. Consistent with Executive Order 13563, and in particular its emphasis on burden-reduction and on retrospective analysis of existing rules, a Request for Comments was published on January 11, 2013, to solicit input on potential formats for restructuring the MUTCD into two documents, one that would be subject to rulemaking and one that would contain supplemental information that is not subject to rulemaking. One hundred and sixty-nine unique letters were received and this document provides a summary of the input from these letters. Given the lack of support from the MUTCD user community, the FHWA will not proceed with restructuring the MUTCD into two documents at this time.

FOR FURTHER INFORMATION CONTACT: For questions about the program discussed herein, contact Mr. Chung Eng, MUTCD Team Leader, FHWA Office of Transportation Operations, (202) 366–8043 or via email at *chung.eng@dot.gov.* For legal questions, please contact Mr. William Winne, Office of the Chief Counsel, (202) 366–1397, or via email at *william.winne@dot.gov.* Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

This document, all comments, and the request for comments notice may be viewed on line through the Federal eRulemaking portal at: *http://www.regulations.gov.* The docket identification number is FHWA–2012–0118. The Web site is available 24 hours each day, 365 days each year. Anyone is able to search the electronic form of all comments in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, or labor union). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, Pages 19477–78), or you may visit *http://DocketsInfo.dot.gov.*

Request for Comments

On January 11, 2013, the FHWA published a Request for Comments at 78 FR 2347 (Docket ID: FHWA–2012–0118) soliciting input on the option of splitting the material in the MUTCD into two separate documents in the interest of providing a simpler, streamlined MUTCD that would be easier to use, and that would address concerns regarding its increasing size and complexity. Two potential formats for dividing the MUTCD content into a streamlined MUTCD and a companion Applications Supplement were presented for consideration along with nine specific questions. The specific questions posed in the Request for Comments were primarily based on the premise that splitting the MUTCD into two documents would be the preferred solution.

Summary of Responses

The FHWA received comments from 40 State DOT representatives, 26 local agencies, 17 associations, 34 consultants, 3 vendors and 49 private citizens. Out of 169 unique letters received, 155 (92%) of the letters were either against splitting the MUTCD into 2 separate documents, or recommended postponing any action to split the manual pending results from the ongoing National Cooperative Highway Research Program (NCHRP) strategic planning effort, which are expected to be available in January 2014. The strategic planning effort will be addressing many issues that would impact future MUTCD content and structure, including consideration of an MUTCD that would consist of more than one volume.

At least one-half of the State DOT's, local agencies, associations, consultants, citizens, stakeholders, and vendors who commented all suggested waiting until the NCHRP strategic planning effort was complete before making a decision about splitting the MUTCD content. In addition to requesting that the FHWA wait for the results of the NCHRP strategic planning effort, many State and local agencies, associations, and consultants suggested that if a decision were to be made to restructure the MUTCD in any significant way, it would be critical for FHWA to partner with stakeholders, to develop content for a restructured MUTCD.

In addition to requesting public comment on the option of splitting the material in the MUTCD into two separate documents, the FHWA requested input on nine questions, many of which were directly related to the concept of splitting the MUTCD into two documents. Given the significant number of responses against splitting the manual, this discussion of the comments will focus primarily on the rationale commenters gave for their opposition or concerns related to splitting the manual as well as input from commenters on alternatives to splitting the manual. Should the results of the NCHRP strategic planning effort reveal that separating the MUTCD into more than one volume is desirable; the input from commenters directly related to the specifics of splitting the MUTCD into two documents will be analyzed in further detail as part of developing the next edition of the MUTCD.

Several commenters, including State and local agencies as well as the Institute of Transportation Engineers, indicated that the amount of information in the MUTCD and resulting size is not the issue; rather, the organization of the information is far more critical. In addition, many commenters felt that separating the material into two documents could potentially increase, rather than decrease, the amount of material included in the MUTCD. Commenters felt that working from two books would cause unnecessary confusion because users would have to determine how to correctly apply the information from two different documents. Ultimately, commenters felt that uniformity in application of the MUTCD's provisions could begin to degrade as practitioners navigate between the two documents, leading to a potential decrease in safety. Finally, several commenters expressed concern that an Applications Supplement would be difficult for the FHWA to maintain in a consistent, timely manner and could potentially experience the same fate as the Traffic Engineering Manual, which was developed to supplement the 1978 MUTCD, but was not updated.

Aside from the potential difficulties associated with using two documents, several commenters raised issues regarding the legal status of the applications document. Commenters expressed concerns that some State or local agencies may choose not to recognize or use the Applications Supplement, and those who may need the supplemental information the most may not refer to the Applications

Supplement because it is not required. Furthermore, public agencies suggested that the standard for due care in tort liability cases could be negatively impacted since material in the Applications Supplement would no longer be part of the national standard. An association, a consultant, and a vendor stated that some agencies could find themselves under political pressure to ignore the Guidance statements in the Applications Supplement, since it is not required.

Over 30 State DOTs adopt either their own State MUTCD or adopt the National MUTCD with a State Supplement. Many State DOTs also develop their own policies based on the National MUTCD. Commenters indicated that creating two separate documents would make it more difficult for those agencies that choose to adopt both manuals to adapt their own material into the MUTCD and Applications Supplement and incorporate the materials into policy.

Several State and local DOT's, and consultants suggested that the proposed split does not meet the intent of the Executive Order 13563 to conduct a government wide review of rules and regulations that are ''outdated'' or ''unnecessary.'' One of the commenters stated that the MUTCD is neither outdated nor unnecessary. The MUTCD is incorporated in Federal regulations as the national standard for traffic control devices, and in some States is adopted as part of the State code. The commenter suggested that there has not been a comprehensive analysis to suggest that restructuring the MUTCD would be the most appropriate means of accomplishing the goals of this Executive Order. Some of the comments suggested that reorganizing and streamlining the content would be more consistent with the objectives of the Executive Order than splitting the content into two documents. Other comments suggested that splitting the MUTCD provides more burden on the FHWA, State DOT's, and local agencies because more resources will be required to review and manage two documents (or four if a State creates its own supplements for each document) as compared to one document.

Within their answers to the question on other potential options for splitting the MUTCD, four State DOT's, five local agencies, two associations, seven consultants, and four citizens suggested alternatives to the method FHWA proposed splitting the content. Some of the alternatives included separating Part 2 (signs) from the rest of the MUTCD, separating Part 6 (temporary traffic control) from the rest of the MUTCD, providing a multivolume document and limiting the rulemaking to one volume, and splitting the content so that one document is for ''simple'' jurisdiction settings and the second is for more ''complex'' jurisdiction settings. Other commenters said they support exploring other alternatives. Five State DOT's, six local agencies, nine citizens, three associations, and two consultants suggested reorganizing or streamlining the MUTCD instead of splitting the content.

As the FHWA moves forward, we will explore several of the reorganizing and streamlining suggestions to make the next edition of the MUTCD more user-friendly. The FHWA is reviewing options to better organize the technical content so that MUTCD users can find information more easily. Such options range from reorganizing information within individual parts and sections of the MUTCD to reviewing content to identify redundant or unnecessary language that could be removed. To help users find information more quickly, the FHWA may separate especially lengthy sections into several shorter sections. The FHWA is reviewing opportunities to add more figures and tables to replace corresponding text; as well as reassessing the size and content of the figures themselves.

In addition to formatting and reorganizing, the FHWA is exploring new enhancements to make the MUTCD content easier to find. Preliminary options for the electronic version are adding cross-indexing, exploring ways to expand hot links and pop-ups as well as smart search options. The FHWA realizes more and more users are likely to use the electronic version and therefore it needs to be developed in such a manner that it can be used from a number of electronic devices including computers, tablets, and smart phones. Enhancing search capabilities and incorporating additional hot links, pop-ups for definitions, and graphics, for example, are all components that are under consideration as the FHWA develops ideas for the next edition of the MUTCD.

A few commenters suggested presenting traffic control device information more in a modular, tabular format, such as a ''fact sheet'' and provided examples. The FHWA is reviewing some alternatives to do this; however, it is unclear at this time where this material would be located. It could be included within the MUTCD or as part of an applications document or the Standard Highway Signs Manual. Other commenters requested narrative guidance for traffic control devices. This narrative may also be appropriate in a separate accompanying document.

In addition to providing comments about the MUTCD structure and content, several commenters provided input related to the process used to regulate the MUTCD. Clearly, many commenters felt that stakeholder input into Standards in the MUTCD is a critical component of the rulemaking process even though it can be cumbersome and lengthy. Some commenters suggested that a mechanism for distinguishing between regulatory information, subject to rulemaking, and guidance or supplementary information, not subject to rulemaking, could provide a means for reducing the burden associated with the rulemaking process. In such a scenario there was consent that the material should still be contained within one document, rather than split into two documents.

Commenters were also asked to describe the use of the printed version of the MUTCD within their agency compared to the electronic version and which version they preferred to use along with their rationale. The FHWA received comments from 29 State DOT's, 10 associations, 10 local agencies, 11 consultants, 13 citizens, 1 committee, and 1 vendor stating that they or their organization use both the printed and electronic versions and suggested that both the electronic and printed versions should be maintained. Several of the commenters noted that while the electronic version is commonly used, there is also a need to retain the MUTCD as a printable document to provide project documentation or to highlight a specific statement when communicating within their agency or with project stakeholders. The FHWA received comments from four State DOT's, four local agencies, one association, three consultants, and three citizens stating a preference for the electronic version. The commenters who preferred the electronic version cited the ability to search quickly for information, easier navigation through hotlinks/bookmarks, portability, and having the flexibility to build in enhanced features now and in the future as key reasons as to why they preferred the electronic version. The FHWA received comments from one State DOT, three associations, three local agencies, and one citizen stating a preference for the printed version. The commenters who preferred the printed version stated that field personnel do not have access to the electronic version, not all workers have access to computers, and convenience of use in an office environment as their primary

reason for preferring the printed version.

Conclusion

Given the lack of support from the MUTCD user community, the FHWA will not proceed with splitting the MUTCD into two documents at this time. Instead, we will focus on options that would make the MUTCD easier to use. We believe that focusing on these types of options while continuing to explore ways to enhance and streamline the current MUTCD updating process will best serve the user community. The FHWA will use the valuable information offered in the responses to guide our approach to updating the MUTCD.

Authority: 23 U.S.C. 101(a), 104, 109(d), 114(a), 217, 315, and 402(a); 23 CFR 1.32; and, 49 CFR 1.85.

Issued On: June 8, 2013.

Victor M. Mendez,

Administrator, Federal Highway Administration.

[FR Doc. 2013–14266 Filed 6–14–13; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 232

[Docket ID: DoD–2013–OS–0133]

RIN 0790–AJ10

Limitations on Terms of Consumer Credit Extended to Service Members and Dependents

AGENCY: Department of Defense.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: The Department of Defense (the Department or DoD) issues this advanced notice of proposed rulemaking (ANPR) regarding enhancement of the protections that apply to consumer credit extended to members of the armed forces and their dependents, such as by a provision (as proposed in a recent Senate bill) that would require the Secretary of Defense to develop a policy on the predatory extension of credit through installment loans that target members of the armed forces and their dependents. This ANPR requests comment on the need to revise the Department's existing regulation that, in general, imposes certain limits on and requires certain disclosures relating to the provision of consumer credit to a covered borrower.

DATES: Comments must be received by August 1, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Marcus Beauregard, (571) 372–5357.

SUPPLEMENTARY INFORMATION: DoD invites comments and recommendations on: (1) The need to revise the implementing regulation (32 CFR part 232) adopted in August 2007,[1] with special attention to the scope of the definition of ''consumer credit;'' (2) whether there is a need for change, and, if so, any specific revision(s) and why; (3) what should not be included in any revision and why; and (4) examples of alternative programs designed to assist Service members who need small dollar loans.

For background, an excerpt of the text contained on pages 782 and 783 of the Conference Report accompanying H.R. 4310, ''National Defense Authorization Act for Fiscal Year 2013'' (available at *http://www.dtic.mil/congressional_budget/pdfs/FY2013_pdfs/AUTH_CRPT-112hrpt705.pdf*) referring to this subject is as follows:

''Enhancement of protections on consumer credit for members of the armed forces and their dependents: The Senate amendment contained a provision (sec. 651) that would amend section 987 of title 10, United States Code, to require that vehicle title loans and payday loans, regardless of duration or whether they are open- or closed-end, are included within the definition of ''consumer credit'' contained in regulations promulgated by the Secretary of Defense pursuant to that section. The provision would also require the Secretary to develop a policy on the predatory extension of credit through installment loans that target members of the armed forces and their dependents. The House bill contained no similar provision. The Senate recedes. The conferees recognize the progress the Department of Defense has made since consumer protections for military members and their dependents against predatory lending were enacted in the John Warner National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109–364), codified in section 987 of title 10, United States Code. A recent report by the Consumer Federation of America, The Military Lending Act Five Years Later, found that 'the law has been largely effective in curbing predatory . . . lending to covered borrowers.' Nevertheless, the report found that many predatory lenders have modified their products to avoid coverage by the Department's rules implementing section 987, and recommended that 'the Department of Defense . . . conduct an internal study of service members, financial counselors, and legal assistance/JAG officers to ascertain the impact of the current set of . . . rules on the use of defined products, problems caused by similar and emerging products, and the use of allotments to pay for commercial credit.'

''The conferees are concerned that the Department must remain vigilant to eliminate continuing, evolving predatory lending practices targeting service members and their families, and believe the Department should review its regulations implementing section 987, to address changes in the industry and the evolution of lending products offered since 2007, continuing use of predatory marketing practices, and other abuses identified by consumer protection advocates, including the Consumer Financial Protection Bureau's Office of Servicemember Affairs. The conferees direct the Secretary to conduct surveys of counselors, legal assistance attorneys, service members, and other appropriate personnel, and to consult with both consumer protection advocacy groups and representatives of the financial services industry to determine if changes to rules implementing section 987 are necessary to protect covered borrowers from continuing and evolving predatory lending practices, and to report to the Committees on Armed Services of the Senate and House of Representatives no later than 1 year after the date of enactment of this Act on the results of such review.''

Comments and recommendations received in response to this ANPR will be reviewed as part of a proposed rulemaking, which may be the next step in this process.

[1] *See* Limitations on Terms of Consumer Credit Extended to Service Members and Dependents, 72 FR 50580–50594 (August 31, 2007).

Dated: June 11, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–14321 Filed 6–14–13; 8:45 am]

BILLING CODE 5001–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 85, 86, 1036, 1037, 1039, 1042, 1048, 1054, 1065, 1066, 1068

[EPA–HQ–OAR–2012–0102; FRL 9772–2]

RIN 2060–AR48

Heavy-Duty Engine and Vehicle, and Nonroad Technical Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing to amend provisions in the Medium- and Heavy-Duty Greenhouse Gas Emissions and Fuel Efficiency final rule issued on September 15, 2011. These proposed amendments would eliminate duplicative reporting requirements, reduce inadvertent minor differences between the EPA and NHTSA programs regarding such matters as voluntary early model year compliance, better align testing procedures to market realities, and reduce unnecessary testing burdens. EPA is also proposing to amend several regulations by: Adjusting the provisions of the replacement engine exemption; expanding EPA's discretion to allow greater flexibility under the Transition Program for Equipment Manufacturers related to the Tier 4 standards for nonroad diesel engines; specifying multiple versions of the applicable SAE standard for demonstrating that fuel lines for nonroad spark-ignition engines above 19 kilowatts meet permeation requirements; and allowing for the use of the ethanol-based test fuel specified by the California Air Resources Board for nonroad spark-ignition engines at or below 19 kilowatts. Some of the individual provisions of this action may have minor impacts on the costs and emission reductions of the underlying regulatory programs amended in this action, though in most cases these are simple technical amendments. For those provisions that may have a minor impact on the costs or benefits of the amended regulatory program, any potential impacts would be small and we have not attempted to quantify the potential changes.

DATES: Comments on all aspects of this proposal must be received on or before July 17, 2013. See the **SUPPLEMENTARY INFORMATION** section on ''Public Participation'' for more information about written comments.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2012–0102, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* Air and Radiation Docket and Information Center, Environmental Protection Agency, Air Docket, Mail-code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC, Attention Docket ID No. EPA–HQ–OAR–2012–0102. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2012–0102. See the **SUPPLEMENTARY INFORMATION** section on ''Public Participation'' for additional instructions on submitting written comments.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., information claimed as Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the EPA Docket Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Angela Cullen, Environmental Protection Agency, Office of Transportation and Air Quality, Assessment and Standards Division, 2000 Traverwood Drive, Ann Arbor, Michigan 48105; telephone number: 734–214–4419; email address: *cullen.angela@epa.gov*.

SUPPLEMENTARY INFORMATION:

A. Does this action apply to me?

This proposed action would affect companies that manufacture, sell, or import into the United States new heavy-duty engines and new Class 2b through 8 vehicles, including combination tractors, school and transit buses, vocational vehicles such as utility service trucks, as well as ¾-ton and 1-ton pickup trucks and vans. The heavy-duty category incorporates all motor vehicles with a gross vehicle weight rating of 8,500 pounds or greater, and the engines that power them, except for medium-duty passenger vehicles already covered by the greenhouse gas emissions standards and corporate average fuel economy standards issued for light-duty model year 2012–2016 vehicles (75 FR at 25324, May 7, 2010).

This proposed action also would affect nonroad engine manufacturers.

Regulated categories and entities would include the following:

Category	NAICS Code [a]	Examples of potentially affected entities
Industry	336111 336112 333618 336120	Motor Vehicle Manufacturers, Engine and Truck Manufacturers.
Industry	541514 811112 811198	Commercial Importers of Vehicles and Vehicle Components.

Category	NAICS Code [a]	Examples of potentially affected entities
Industry	336111 336112 422720 454312 541514 541690 811198 336510	Alternative Fuel Vehicle Converters.
Industry	811310	Engine Repair, Remanufacture, and Maintenance.

Note:
[a] North American Industry Classification System (NAICS).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely covered by this proposed rule. This table lists the types of entities that the agency is aware may be regulated by this proposed action. Other types of entities not listed in the table could also be regulated. To determine whether your activities would be regulated by this proposed action, you should carefully examine the applicability criteria in the referenced regulations. You may direct questions regarding the applicability of this proposed action to the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. What should I consider as I prepare my comments?

Direct your comments to Docket ID No. EPA–HQ–OAR–2012–0102. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

(1) Tips for Preparing Your Comments

When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified in the **DATES** section above.

(2) How do I submit confidential business information?

Do not submit CBI to EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI 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.

(3) Will the agency consider late comments?

EPA will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent practicable, we will also consider comments received after that date. If interested persons believe that any new information the agency places in the docket affects their comments, they may submit comments after the closing date concerning how the agency should consider that information for the final rule. However, the agency's ability to consider any such late comments in this rulemaking will be limited due to the time frame for issuing the final rule.

If a comment is received too late for us to practicably consider in developing the final rule, we will consider that comment as an informal suggestion for future rulemaking action.

(4) How can I read the comments submitted by other people?

You may read the materials placed in the dockets for this document (*e.g.,* the comments submitted in response to this document by other interested persons) at any time by going to *http://www.regulations.gov*. Follow the online instructions for accessing the dockets. You may also read the materials at the EPA Docket Center by going to the street addresses given above under **ADDRESSES**.

I. Direct Final Rule

In addition to this notice of proposed rulemaking, EPA is also publishing a Direct Final Rule (DFR) addressing provisions described in Sections III and IV of this document. We are doing this to expedite the regulatory process to allow the amendments to occur as soon

as possible. However, if we receive relevant adverse comment on distinct elements of any of the provisions in this proposal by July 17, 2013, we will publish a timely withdrawal in the **Federal Register** indicating which provisions we are withdrawing. Any provisions of the DFR that are not withdrawn will become effective on August 16, 2013, notwithstanding adverse comment on any other provision. We will address all public comments in the final rule based on this proposed rule.

As noted above, EPA is publishing the DFR to expedite the regulatory process to allow engine and vehicle certifications and engine replacements to occur as soon as possible according to the clarified regulations. We request that commenters identify in your comments any portions of the proposed action described in Sections II and III below with which you agree and support as proposed, in addition to any comments regarding suggestions for improvement or provisions with which you disagree. In the case of a comment that is otherwise unclear whether it is adverse, EPA would interpret relevant comments calling for more flexibility or less restrictions for engines or vehicles as supportive of the direct final rule. In this way, EPA will be able to adopt those elements of the DFR that are fully supported and most needed today, while considering and addressing any adverse comments received on the proposed rule, in the course of developing the final rule. See the DFR for the regulatory text associated with this proposal.

Note that Docket Number EPA–HQ–OAR–2012–0102 is being used for both the DFR and this NPRM.

II. Proposed Amendments to the Heavy-Duty Engine and Vehicle Greenhouse Gas Emission Standards Rule

EPA and the National Highway Traffic Safety Administration (NHTSA) developed the first-ever program to reduce greenhouse gas (GHG) emissions and fuel consumption in the heavy-duty (HD) highway vehicle sector. The rulemaking was developed as a single, national program with both EPA and NHTSA promulgating complementary standards that allow manufacturers to build one set of vehicles to comply with both agencies' regulations. This broad heavy-duty sector—ranging from large pickups to sleeper-cab tractors—together represent the second largest contributor to oil consumption and GHG emissions from the mobile source sector, after light-duty passenger cars and trucks. The final rule was published in the **Federal Register** on September 15, 2011 (76 FR 57106).

A. Background of the HD GHG and Fuel Efficiency Standards and Amendments

EPA's GHG standards and NHTSA's fuel consumption standards apply to manufacturers of the following types of heavy-duty vehicles and their engines:

- Heavy-duty Pickup Trucks and Vans
- Combination Tractors
- Vocational Vehicles

The rules include separate standards for the engines that power combination tractors and vocational vehicles. Certain parts of the program are exclusive to EPA's GHG standards. These include EPA's final hydrofluorocarbon standards to control leakage from air conditioning systems in combination tractors and in pickup trucks and vans. Also exclusive to the EPA rules are standards for nitrous oxide (N_2O) and methane (CH_4) emissions standards that apply to all heavy-duty engines and to pickup trucks and vans.

EPA's final greenhouse gas emission standards for heavy-duty vehicles under the Clean Air Act will begin with model year 2014. NHTSA's final fuel consumption standards under the Energy Independence and Security Act of 2007 will be voluntary in model years 2014 and 2015, becoming mandatory with model year 2016 for most regulatory categories. Both agencies allow manufacturers to comply early in model year 2013 and promote early compliance by providing incentives to do so.

In the final rulemaking, EPA established all-new regulations in 40 CFR parts 1036, 1037, and 1066. EPA also included changes to existing regulations in 40 CFR parts 85, 86, 1039, 1065, and 1068. Similarly, NHTSA modified its existing regulations in 49 CFR parts 523 and 534, and established an all-new regulation in 49 CFR part 535.

After publication of the heavy-duty rule, EPA and NHTSA began an extensive outreach effort to aid in the rule's implementation. For example, EPA and NHTSA held public workshops on November 3, 2011 and August 10, 2012. In the course of these efforts, the agencies received a series of comments on specific aspects of the rules and prepared question and answer responses.[1] In some cases, it became clear that minor changes to the rules would better clarify the rule's intent, or amend the rule to make it more effective. The amendments proposed in this rule are largely based on these implementation discussions.

The proposed revisions related to the heavy-duty GHG emissions regulations in this proposal are unique to EPA's regulations. Thus, this section is further divided into subsections related to specific parts of the Code of Federal Regulations.

B. Proposed Amendments to the Heavy-Duty GHG Regulations

The following proposed amendments correct minor, technical inconsistencies and add clarifications to the current regulatory text. EPA proposes to amend 40 CFR parts 85, 86, 1036, 1037, 1065, and 1066 to correct typographical errors, clarify test procedures and certification procedures, and correct the regulations to make them consistent with the intent expressed in the preamble to the final rules (76 FR 57106). A comparison of the original and proposed regulatory text is provided in a memorandum to the docket for this rulemaking.[2]

(1) Proposed Regulatory Changes to 40 CFR part 1036

EPA proposes to amend portions of the regulations in 40 CFR part 1036, as described below.

- Hybrid Testing: §§ 1036.525 and 1036.615 specify requirements for testing hybrid engines and engines with Rankine cycle waste heat recovery. The regulatory text includes references for testing ''post-transmission'' and ''pre-transmission'' hybrid systems in these sections. In a pre-transmission hybrid, the energy from both the engine and motor is input into the drive shaft prior to the transmission. In a post-transmission hybrid, the engine energy is input into the drive shaft prior to the transmission, but the motor energy is input into the drive shaft after the transmission. Since post-transmission hybrid architecture is incompatible with engine testing, EPA proposes to remove the reference to post-transmissions systems in the hybrid engine test requirements in 40 CFR part 1036. 40 CFR 1037.525, 1037.550, and 1037.615 include requirements for testing post-transmission hybrids using a vehicle test. EPA anticipates that there would be no impact on manufacturers by the deletion of this text, since the vehicle test procedures set out in the regulations specify how to test post-transmission systems.
- EPA proposes to revise §§ 1036.5, 1036.150, and 1036.615 to address typographical issues to correct

[1] See U.S. EPA Web site at *http://www.epa.gov/otaq/climate/regs-heavy-duty.htm.*

[2] Hicks, M. and A. Cullen. Memorandum to Docket EPA–HQ–OAR–2012–0102. Heavy-Duty Engine and Vehicle Greenhouse Gas Emissions and Fuel Consumption Regulatory Changes. May 2013.

regulatory citations within the regulations.

- EPA proposes to correct § 1036.150(g)(2) and (3) to change the assigned additive deterioration factor (DF) for nitrous oxide (N_2O) and methane (CH_4) emissions from 0.02 to 0.020 g/hp-hr to account for the appropriate number of significant digits.
- EPA proposes to amend § 1036.225 to clarify that the CO_2 family emission limit (FEL) is not required on the emission control information (ECI) label according to the provisions in § 1036.135.
- EPA proposes to clarify that the CH_4 and N_2O emission standards apply to all testable configurations in § 1036.205.
- EPA proposes to add a definition of ''preliminary approval'' to § 1036.801.

(2) Proposed Regulatory Changes to 40 CFR Part 1037

EPA also proposes to revise portions of the regulations in 40 CFR Part 1037 to correct technical errors and provide additional clarity in the regulations.

(a) Hybrid Testing

Sections 1037.525, 1037.550, and 1037.615 describe or reference the procedure to be used for testing hybrid vehicles with power take off (PTO) devices on a whole vehicle test. Both pre- and post-transmission hybrid architectures can be used with power take off (PTO) devices. The current rule text states that manufacturers could test post-transmission hybrids on the vehicle test procedure to quantify CO_2 and fuel consumption improvements resulting from running PTO equipment, but inadvertently excluded pre-transmission hybrid architecture from being tested on a vehicle test. Since PTO devices can also be used in hybrid vehicles with pre-transmission architecture, EPA is proposing to amend the language to allow these pre-transmission hybrid vehicles with PTO to be tested on the whole vehicle test procedure.

(b) Advanced Technologies Improvement Factor

Section 1037.615 describes the procedure for measuring CO_2 improvements from vehicles with hybrid and other advanced technologies (such as Rankine engines, electric vehicles and fuel cell vehicles), in order to generate advanced technology credits.[3] Section 1037.615 specifies how manufacturers can measure the effectiveness of the advanced system by chassis-testing a vehicle equipped with the advanced system and an equivalent conventional vehicle using the test procedures in 40 CFR Part 1037, subpart F.

The effectiveness of the advanced system is calculated by measuring the CO_2 output from chassis tests of the vehicle with the advanced system and an equivalent conventional vehicle, thereby obtaining the relative marginal improvement between the two vehicles (the ''improvement factor''). The ''benefit'' associated with the advanced system is then calculated by multiplying the Greenhouse Gas Emissions Model (GEM) result for the vehicle with advanced technology by the dimensionless improvement factor. The benefit is then converted to advanced technology credits in a model year for each vehicle family within an averaging set.

The final rule specified the procedure for applying an improvement factor in simulating a chassis test with a post-transmission hybrid system for A to B testing (§ 1037.550), but did not allow the improvement factor to be applied to multiple vehicle configurations having the same advanced technology (§ 1037.615). The post-transmission system test procedure specifically allows the application of an improvement factor or test results to multiple vehicle configurations, as long as the values used for the calculations ''represent the vehicle configuration with the smallest potential reduction in greenhouse gas emissions as a result of the hybrid capability'' and are consistent with good engineering judgment. EPA proposes to amend the regulatory text that describes the measurement of advanced technology improvement to include this specification as well.

EPA proposes to revise § 1037.615 to allow manufacturers to generate advanced technology credits from multiple heavy-duty vehicle configurations within a vehicle family group by testing a single vehicle of that group, provided the vehicle tested has the smallest potential reduction in fuel consumption of the vehicles with advanced technology capability. EPA anticipates that this proposed change may reduce testing and reporting costs for manufacturers while still allowing flexibility in choosing to test additional configurations within the family group. By limiting the use of this testing option to vehicles with the smallest potential reduction in emissions (or fuel consumption), emission reductions would not be compromised.

(c) Optional Certification for Up to Class 6 Spark-Ignition Engine Vehicles

Heavy-duty pickup trucks and vans are pickup trucks and vans with a gross vehicle weight rating between 8,501 pounds and 14,000 pounds (Class 2b through 3 vehicles) manufactured as complete vehicles by a single or final stage manufacturer or manufactured as incomplete vehicles as designated by a manufacturer. Under the GHG rule, these vehicles are certified on a chassis dynamometer test, as opposed to the GEM simulation tool used to certify the vocational and tractor categories. NHTSA's current regulations allow Classes 4 and 5 spark-ignition vehicles the option of certifying on a chassis dynamometer test, as those vehicles may have more similar characteristics to a Class 2b–3 pickup or van than they do other vehicles in their class. At the time of the final rule, NHTSA was unaware of any higher class spark ignition vehicles that would be similarly appropriate to test on a chassis dynamometer. EPA's current regulations allow spark-ignition vehicles of all classes the option of certifying on a chassis dynamometer test.[4]

This proposed amendment would align the regulatory texts by closing the current gap between NHTSA and EPA's optional certification provisions. EPA therefore proposes to allow manufacturers of complete or cab-complete vehicles up to and including Class 6 that have spark-ignition engines the option of chassis dynamometer certification. See references in §§ 1037.104 and 1037.150.

(d) Configuration and Subconfiguration Definitions

The existing EPA regulations contain definitions for ''configuration'' and ''subconfiguration,'' which define how to group vehicles by similar characteristics within a test group when conducting testing to determine CO_2 emissions for heavy-duty pickup trucks and vans. ''Configuration'' means a subclassification within a test group that is based on engine code, transmission type and gear ratios, final drive ratio and other parameters that EPA designates. Likewise, ''subconfiguration'' means a unique combination within a vehicle configuration of equivalent test weight, road-load horsepower, and any other operational characteristics or parameters that EPA determines may significantly affect CO_2 emissions within a vehicle configuration.

[3] Advanced technology credits may be increased by a 1.5 multiplier and applied to any heavy-duty vehicle or engine subcategory with certain maximum limits applying. See 40 CFR 1036.740, 1037.740 and 49 CFR 535.7(e) for description of advanced technology credit program.

[4] See 40 CFR 1037.15(l).

The current definitions could be specified further according to established principles to prevent any ambiguity for manufacturers in conducting testing for heavy-duty pickup trucks and vans. The terms ''transmission type'' and ''engine code'' can be further defined in the definition for ''configuration,'' to reflect common industry understanding of the terms. In addition, the term ''equivalent test weight'' could be further defined in the definition for ''subconfiguration'' to carryover the existing definition included in § 1037.104(d)(11). Therefore, EPA is proposing to add these further details to clarify these terms in § 1037.104(d)(12).

(e) Vocational Tractor Vehicle Families

The regulatory text in 40 CFR 1037.230 related to vocational tractor families is unintentionally ambiguous, and is inconsistent with, the preamble and other regulatory text. In the vocational tractor provisions of § 1037.630(b)(2), EPA requires that tractors ''reclassified under this provision must be certified as a separate vehicle family. However, they remain part of the vocational regulatory subcategory and averaging set that applies to their weight class.'' Although § 1037.630(b)(2) requires two vocational tractor families dependent on the GVWR of the vehicle, the text in § 1037.230(a)(1) implies only a single vocational tractor family default. This inconsistency is the result of an oversight when provisions were added allowing tractors to certify as vocational vehicles, and it is inconsistent with the way vehicle families are treated throughout the program, where they are split by weight class (76 FR at 57240, September 15, 2011). Therefore, EPA is proposing to revise § 1037.230(a)(1) to be consistent with § 1037.630(b)(2) by splitting the vocational vehicles families into two groups, those above 33,000 pounds GVWR and those above 26,000 pounds GVWR and at or below 33,000 pounds GVWR.

(f) 40 CFR Part 1037 Aerodynamic Assessment

A vehicle's design impacts the amount of power that is required to move the vehicle down the road. Depending on the vehicle speed, two of the largest impacts on GHG emissions and fuel consumption are aerodynamics and tire rolling resistance. As part of the Heavy-Duty GHG and Fuel Efficiency rule, manufacturers are required to meet vehicle-based GHG emissions and fuel efficiency standards. Compliance with the vehicle standard for combination tractors is determined based on a vehicle simulation tool called the Greenhouse Gas Emissions Model (GEM). Various characteristics of the vehicle are measured and these measurements are used as inputs to the model. These characteristics relate to key technologies appropriate for this subcategory of truck—including aerodynamic features, weight reductions, tire rolling resistance, the presence of idle-reducing technology, and vehicle speed limiters. See generally 76 FR 57135.

The aerodynamic drag of a vehicle is determined by the vehicle's coefficient of drag (Cd), frontal area, air density and speed. As noted in the Heavy-Duty GHG and Fuel Efficiency rule, quantifying truck aerodynamics as an input to the GEM presents technical challenges because of the proliferation of vehicle configurations, the lack of a clearly preferable standardized test method, and subtle variations in measured aerodynamic values among various test procedures (76 FR 57148–57151). Class 7 and 8 tractor aerodynamics are currently developed by manufacturers using a range of techniques, including wind tunnel testing, computational fluid dynamics, and constant speed tests.

We developed a broad approach that allows manufacturers to use these multiple different test procedures to demonstrate aerodynamic performance of the tractor fleet given that no single test procedure is superior in all aspects to other approaches. Allowing manufacturers to use multiple test procedures and modeling coupled with good engineering judgment to determine aerodynamic performance is consistent with the current approach used in determining representative road load forces for light-duty vehicle testing (40 CFR 86.129–00(e)(1)). However, we also recognize the need for consistency and a level playing field in evaluating aerodynamic performance.

EPA and NHTSA developed a bin structure to group aerodynamic test results for the proposed rulemaking, and adjusted the method used to determine the bins in the final rule. The agencies, while working with industry, developed an approach for the final rulemaking which identified a reference aerodynamic test method and a procedure to align results from other aerodynamic test procedures with the reference method, an enhanced coastdown procedure. Manufacturers are able to use any aerodynamic evaluation method in demonstrating a vehicle's aerodynamic performance as long as the method is aligned to the reference method.

As discussed in the final rule, the agencies adopted aerodynamic technology bins which divide the wide spectrum of tractor aerodynamics into five bins (*i.e.,* categories) for high roof tractors (see 76 FR 57149). The first high roof category, Bin I, is designed to represent tractor bodies that prioritize appearance or special duty capabilities over aerodynamics. These Bin I trucks incorporate few, if any, aerodynamic features and may have several features that detract from aerodynamics, such as bug deflectors, custom sunshades, B-pillar exhaust stacks, and others. The second high roof aerodynamics category is Bin II, which roughly represents the aerodynamic performance of the average new tractor sold today. The agencies developed this bin to incorporate conventional tractors that capitalize on a generally aerodynamic shape and avoid classic features which increase drag. High roof tractors within Bin III build on the basic aerodynamics of Bin II tractors with added components to reduce drag in the most significant areas on the tractor, such as integral roof fairings, side extending gap reducers, fuel tank fairings, and streamlined grill/hood/mirrors/bumpers, similar to SmartWay trucks today. The Bin IV aerodynamic category for high roof tractors builds upon the Bin III tractor body with additional aerodynamic treatments such as underbody airflow treatment, down exhaust, and lowered ride height, among other technologies. And finally, Bin V tractors incorporate advanced technologies that are currently in the prototype stage of development, such as advanced gap reduction, rearview cameras to replace mirrors, wheel system streamlining, and advanced body designs.

EPA and NHTSA developed the aerodynamic drag area, CdA, bin values for the tractor categories based on coastdown testing conducted by EPA using the enhanced coastdown test procedures adopted for the final HD GHG and Fuel Efficiency rulemaking. EPA tested high roof sleeper cab combination tractors from each of the manufacturers in order to represent the aerodynamic performance that we would expect from a Bin III vehicle. The test results used for the HD GHG and Fuel Efficiency final rule are included in Table II–1 below.[5]

[5] U.S. EPA and NHTSA. Final Rulemaking to Establish Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Regulatory Impact Analysis. August 2011. Page 2–48.

TABLE II–1—TRACTOR CdA VALUES USED IN HD GHG FINAL RULE

[Class 8 high roof sleeper cab]

Truck	Expected bin	Source	CdA (m^2)
B–3JM2–2H–TXCR	Bin III	EPA Test Program	6.4
B–3JM2–4N–TXCR	Bin III–IV	EPA Test Program	5.7
B–3JM2–2K–TXCR	Bin III	EPA Test Program	6.3
C–3JM2–1B–TXCR	Bin III	EPA Test Program	6.2
C–3JE2–1F–TXCR	Bin II–III	EPA Test Program	6.7

As part of EPA's quality checks to the enhanced coastdown test program, EPA supplied OEMs with the coastdown test data for their individual trucks. Through post-rulemaking work with one OEM, EPA found an error in the data attributable to a testing contractor. The contractor had entered the same coastdown run twice into the dataset provided to EPA for one of the trucks tested (one of 20 repeat runs was entered twice). As a result the truck appeared to have a CdA value of 5.7, rather than its actual value of 6.6. As such, the data that should have been used to establish the aerodynamic bins for the high roof sleeper cabs are listed in Table II–2.

TABLE II–2—TRACTOR CdA VALUES USED IN THIS NPRM

[Class 8 high roof sleeper cab]

Truck	Expected bin	Source	CdA (m^2)
B–3JM2–2H–TXCR	Bin III	EPA Test Program	6.4
B–3JM2–4N–TXCR	Bin III	EPA Test Program	6.6
B–3JM2–2K–TXCR	Bin III	EPA Test Program	6.3
C–3JM2–1B–TXCR	Bin III–IV	EPA Test Program	6.2
C–3JE2–1F–TXCR	Bin II–III	EPA Test Program	6.7

Since the coastdown test is an input into the aerodynamic bins, EPA proposes to correct the CdA range for the affected bin levels. The proposed adjustment to the ranges would allow Bin III, which represents a SmartWay truck, to still mean exactly what was intended in the HD GHG and Fuel Efficiency final rule. The proposed Bins IV and V adjustments would require the same level of improvement we expected in the HD GHG and Fuel Efficiency final rule. This proposed amendment is a correction, so will not change the standards or the costs or projected emissions reductions. The HD GHG and Fuel Efficiency rulemaking estimates of technology costs and the resulting aerodynamic efficiency improvements were made separately from the test procedure normalization reflected in the bin tables. Those cost and technical feasibility assessments set the absolute values of the steps in the table, where the testing results of the five tractors in Table II–2 set the range of Bin III against which the rest of the aerodynamic bins are defined. Since EPA is not proposing to change either the technical descriptions of the bins or the estimates of the aerodynamic loss or benefits in moving between bins in the table, EPA is estimating no change in HD GHG and Fuel Efficiency final rulemaking costs or benefits. EPA is also not proposing to change the input into GEM related to each aerodynamic bin; therefore, this proposed change would have no impact on the GHG or on fuel consumption standards.

EPA proposes to make the adjustments shown in Table II–3 to correct the technical error in the coastdown data used in the HD GHG and Fuel Efficiency final rule. The proposed bin value adjustments would be used by manufacturers to certify their vehicles in their 2013 MY and later end of year reports.

TABLE II–3—PROPOSED TABLE IN § 1037.520(b)

[High-roof sleeper cabs]

If your measured C_DA (m^2) is . . .	Then your bin level is . . .	Then your C_D input is . . .
≥ 7.6	Bin I	0.75
6.8–7.5	Bin II	0.68
6.3–6.7	Bin III	0.60
5.6–6.2	Bin IV	0.52
≤5.5	Bin V	0.47

(g) Other 40 CFR Part 1037 Proposed Amendments

• Heavy-Duty Pickup Truck and Van Regulations: EPA proposes to amend several provisions in §§ 1037.15 and 1037.104 to specify which parts of 40 CFR part 86 apply to these vehicles and to specifically reference portions of 40 CFR part 86 in 40 CFR part 1037. EPA also proposes to revise the language in § 1037.150(a)(2) to make it consistent with the preamble to the final rule, which stipulates that the entire heavy-duty pickup truck and van fleet must be certified to qualify for early credits (see 76 FR 57245). Also, EPA proposes to clarify how heavy-duty pickup truck and van subconfigurations are selected for testing in § 1037.104(d)(9)(i) through (iii). EPA is also proposing to revise § 1037.104(g)(2)(ii), (g)(2)(iv), and (g)(5) to clarify the approach for estimating analytically derived CO_2 emission rates (ADCs).

• Air Conditioning (A/C) Leakage Provisions: The MY2017–2025 Light-Duty GHG and Fuel Economy Rule separated 40 CFR 86.1866 into four sections for clarity. The A/C leakage section moved to 40 CFR 86.1867–12. Thus, EPA proposes to amend § 1037.115 to reflect this change. In addition, EPA proposes to revise § 1037.115 because the procedure for determining the hydrofluorocarbon (HFC) leakage rate for air conditioning systems with alternate refrigerants is already addressed in SAE J2727, which is incorporated by reference in 40 CFR 86.1, and therefore does not need to be included in § 1037.115.

• Labeling clarification: EPA proposes to clarify in § 1037.135 that the emission control label for the vehicle only requires a statement regarding the size of the fuel tank for vehicles that contain an evaporative canister for controlling emissions.

• Typographical fixes: EPA proposes to address the typographical errors in

§ 1037.135 relative to labeling, § 1037.501 related to the trailer specification, and § 1037.520 which includes a weight reduction explanation.

• EPA proposes to clarify that the general requirements for obtaining a certificate of conformity and EPA's authority to perform confirmatory testing on vehicles, including the vehicles used to determine $F_{alt\text{-}aero}$ (see § 1037.201).

• EPA proposes to revise § 1037.550 to change the nomenclature used for the vehicle speed variable from *S* to *v* to be consistent with 40 CFR part 1065. EPA is also proposing to remove the torque control option for testing post-transmission hybrid systems because it causes testing issues when the vehicle is shifting and braking and by removing the torque control mode from the dynamometer control options it would reduce lab-to-lab variability.

• EPA proposes to clarify the regulatory text in § 1037.620(a)(3) for instances where the secondary manufacturer who would hold the vehicle GHG certificate may be a small business that would be exempted from the GHG regulations.

• EPA proposes to revise § 1037.660 related to the automatic engine shutdown (AES) provisions. § 1037.660(c) currently allows manufacturers to obtain a discounted credit for installing AES systems that expire prior to the end of the vehicle's life based on the ratio of the set point relative to 1,259,000 miles.[6] EPA is not revising that provision, except to change the regulatory provision numbering from § 1037.660(c) to § 1037.660(c)(1). EPA is not revising that provision. However, similar to the reasons which supported the development of vehicle speed limiter flexibilities, an automatic engine shutdown system could be developed to alleviate other potential concerns that impede its adoption. For example, some amount of idling may be needed for truckers who experience significant ambient temperature excursions that would necessitate extended idling or for idle reduction technologies, such as auxiliary power units, that malfunction and necessitate extended idling. A remedy to these concerns would be to design the AES such that it allows for a predetermined number of hours per year of idling. EPA is proposing to add § 1037.660(c)(2) to appropriately quantify the CO_2 emissions and fuel consumption of a partial AES system by discounting the AES input to GEM. EPA is using an assumption of 1,800 hours as the annual idling time in the calculation, which is consistent with the final rule (76 FR 57154). EPA used 1,800 hours as the annual idling time for sleeper cabs because it reasonably reflects the available range of idling time cited in several studies, as discussed in the preamble to the final rule and in the Final Regulatory Impact Analysis (pages 2–67 and 2–68).[7] The 1,800 hours of idling was used in the final rule to determine the credit of 5 grams of CO_2 per ton-mile for the use of AES systems (page 2–68 of the Final Regulatory Impact Analysis).

• EPA proposes to add a provision to § 1037.745. This new proposed provision would clarify manufacturers' liability for offsetting debits (or deficit credits) after certifying with emissions above the standards for three years. We want to avoid claims that the statute of limitations starts to apply in the first year of using debits, since this could significantly limit our ability to adequately enforce the requirement. We have generally adopted this approach in other rules that allow debits to be carried forward a given number of model years and are later offset with credits (40 CFR 86.1861–04(e), 86.1864–10(o), and 86.1865–12(k)).

• EPA proposes to add a definition of ''preliminary approval'' to § 1037.801.

• EPA proposes to revise the ''Regulatory Sub-category'' definitions in § 1037.801 to match the definition of ''Class'' in 40 CFR 1037.801, be consistent with DOT's Gross Vehicle Weight Rating Classes in Table II of 49 CFR 565.15, and aggregate the heavy-duty pickup truck and van sub-category to match the definition in 49 CFR 535.4.

(3) Proposed Regulatory Changes to 40 CFR parts 1065 and 1066

EPA proposes to restore text to § 1065.610(c)(3)(i) through (iii) which was inadvertently removed in the final rule for Category 3 marine diesel engines (75 FR 22896, April 30, 2010). This text was most recently published in the final rule adopting standards for locomotive engines and Category 1 and Category 2 marine diesel engines (73 FR 37325, June 30, 2008).

EPA is also proposing to revise portions of the regulations in 40 CFR part 1066 to clarify test procedures. Specifically, we propose to revise § 1066.310(b) to clarify the coastdown process and simplify the anemometer calibration process.

(4) Proposed Regulatory Changes to 40 CFR Part 85

EPA proposes to revise § 85.525 to separate the light-duty and heavy-duty fuel conversion regulations to provide clarity regarding the applicability of the fuel conversion regulations to heavy-duty pickup trucks and vans.

(5) Proposed Regulatory Changes to 40 CFR Part 86

EPA is also proposing to revise portions of the regulations in 40 CFR part 86. First, EPA is revising § 86.010–18(q) to provide a mechanism for engine manufacturers to identify engines which are only suitable for installation in hybrid applications due to the on-board diagnostics (OBD) calibration. Manufacturers who opt to produce a unique set of engines for hybrid applications will include a compliance statement on the ECI label that states ''for use in hybrid applications only.''

Second, EPA proposes to revise portions of § 86.1865–12 to clarify the provisions that specifically apply to the heavy-duty pickup trucks and vans subject to 40 CFR 1037.104.

Third, EPA proposes to remove §§ 86.007–23(n) and 86.1844–01(j), which describe how to report CO_2, N_2O, and CH_4 emissions. There is no need or benefit for manufacturers to submit greenhouse gas emission data in the model years before emission standards apply for those pollutants.

(6) Summary of Proposed Heavy-Duty GHG Amendments

EPA does not expect that these proposed revisions to 40 CFR parts 85, 86, 1036, 1037, 1065, and 1066 would have any adverse cost impact to the manufacturers. There are no testing costs associated with the proposed revisions. There would be no environmental impact associated with this regulatory action because this proposed rulemaking would not change the heavy-duty engine and vehicle greenhouse gas emission standards that manufacturers have to meet; it simply makes some minor amendments to the regulations.

III. Other Technical Amendments

A. Replacement Engines

In 1996, EPA adopted a provision allowing manufacturers in limited circumstances to produce new, exempt engines for replacing failed engines (61 FR 58102, November 12, 1996). With this approach, manufacturers have been able to make new, exempt engines in

[6] The basis for the lifetime mileage assumption for heavy-duty tractors is discussed in the Regulatory Impact Analysis for the Final Rule on page 2–69. Available in Docket # EPA–HQ–OAR–2010–0162–3634.

[7] Regulatory Impact Analysis: Final Rulemaking to Establish Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles. August 2011. Available in Docket # EPA–HQ–OAR–2010–0162–3634.

cases where engines certified to current standards do not have the physical or performance characteristics needed to power the equipment with the old engine. Without this provision, some equipment owners would have been forced to prematurely scrap otherwise working equipment (sometimes worth millions of dollars), because no engine meeting current emission standards could be adapted for installation in the space occupied by the original engine.

EPA later added language to the replacement engine exemption to address the complications related to producing partially complete engines for replacement purposes, and to address the need to produce and sell replacement engines such that they would be available to operators with a critical need to avoid extended downtime in the case of engine failure (73 FR 59034, October 8, 2008). This expanded approach allowed manufacturers to sell a limited number of new, exempt replacement engines without taking the steps that would otherwise be required to document the need for the exemption and to arrange for the proper disposition of the old engine. Along with this expanded approach, EPA added circumvention language to describe the overall purpose of the replacement engine exemption in an attempt to prevent manufacturers and operators from using exempted engines in ways that were unnecessary and/or detrimental to the environment. In particular, this text states that the provisions § 1068.240 are ''intended to allow for replacement of engines that fail prematurely . . .'' This language has been interpreted to mean that replacement engines may be used for no other purpose.

Since then, EPA has found that the circumvention language has had some unintended consequences. For example, California has adopted requirements for operators to reduce emissions from in-use equipment, which has led to a desire to install new replacement engines that are cleaner than the old engines. It is often the case that it is infeasible or impractical to install replacement engines certified to current standards, but suitable replacement engines designed to meet an intermediate level of emission standards are available. The circumvention language may prevent operators in California from achieving overall emission reductions that would result from upgrading their existing equipment with cleaner engines in this manner. It may also be the case that an engine will simply wear out, rather than experiencing premature failure, well before the equipment in which it is installed is at the end of its life. Under the current regulation, an operator under these circumstances would need to install a new engine certified to current standards, or find a used engine, to keep the equipment operating.

EPA continues to believe that new, exempt replacement engines should only be used in cases where a currently certified engine cannot practically be installed to power the old equipment. EPA believes the regulatory language without our description of intent to prevent circumvention serves this purpose without the unintended consequences described above. EPA is therefore proposing to remove the circumvention provisions from the regulations in § 1068.240. EPA expects manufacturers and operators following the regulations to continue to use the exemption provisions appropriately and not for the purpose of circumventing the emission standards. EPA is proposing to add language to explicitly limit this provision to equipment that has been in service 25 years or less (at the point of installation) so that manufacturers and operators do not use this provision to keep in operation older dirtier, equipment beyond the normal lifetime of the equipment, by continually using new engines to replace old engines. EPA has adopted this same restriction for stationary engines under 40 CFR 60.4210(i), except that the maximum equipment age is 15 years. EPA will continue to monitor compliance with the exemption provisions and will consider any appropriate changes to the regulation in the future to ensure that the exemption is properly used toward this purpose. This proposed 25-year limit would not apply for marine diesel engines, since those engines are subject to separate replacement engine provisions.

The proposed tracked option specified in § 1068.240(b) also includes an additional step to qualify for the replacement engine exemption for equipment not experiencing premature engine failure. In particular, manufacturers would need to make a determination that the replacement engine is designed with the greatest degree of emission control that is available for the particular application. For example, if the engine being replaced was built before the Tier 1 standards started to apply and engines of that size are currently subject to Tier 2 standards, the manufacturer would need to also consider whether it produces any Tier 1 or Tier 2 engines with the appropriate physical and performance characteristics for replacing the old engine. If the manufacturer produces a Tier 1 engine with the appropriate physical and performance characteristics, engines emitting at levels above the Tier 1 standards would not qualify for an exemption. The proposed requirement to use the cleanest available engine fits with the intent of facilitating voluntary incentive programs involving replacement engine upgrades toward the goal of reducing emissions from in-use equipment, but without imposing a requirement that would involve new technology development or impractical equipment design changes. This provision has already been in place for marine diesel engines in § 1042.615. In the case of equipment experiencing premature engine failure, we would continue to apply the simpler requirement that the replacement engine must meet emission standards that are the same as or better than the standards that apply to the old engine.

EPA is also proposing to adjust the provisions related to the disposition of the old engine in § 1068.240(b). To be re-introduced into U.S. commerce, the old engine must either meet current emission standards or qualify for an exemption as if it were a new engine. The old engine could be re-used as a replacement engine for a different piece of equipment. Under this proposed approach, an engine made from all new parts and an engine built with a used engine block and any mix of new or used additional parts would be treated the same way. For example, the recycled replacement engine would be subject to all the demonstrations and documentation requirements of § 1068.240(b), and it would count toward the allowance to produce a limited number of replacement engines under § 1068.240(c). For engines that are not re-introduced into U.S. commerce, manufacturers must destroy the old engine or confirm that it has been destroyed. These proposed changes would further address the concern expressed in the circumvention language described above; in particular, EPA believes it is necessary to prevent the possibility of these old engines being installed in new equipment.

EPA is also proposing some clarification to the regulations to address questions that have arisen, as well as making the following changes:

- Proposing revision of the labeling requirements to account for the possibility of using a new replacement engine to replace a previously exempted replacement engine. To the extent that the proposed revised label statement differs from that specified by California ARB, we would expect to approve an adjusted statement that allows for a

single, 50-state label under § 1068.201(c).

• Proposing to adjust the reporting deadline for untracked replacement engines under § 1068.240(c). This proposed change would allow manufacturers some time after the end of the calendar year to make the determinations and to take the required steps to fulfill the tracking requirements for replacement engines under § 1068.240(b). Any engines for which these steps and determinations are incomplete by the deadline for the report would need to be counted as untracked replacement engines. Further, to account for prevailing practices and typical timelines for replacement engines, we would move back the deadline for this report from February 15 to March 31.

• Proposing to revise § 1068.240(c)(1) to specify that manufacturers may base sales limits for the untracked option on total U.S. production of certified and exempted engines together (including stationary engines).

• Proposing to add language to clarify that § 1068.240(e) applies only for engines produced under a current, valid certificate. An exemption under § 1068.240(b) or (c) would be required to produce an engine that is identical to one that is no longer certified, even if the engine was formerly certified to standards (or a Family Emission Limits) that are at least as stringent as the current standards.

• Proposing clarifications to the provisions in § 1068.240(d) related to partially complete engines also apply for ''current-tier'' replacement engines exempted under § 1068.240(e).

• Proposing to add a statement to § 1042.615 for marine diesel engines to clarify our pre-determination that certified Tier 4 engines do not have the appropriate physical and performance characteristics for replacing older engines in marine vessels. This policy was established in our June 30, 2008 final rule (see 73 FR 37157).

In addition, we are proposing to revise § 1068.1 to correct two errors regarding the applicability of part 1068. First, we propose to restore highway motorcycles to the list of categories that are not subject to part 1068. This was added, but then inadvertently removed, when we were completing two parallel rulemakings. Second, we are proposing to add a reference to 40 CFR part 85 to identify how part 1068 applies in certain circumstances for heavy-duty highway engines. These proposed changes are intended to clarify and reinforce existing requirements without modifying the underlying programs in any way.

B. Nonroad Diesel Engine Technical Hardship Program

EPA is proposing to amend the nonroad diesel engine technical hardship program to facilitate EPA granting exemptions to address certain hardship circumstances that were not considered when the original 2004 final rule was published. EPA adopted Tier 4 standards for nonroad diesel engines under 40 CFR part 1039 in 2004 (69 FR 38958, June 29, 2004). To meet these standards, engine manufacturers are pursuing development of advanced technologies, including new approaches for exhaust aftertreatment. Equipment manufacturers will need to modify their equipment designs to accommodate these new engine technologies and the corresponding changes to engine operating parameters (such as operating temperatures and heat rejection rates). To provide flexibility for equipment manufacturers in their efforts to respond to these engine design changes, the Tier 4 standards included the Transition Program for Equipment Manufacturers. Flexibilities allowed under this program include delaying compliance with small-volume equipment models for several years or using allowances in the first year to manage the transition to the Tier 4 engines.

The Transition Program for Equipment Manufacturers is intended to allow nonroad equipment manufacturers wide discretion to manage their product development timeline. Equipment manufacturers may comply either based on a percent of their production (generally for high-volume manufacturers, as described in § 1039.625(b)(1)), or based on a maximum number of exempted pieces of equipment (generally for low-volume manufacturers, as described in § 1039.625(b)(2)). At the same time, the regulations include at § 1039.625(m) an acknowledgement that equipment manufacturers might face a wide range of circumstances, including cases where engine manufacturers might be late in providing compliant engines to nonintegrated equipment manufacturers such that the specified allowances are insufficient to avoid a disruption in the equipment manufacturer's production schedule. The technical hardship provision at § 1039.625(m) allows EPA to make a judgment that an equipment manufacturer that buys engines from another company, through no fault of its own, needs additional allowances to manage the transition to Tier 4 products. The regulation specifies a maximum allowance of 150 percent of a manufacturer's annual production (relative to § 1039.625(b)(1)), or a total of 1,100 allowances (relative to § 1039.625(b)(2)). The regulation also provides economic hardship provisions under § 1068.255; however, eligibility depends on manufacturers showing that their solvency is in jeopardy without relief. Economic hardship therefore serves as a flexibility provision of last resort.

As the compliance dates for the Tier 4 standards approach, equipment manufacturers have described several scenarios where the technical hardship provisions are too restrictive to address their circumstances. For example, engine manufacturers have in some cases delayed delivery of Tier 4 engines until six or even twelve months after the Tier 4 standards start to apply, which could force equipment manufacturers to use up all their allowances under § 1039.625(b) in the first year of the new standards. The maximum number of allowances under § 1039.625(m) would cover a good portion of the second year of the Tier 4 standards, but we have heard how this too is inadequate to allow equipment manufacturers to respond to late deliveries of compliant engines.

As another example where additional flexibility may be warranted, corporate acquisitions can cause equipment manufacturers to find themselves disadvantaged with respect to allowances because two companies have become a single company for purposes of regulatory compliance. Taken to an extreme, the combined company could exceed its allowances under § 1039.625(b) on the day of the merger because each of the separate companies may have used allowances that, taken together, exceed the specified thresholds for a single company. The combined company may apply for technical hardship under § 1039.625(m), but we have seen that this too can provide insufficient relief for equipment manufacturers trying to incorporate Tier 4 engines into their equipment.

In these cases, the maximum allowable relief under § 1039.625(m) is insufficient to allow equipment manufacturers to transition to meeting Tier 4 requirements without disrupting their ability to continue producing their equipment models. There have also been cases where a company would meet the criteria to qualify for consideration for technical hardship under § 1039.625(m) except that the regulation disallows technical hardship relief for all engines above 560 kW and provides only limited relief for engines above 37 kW. The regulation also provides only limited relief for companies that are not small businesses. In these cases, no additional relief is

available under § 1039.625(m), which again leaves equipment manufacturers unable to continue producing their equipment models.

We are proposing to amend the Transition Program for Equipment Manufacturers in three ways to address these concerns. First, we propose to remove the qualifying criteria so that any equipment manufacturer may apply for technical hardship relief under § 1039.625(m) for any size engine, rather than limiting the technical hardship relief to small businesses and to engines within certain power categories. We believe it is more appropriate to rely on our discretion to evaluate each hardship application on its merits rather than automatically precluding hardship relief based on certain characteristics of the engine or the company. If hardship relief is not appropriate because of an engine's power rating or a company's size or financial standing, we would not approve the request.

Second, we propose to remove the maximum number of allowances we can approve under § 1039.625(m), for both percent-of-production (currently 150 percent) and small-volume allowances (currently 1,100 units), and we propose to remove the deadlines for exercising those additional allowances. We have learned that the specified restrictions on hardship allowances are in some cases too limiting to address the legitimate concerns raised by equipment manufacturers. Again, we believe it is most appropriate to resolve issues of extent of relief once an equipment manufacturer has demonstrated that relief is appropriate, rather than limiting it *a priori.* We would not approve a greater number of technical hardship allowances than is needed to meet the established objectives. Finally, we are proposing additional small-volume allowances under § 1039.625(b)(2) and (m)(4), where we may waive the annual limits on the number of allowances instead of or in addition to granting additional hardship allowances. There may be times when manufacturers only need approval to use up their regular allowances at a faster pace than the regulations currently allow.

An additional concern has come to our attention as it relates to marine engines. Vessel manufacturers may use certified land-based engines in marine vessels as long as the engines are not modified from their certified configuration (see § 1042.605). We adopted this provision with the understanding that, given the additional technological challenges of operating engines in a marine environment, marine standards are set to be no more stringent than land-based standards and are often set at a level somewhat less stringent than the standards that apply to the land-based engines. Vessel manufacturers have used these provisions extensively to access a wide range of engine models that are not available in a certified marine configuration. The part 1039 Tier 4 standards have made this more complicated. The Tier 4 standards for land-based engines are much more stringent than the Tier 3 marine standards, which will continue to apply for many Category 1 engines. Engine distributors supplying product to vessel manufacturers have reported that several engine models will not be available to them in the transition period. In that way, vessel manufacturers are much like nonroad equipment manufacturers, except that the vessels are not actually required to use engines meeting the more stringent standards now or, for engines below 600 kW, in the foreseeable future. It would be a natural solution to use allowances under § 1039.625, but the regulations specifically require that vessel manufacturers may use only *certified* land-based engines under § 1042.605. There is a risk that this gap would significantly limit their ability to continue producing vessels in the near term. We are proposing to address this by revising 40 CFR part 1042 to specifically allow vessel manufacturers to use allowances under § 1039.625 for certain model year 2013 engines installed in marine vessels. This proposed provision would not apply for engines at or below 19 kW, since the land-based and marine standards for those engines are very similar. This proposed provision also would not apply for engines above 600 kW because the dynamic for designing and certifying those high-power engines allows for a greater expectation that they will be certified in a marine configuration. We expect no negative environmental impact because the engines will be meeting the nonroad Tier 3 standards, which will continue to be at least as stringent as the standards that currently apply for marine engines. It is important to note that this is only a temporary measure; once allowances are no longer available under § 1039.625, vessel manufacturers will either need to use Tier 4 land-based engines or find certified Tier 3 marine engines.

There are further minor proposed changes to the regulations to clarify some of the detailed transition provisions for nonroad diesel engines, as follows:

- Proposing to revise § 1039.104(g) to remove the limitations on the number of engines using the specified alternate FEL caps. Manufacturers have pointed out that this expanded flexibility would address the same concerns as described in this section for transitioning to the Tier 4 standards, but there would be no net environmental impact since manufacturers would need to produce low-emission engines that generate emission credits to offset the additional credits used by transition engines certified to with higher FELs. We are also proposing to revise the regulation to specify that the same Temporary Compliance Adjustment Factor is the same whether an engine is subject to NOx+NMHC standards or NOx-only standards. The proposed revision also addresses Tier 3 carry-over engines that would need to certify to the alternate FEL caps after the Tier 4 final standards take effect.
- Proposing to add text to § 1039.625(e) to clarify that exempted engines may meet standards that are more stringent than those specified in the regulation. This proposed change is intended only to avoid the unintended consequence of disallowing a manufacturer from making an engine that was cleaner than it needed to be. Even though these engines are cleaner than they need to be under the replacement-engine exemption, it is still the case that these engines are being exempted from the standards that apply for certified engines; as such, it would be inappropriate for these engines to generate emission credits.
- Proposing to clarify § 1039.625(e) which alternate standards apply to exempted engines in cases where there is more than one set of standards in a given model year. For example, the appropriate standards for 19–56 kW engines are the Option 1 standards specified in § 1039.102, and the appropriate standards for bigger engines are the phase-out standards specified in § 1039.102.
- Proposing to adjust the provision for using interim Tier 4 engines under § 1039.625(a)(2) to require that manufacturers use engines that are identical to previously certified engines, rather than requiring that the exempt engines be certified for the new model year. This addresses an administrative complication related to certifying exempted engines, without changing the requirements that apply.

C. Large SI Fuel Line Permeation

EPA is proposing to amend the required version of the SAE procedure for testing large SI fuel line permeation. In 2002 we adopted evaporative emission standards for nonroad spark-ignition engines above 19 kW (Large SI engines) (67 FR 68242, November 8,

2002). This rule included a requirement that engines meet a permeation control standard, that could be demonstrated by using fuel lines compliant with SAE J2260, the latest version of which had been completed in 1996 (see 40 CFR 1048.105). This SAE standard effectively established a level of permeation control that had been widely used with automotive products. In adopting this requirement, we expected manufacturers to find ''off-the-shelf'' automotive-grade products for the nonroad engines and equipment.

In 2008, we revised this requirement by changing the regulation to reference the 2004 version of SAE J2260, which had been finalized after the initial rulemaking (73 FR 59034, October 8, 2008). As noted in our proposed rule, we understood the purpose and effect of the change in the SAE standard to be substantive with regard to the permeation measurement procedure, but not necessarily with regard to the stringency of the standard. The revised SAE protocol specifies a tighter numerical standard, but this corresponded to an offsetting change from a methanol-based test fuel to an ethanol-based test fuel. Switching to ethanol improves the representativeness of the procedure, and it is widely understood that ethanol permeates through fuel-system materials less aggressively than methanol. It is also clear the fuel change would have a non-uniform effect on different fuel-system materials, but our overall expectation was that fuel lines meeting the 1996 version of the standard would also meet the 2004 version of the standard. Following the proposed rule, we received no comments either supporting or contradicting our understanding that updating to the new standard would have no significant effect on the stringency or practicability of the standard.

Since completing the 2008 rulemaking, we have received information indicating that the revision of the regulation to refer to the newer version of SAE J2260 was having a substantive effect on manufacturers' ability to meet the standard. First, it seems that automotive manufacturers have moved beyond the SAE J2260 standard to develop their own proprietary methods of sourcing fuel lines from their suppliers. Since the evaporative emission standards for automotive products involve whole-vehicle measurements in an enclosure, manufacturers have the option to pursue different strategies of balancing emissions from fuel-line permeation with emissions from other sources. In effect, there is no longer a level of emission control or a type of fuel line that we can characterize simply as ''automotive-grade''. It is also the case that motor vehicle manufacturers buy fuel lines in large quantities of pre-formed parts, rather than buying large spools of fuel line that can be cut and formed for a particular application.

Second, it appears that fuel line suppliers have a very limited ability or willingness to supply fuel lines that they will describe as meeting the 2004 version of SAE J2260. It is not clear whether this is a result of a difference in stringency between the two versions of the standard, or merely that fuel-line suppliers have moved beyond the SAE standard to conform to separate specifications from individual automotive manufacturers. In any case, Large SI equipment is not manufactured in sufficient numbers to greatly influence the fuel line manufacturers' activities, which has prevented Large SI equipment manufacturers from being able to find and use fuel lines meeting the exact specification in the regulations.

We are proposing to address this by again revising the regulation, this time to specify that either the 1996 or 2004 version of SAE J2260 provides an acceptable level of control for producing compliant Large SI engines and equipment. We do not believe this would have a significant effect on the stringency of the standard. However, to the extent that this would modify the stringency of the existing fuel-line permeation standards at all, it only revises it back to the level of permeation control that we adopted originally in 2002. We note also that the regulations from the California Air Resources Board continue to rely on the 1996 version of SAE J2260. This proposed change therefore would allow for a unified national approach to fuel-line permeation standards.

D. Small SI Proposed Amendments

Since the first emission standards for small spark-ignition (SI) engines (< 19kW), EPA and the California ARB have required the same basic exhaust emission test procedures and durability aging requirements. Both agencies have accepted exhaust emission test results on either agency's test fuel for purposes of certification. This has traditionally meant that for small SI engines used in either handheld or non-handheld equipment, EPA would accept exhaust emission test results based on either its Indolene test fuel (specified at 40 CFR 1065.710) or on California test fuel (specified at section 2262 in the California Code of Regulations (13 CCR 2262)). In 2008, when EPA promulgated the current small SI exhaust emission standards, the California test fuel, commonly referred to as California Phase 2 gasoline or CA RFG 2, was a seven pound per square inch (psi) Reid Vapor Pressure (RVP) gasoline which had approximately 11 percent methyl tertiary butyl ether (MTBE) as an oxygenate additive. This test fuel had been used in the California small off road emission (SORE) program since 1995.

Our 2008 final rule included provisions at § 1054.145(k) indicating that EPA would not accept carryover exhaust emission certification data on CA RFG 2 after the 2012 model year (73 FR 59034, October 8, 2008). However, we left open the possibility of continuing to accept carryover exhaust emission test data on CA RFG 2 subject to the provisions of 40 CFR 1065.10, 1065.12 and 1065.701, which would permit EPA to approve its continued use if it does not affect the manufacturers' ability to show that the affected engines would comply with all applicable emission standards using the fuel specified by EPA in 40 CFR 1065.710. Manufacturers have recently provided emissions data meeting the regulatory requirements listed above and EPA has permitted the use of CA RFG 2 (California Phase 2 gasoline) for certification for the 2013 model year.[8]

Recently, California adopted new requirements for their gasoline certification test fuel for nonroad engines. Over the period from 2013–2020, manufacturers must transition from CA RFG 2 to a gasoline certification test fuel that contains 10 percent ethanol (E10) and has a seven psi RVP (commonly referred to as California Phase 3 gasoline or CA RFG 3). This new requirement aligns California test fuels with their current in-use gasoline.

Considering this background and recent developments, EPA is proposing to make two changes to its current regulatory provisions. First, EPA believes it is appropriate to propose to extend its current practice of accepting exhaust emission test results for small SI engines to include CA RFG 3. For the 2013–2019 model years (inclusive), EPA would accept exhaust emission certification data generated using CA RFG 3 test fuel. Harmonization with California on test procedures and test fuel requirements for small spark-ignition engines has significant value to the engine and equipment manufacturers and users of those products. It allows for development and

[8] See EPA Dear Manufacturer Letter CD–12–17 (NRSSI), October 29, 2012.

certification of only one engine for a given model or application by the manufacturer and allows for greater model availability and lower overall cost due to 50-state production. In addition, E10, which is used in CA RFG 3, is common in gasoline sold across the U.S. today. Therefore, permitting the use of CA RFG 3 in emissions certification would allow test fuel to more closely match the in-use fuel used across the U.S. Accounting for the ethanol in the fuel is likely to enhance engine emissions in-use durability, because the presence of oxygen in the ethanol in the test fuel would need to be accommodated in the engine calibrations. This would reduce engine operating temperatures in-use relative to engines calibrated on a test fuel without oxygen.

While EPA is proposing to accept manufacturer use of CA RFG 3 for the purposes of testing, EPA is not prepared to propose to accept use of CA RFG 3 as a fully permissible replacement test fuel for Indolene. Test data indicate that NMHC+NO_X exhaust emissions using CA RFG 3 will be comparable relative to results on Federal certification fuel. However, due to the presence of an oxygenate (approximately 3 percent) caused by the inclusion of E10 in CA RFG 3, tested CO emissions would be reduced when an engine is tested using CA RFG 3, compared to Indolene which includes no oxygenates (see 40 CFR 1065.710). EPA's official test fuel is Indolene and the level of the CO emission standards for small SI engines (see 40 CFR 1054.103 and 1054.105) is based on the use of that fuel. Therefore, EPA cannot fully accept test results using CA RFG 3 as showing compliance with EPA CO standards, because CO test emissions showing compliance using CA RFG 3 do not guarantee that an engine will be able to comply with EPA's CO standard using Indolene.

Therefore, EPA proposes to retain the option to conduct any production line, confirmatory, and selective enforcement audit (SEA) testing on EPA test fuel as specified in 40 CFR 1065.710.[9] However, as an option for the manufacturers, to bring some uniformity and certainty to the engine development and calibration, emissions testing, and emissions durability assessment processes, EPA proposes to use CA RFG 3 test fuel for any production line, confirmatory, and SEA testing if a manufacturer(s) agree to meet a lower CO emission standard. These values, which substantially address the effect of oxygenate content on CO emission rates, are 549 g/kW-hr for Classes I and II (non handheld engines) and 536 g/kW-hr for Classes III–V (handheld engines). These values are the same as California's current CO emission standards (based on the use of CA RFG 2); they are 10–33 percent lower (depending on Class) than EPA's CO emission standards (see 40 CFR 1054.103 and 1054.105) because they account for oxygenate content in that fuel. This would not represent a proposed change in stringency, as the engine designs and calibration would not change, but CO emissions would decrease due to the oxygenate content of the California test fuel. This proposed option would be available for Class I and II marine generators at a CO emission standard of 4.5 g/kW-hr. This value was derived based on the ratio of the California CO emission standards to the Federal emission standards for other Class I and II marine generators. This option would be available on a family-by-family basis for all Classes of small SI engines. We consider these CO emission standards to be interim values for purposes of this option only. EPA may revise the level of its CO emission standard in the future if we propose to change the Federal test fuel specifications.

Second, EPA proposes to continue accepting exhaust emissions data on CA RFG 2 after the 2012 model year (see 40 CFR 1054.145(k)). Manufacturers have provided data for both handheld and nonhandheld engines showing equivalent exhaust emission levels between CA RFG 2 and the gasoline specified in 40 CFR 1065.710 (Indolene). Furthermore, the move to CA RFG 3 sets in motion a process to eliminate CA RFG 2 certifications in the future as would have been required under 40 CFR 1054.145(k). Thus, to help enable an orderly and cost effective transition, EPA believes it is appropriate for us to continue to accept exhaust emission test data using CA RFG 2 for certification through the 2019 model year. We would expect engine families certified using CA RFG 2 carryover exhaust emission data to meet emissions standards on both CA RFG 2 and EPA certification test fuel as specified in 40 CFR 1065.710 for any production line, SEA, or confirmatory testing.

Both of these proposed actions would apply for certification for model years 2013 to 2019, inclusive. EPA expects to revisit these provisions before 2020 to determine if they should be extended or otherwise modified. The primary EPA program using Indolene test fuel and meeting the current EPA emission standards remains in place for Federal certification for 2013 and beyond unless and until these provisions are otherwise modified.

We are also taking the opportunity to propose to revise the regulatory provision in § 1054.145(c) describing requirements related to altitude kits for handheld engines. We adopted those specifications based on the expectation that the Phase 3 exhaust standards were unchanged from the Phase 2 exhaust standards. As such, the emission standards do not apply at altitudes for which the manufacturer would need to rely on an altitude kit. The regulation should therefore be revised to no longer refer to the manufacturer relying on an altitude kit ''to meet emission standards.'' This proposed change in the regulations is not intended to change current requirements, but rather simply clarifies the proper relationship of the altitude kit to the certified configuration.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a 'significant regulatory action' because it raises issues that may have a potential effect on actions taken or planned by another agency. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011) and any changes made in response to OMB recommendations have been documented in the docket for this action.

This proposal merely clarifies and corrects existing regulatory language. EPA does not believe there will be costs associated with this rule because the costs in this program were previously accounted for under the existing rules (69 FR 38958, June 29, 2004; 73 FR 59034, October 8, 2008; and 76 FR 57106, September 15, 2011). This proposed rule is not anticipated to create additional burdens to the existing requirements. As such, a regulatory impact evaluation or analysis is unnecessary. EPA also does not expect this rule to have substantial Congressional or public interest.

B. Paperwork Reduction Act

This proposed action does not impose an information collection burden under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 et seq. Burden is defined at 5 CFR 1320.3(b). The information collection requirements to ensure compliance with the

[9] EPA already requires a ten percent ethanol blend for evaporative emissions testing.

provisions in these rules were covered under ICR (2394.02).

The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing heavy-duty greenhouse gas emissions regulations under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 et seq. and has assigned OMB Control Number 2060–0678. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business as defined by Small Business Administration regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed rule on small entities, we conclude that this proposed action would not have a significant economic impact on a substantial number of small entities.

This proposal would merely correct and clarify regulatory provisions. In particular, as already adopted in the heavy-duty vehicle GHG and fuel efficiency rules, EPA is deferring standards for manufacturers meeting the Small Business Administration's definition of small business as described in 13 CFR 121.201.

There would be no costs and therefore no regulatory burden associated with this proposed rule. We have therefore concluded that this proposed rule would not increase regulatory burden for affected small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This proposed action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. The proposed action would impose no enforceable duty on any State, local or tribal governments or the private sector. Therefore, this proposed action is not subject to the requirements of sections 202 or 205 of the UMRA.

This proposed action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

This proposed action does not have federalism implications. It would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This notice of proposed rulemaking merely corrects and clarifies regulatory provisions. Thus, Executive Order 13132 does not apply to this proposed action.

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

This proposed action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This notice of proposed rulemaking merely corrects and clarifies regulatory provisions. Tribal governments would be affected only to the extent they purchase and use regulated vehicles. Thus, Executive Order 13175 does not apply to this action. EPA specifically solicits additional comment on this proposed action from tribal officials.

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

This proposed action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in Executive Order 12866, and because EPA does not believe the environmental health or safety risks addressed by this proposed action present a disproportionate risk to children. This notice of proposed rulemaking merely corrects and clarifies regulatory provisions.

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

This proposed action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This notice of proposed rulemaking merely corrects and clarifies regulatory provisions.

I. National Technology Transfer Advancement Act

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

This proposed action would slightly expand the use of voluntary consensus standards by adding a reference standard under 40 CFR 1048.105. Other amendments in this proposed rule do not involve application of new technical standards. However, the underlying regulations in many cases rely on voluntary consensus standards. For example, EPA included several voluntary consensus standards in the development of the Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles (76 FR 57106, September 15, 2011).

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

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

populations and low-income populations in the United States.

EPA has determined that this proposed rule would not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it merely would correct provisions for manufacturers to use to demonstrate compliance of heavy-duty engines and vehicles.

V. Statutory Authority

Statutory authority for the vehicle controls is found in Clean Air Act section 202(a) (which authorizes standards for emissions of pollutants from new motor vehicles which emissions cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare), sections 202(d), 203–209, 216, and 301 (42 U.S.C. 7521(a), 7521(d), 7522, 7523, 7524, 7525, 7541, 7542, 7543, 7550, and 7601).

List of Subjects

40 CFR Part 85

Confidential business information, Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Research, Warranties.

40 CFR Part 86

Administrative practice and procedure, Confidential business information, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

40 CFR Part 1036

Administrative practice and procedure, Air pollution control, Confidential business information, Environmental protection, Incorporation by reference, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Warranties.

40 CFR Part 1037

Administrative practice and procedure, Air pollution control, Confidential business information, Environmental protection, Incorporation by reference, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Warranties.

40 CFR Part 1039

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Labeling, Penalties, Reporting and recordkeeping requirements, Warranties.

40 CFR Part 1042

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Labeling, Penalties, Vessels, Reporting and recordkeeping requirements, Warranties.

40 CFR Part 1048

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Incorporation by reference, Labeling, Penalties, Reporting and recordkeeping requirements, Warranties.

40 CFR Part 1054

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Labeling, Penalties, Reporting and recordkeeping requirements, Warranties.

40 CFR Parts 1065 and 1066

Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements, Research.

40 CFR Part 1068

Environmental protection, Administrative practice and procedure, Confidential business information, Imports, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements, Warranties.

Dated: May 9, 2013.

Bob Perciasepe,

Acting Administrator.

[FR Doc. 2013–11979 Filed 6–14–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 22, 24, 27 and 90

[WT Docket Nos. 06–150, 01–309, 03–264, 06–169, 96–86, 07–166, CC Docket No. 94–102, PS Docket No. 06–229; Report No. 2978]

Petition for Reconsideration of Action in Rulemaking Proceeding

AGENCY: Federal Communications Commission.

ACTION: Petition for reconsideration.

SUMMARY: In this document, a Petition for Reconsideration (Petition) has been filed in the Commission's Rulemaking proceeding by Dennis P. Corbett on behalf of Council Tree Investors, Inc. and Bethel Native Corporation.

DATES: Oppositions to the Petition must be filed on or before July 2, 2013. Replies to an opposition must be filed on or before July 12, 2013.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Gary D. Michaels, Wireless Telecommunications Bureau, (202) 418–7583.

SUPPLEMENTARY INFORMATION: This is a summary of Commission's document, Report No. 2978, released May 23, 2013. The full text of Report No. 2978 is available for viewing and copying in Room CY–B402, 445 12th Street SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–378–3160). The Commission will not send a copy of this document pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A), because this document does not have an impact on any rules of particular applicability.

Subject: Service Rules for the 698–746, 747–762, and 777–792 MHz Bands; Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones; Biennial Regulatory Review—Amendment of Parts 1, 22, 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services; Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 327 of the Commission's Rules; Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band; Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State, and Local Public Safety Requirements Public Safety Communications Requirements Through the Year 2010; Declaratory Ruling on Reporting Requirement under Commission's Part 1 Anti-Collusion Rule, Memorandum Opinion and Order on Reconsideration, FCC 13–29, published at 78 FR 19424, April 1, 2013, in WT Docket Nos. 06–150, 01–309, 03–264, 06–169, 96–86, 07–166, CC Docket No. 94–102, PS Docket No. 06–229, and published pursuant to 47 CFR 1.429(e) of the Commission's rules. *See also* 47 CFR 1.4(b)(1) of the Commission's rules.

Number of Petitions Filed: 1.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–14280 Filed 6–14–13; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 111014628–3329–01]

RIN 0648–BB54

Magnuson-Stevens Act Provisions; Implementation of the Shark Conservation Act of 2010; Correction

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

ACTION: Proposed rule; extension of comment period; correction.

SUMMARY: NMFS published a proposed rule on May 2, 2013, to implement provisions of the Shark Conservation Act of 2010 (SCA) that prohibit any person from removing any of the fins of a shark at sea, possessing shark fins on board a fishing vessel unless they are naturally attached to the corresponding carcass, transferring or receiving fins from one vessel to another at sea unless the fins are naturally attached to the corresponding carcass, landing shark fins unless they are naturally attached to the corresponding carcass, or landing shark carcasses without their fins naturally attached. NMFS proposes this action to amend existing regulations and make them consistent with the SCA. The public comment period for the proposed rule ends on June 17, 2013. NMFS is extending the public comment period for an additional 21 days, to July 8, 2013, to provide additional time for various stakeholders and other members of the public to submit comments. Additionally, this action corrects technical errors found on page 25688 under the Classification section of the proposed rule.

DATES: The public comment period for the proposed rule published at 78 FR 25685, May 2, 2013, is extended from June 17, 2013, to July 8, 2013. Comments must be received no later than July 8, 2013.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2012–0092, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal *www.regulations.gov.* To submit comments via the e-Rulemaking Portal, first click the ''submit a comment'' icon, then enter NOAA–NMFS–2012–0092 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the ''Submit a Comment'' icon on the right of that line.
- *Mail:* Submit written comments to Erin Wilkinson, National Marine Fisheries Service (SF3), NOAA; 1315 East-West Highway, Silver Spring, MD 20910.
- *Fax* 301–713–1193; *Attn:* Erin Wilkinson.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

Electronic copies of the Environmental Assessment (EA), the Regulatory Impact Review (RIR), and the Initial Regulatory Flexibility Analysis (IRFA) prepared for this action are available on the Federal e-Rulemaking Portal *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Erin Wilkinson, 301–427–8561; *sca.rulemaking@noaa.gov.*

SUPPLEMENTARY INFORMATION: On May 2, 2013, NMFS published a proposed rule in the **Federal Register** (78 FR 25685) to implement provisions of the SCA that prohibit any person from removing any of the fins of a shark at sea, possessing shark fins on board a fishing vessel unless they are naturally attached to the corresponding carcass, transferring or receiving fins from one vessel to another at sea unless the fins are naturally attached to the corresponding carcass, landing shark fins unless they are naturally attached to the corresponding carcass, or landing shark carcasses without their fins naturally attached. NMFS proposes this action to amend existing regulations and make them consistent with the SCA.

Public Comment Extension

The public comment period for the proposed rule ends on June 17, 2013. Several environmental organizations have commented that the proposed rule should identify specific state and territorial shark fin laws, or provisions of those laws that are preempted by Federal law. Federal preemption is based on Congressional intent to preempt state law. Accordingly, the proposed rule set forth NMFS' understanding of Congressional intent with regard to Federal fisheries management under the MSA, which includes Federal shark fin measures in subsection 307(1)(P). As noted in the proposed rule, several states and territories have enacted shark fin laws, which vary, and preemption will depend in part on how states interpret their laws. States and territories are the authorities on the intent and interpretation of their state shark fin laws. NMFS is consulting with the states and territories regarding their laws, possible areas of conflict, and ways to avoid such conflict. See Section 4 of Executive Order 13132 (August 4, 1999) (setting forth special requirements for preemption).

Due to the public concern regarding this action, NMFS extends the public comment period for an additional 21 days until July 8, 2013. The extension of the comment period ensures that NMFS provides adequate time for stakeholders and members of the public to comment on the proposed rule to implement the provisions of the Shark Conservation Act of 2010. As provided in the proposed rule, states have until July 8, 2013, to notify NMFS if the proposed activity is consistent with the Coastal Zone Management Act of 1979, so granting an extension of 21 days does not delay the rule making process.

Need for Correction

Page 25688 of the proposed rule published in the **Federal Register** on May 2, 2013 included three technical errors.

In paragraph two of column one on page 25688, the preamble states: ''In 2011, 243 commercial vessels had shark landings on the west coast and total ex-vessel revenue for west coast shark landings was $349,634. Thus, in 2011, average ex-vessel revenue per vessel from shark landings was approximately $1,450.'' This sentence contains incorrect landings data and needs to be corrected.

Paragraph three of column three on page 25688 states: ''In 2011, about 620,256 west coast recreational trips (days) by party and charter boats retained about 16 metric tons of sharks.'' This sentence also contains incorrect data and needs to be corrected.

Corrections

1. In the **Federal Register** of May 2, 2013, on page 25688, in the first column, second paragraph, the second sentence is corrected to read as follows:

''In 2011, 243 commercial vessels had shark landings on the west coast and total ex-vessel revenue for west coast shark landings was $357,169. Thus, in 2011, average ex-vessel revenue per vessel from shark landings was approximately $1,470.''

2. On page 25688, in the third column, third paragraph, the second sentence is corrected to read as follows:

''In 2011, about 620,256 west coast recreational trips (days) by party and charter boats retained about 11 metric tons of sharks.''

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

Dated: June 11, 2013.

Samuel D. Rauch III,

Deputy Assistant Administrator for Fisheries, performing the functions and duties of the Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–14331 Filed 6–14–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 120405263–3517–01]

RIN 0648–BB76

Fisheries of the Exclusive Economic Zone Off Alaska; Tanner Crab Area Closure in the Gulf of Alaska and Gear Modification Requirements for the Gulf of Alaska and Bering Sea Groundfish Fisheries

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations that would implement Amendment 89 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) and that would revise current regulations governing the configuration of modified nonpelagic trawl gear. First, this proposed rule would establish a protection area in Marmot Bay, northeast of Kodiak Island, and close that area to fishing with trawl gear except for directed fishing for pollock with pelagic trawl gear. The proposed closure would reduce bycatch of Tanner crab (*Chionoecetes bairdi*) in Gulf of Alaska (GOA) groundfish fisheries. Second, this proposed rule would require that nonpelagic trawl gear used in the directed flatfish fisheries in the Central Regulatory Area of the GOA be modified to raise portions of the gear off the sea floor. The proposed modifications to nonpelagic trawl gear used in these fisheries would reduce the unobserved injury and mortality of Tanner crab, and would reduce the potential adverse impacts of nonpelagic trawl gear on bottom habitat. Finally, this proposed rule would make a minor technical revision to the modified nonpelagic trawl gear construction regulations to facilitate gear construction for those vessels required to use modified nonpelagic trawl gear in the GOA and Bering Sea groundfish fisheries. This proposed rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable law.

DATES: Comments must be received by July 17, 2013.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2011–0294, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2011-0294*, click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.
- *Fax:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Fax comments to 907–586–7557.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address) submitted voluntarily by the sender will be publicly accessible.

Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

Electronic copies of Amendment 89, the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) for the Area Closures for Tanner Crab Protection in Gulf of Alaska Groundfish Fisheries (Area Closures EA/RIR/IRFA), and the EA/RIR/IRFA for Trawl Sweep Modification in the Flatfish Fishery in the Central Gulf of Alaska (Trawl Sweep EA/RIR/IRFA) are available from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Melanie Brown, 907–586–7006.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone off Alaska under the Fishery Management Plan (FMP) for Groundfish of the Gulf of Alaska (GOA) and under the FMP for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI). The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMPs appear at 50 CFR parts 600 and 679.

The Council submitted Amendment 89 for review by the Secretary of Commerce, and a notice of availability of Amendment 89 was published in the **Federal Register** on June 3, 2013, with comments invited through August 2, 2013. Comments may address Amendment 89 or this proposed rule, but must be received by 1700 hours, A.D.T. on August 2, 2013 to be considered in the approval/disapproval decision on Amendment 89. All comments received by that time, whether specifically directed to Amendment 89, or to this proposed rule, will be considered in the approval/disapproval decision on Amendment 89.

Background

Since the implementation of the FMP for Groundfish of the GOA (GOA FMP) in 1978, the Council and NMFS have adopted various measures intended to control the catch of species taken

incidentally in groundfish fisheries. Certain species are designated as ''prohibited'' in the FMP, because they are the target of other, fully utilized domestic fisheries. The GOA FMP and implementing regulations at § 679.21 require that catch of these species and species groups must be avoided while fishing for groundfish, and when incidentally caught, they must be immediately returned to the sea with a minimum of injury. These species and species groups include Pacific halibut, Pacific herring, Pacific salmon, steelhead trout, king crab, and Tanner crab. The incidental catch of prohibited species is referred to as ''bycatch'' under the Magnuson-Stevens Act because prohibited species must not be sold or kept for personal use and are required to be discarded under § 679.21, or retained but not sold under the Prohibited Species Donation Program at § 679.26.

The Council has recommended, and NMFS has implemented, measures to: (1) Close areas with a high occurrence of prohibited species, or where there is a relatively high level of prohibited species catch; (2) require the use of gear specifically modified to minimize prohibited species catch and effects on bottom habitat; and (3) establish prohibited species catch (PSC) limits in specific Alaska groundfish fisheries in both the BSAI and GOA. A summary of these measures is in Section 1 of the Area Closures EA/RIR/IRFA (see **ADDRESSES**) and in the notice of availability for Amendment 89 to the FMP.

This proposed rule would implement two actions to reduce the injury and mortality of Tanner crab and the potential adverse impacts of nonpelagic trawl gear on bottom habitat in the Central GOA. First, this proposed rule would establish a closure to vessels using trawl gear, with an exemption for vessels using pelagic trawl gear to directed fish for pollock. Second, this proposed rule would require that nonpelagic trawl gear used in the directed flatfish fisheries in the Central GOA Regulatory Area (Central GOA) be modified to raise portions of the gear off the sea floor. This proposed rule also would make a minor technical revision to the modified nonpelagic trawl gear construction regulations to facilitate gear construction for those vessels required to use modified nonpelagic trawl gear in the GOA and BSAI groundfish fisheries as recommended by the Council.

Amendment 89 to the FMP for Groundfish of the GOA

In October 2009, the Council chose to initiate an analysis of potential protection measures for Tanner crab in the Central GOA. In April 2010, the Council initially reviewed alternative bycatch control measures, subsequently revised and refined these alternatives, and in October 2010, recommended Amendment 89, which contains two protection measures for Tanner crab in the Central GOA groundfish fisheries.

The Council identified several reasons for these protection measures for Tanner crab in the GOA groundfish fisheries:

- Tanner crab is identified in the FMP as a prohibited species which is incidentally caught in the Central GOA groundfish trawl, pot, and longline fisheries. Tanner crab is incidentally caught in relatively high proportion by vessels using nonpelagic trawl gear in the Central GOA.
- Directed fisheries for Tanner crab in the Central GOA are fully allocated under the current limited entry system managed by the State of Alaska. Details of this crab fishery are described in Section 3.5 in the Area Closures EA/RIR/IRFA.
- No specific conservation measures exist in the Central GOA to address adverse interactions with Tanner crab by vessels using trawl gear to directed fish for groundfish.
- Tanner crab is a bottom-dwelling species, and limits on the use of nonpelagic trawl gear may reduce Tanner crab PSC and adverse effects on Tanner crab habitat.

The protection measures recommended by the Council for Amendment 89 would: (1) Establish a habitat protection area in Marmot Bay near Kodiak, AK, and close the area to most trawl fishing to reduce Tanner crab PSC in the Central GOA groundfish fisheries and potential adverse effects on bottom habitat; and (2) require the use of modified pelagic trawl gear when directed fishing for flatfish in the Central GOA. Additional detail for each of these measures follows.

Proposed Action 1: Marmot Bay Tanner Crab Protection Area

This proposed rule would establish a year-round closure for a portion of Marmot Bay to vessels using trawl gear to directed fish for groundfish. This closure area would be called the Marmot Bay Tanner Crab Protection Area (Marmot Bay Area). The proposed Marmot Bay Area is northeast of Kodiak Island and would extend westward from 151 degrees 47 minutes W longitude to State waters between 58 degrees N latitude and 58 degrees 15 minutes N latitude. The proposed Marmot Bay Area would share borders with two existing areas, the Marmot Flats Area and the Outer Bay Area. The southern and eastern borders of the Marmot Bay Area would be the same latitude and longitude as the northern and eastern borders, respectively, of the existing Marmot Flats Area. The Marmot Flats Area is closed to directed fishing with nonpelagic trawl gear (see § 679.22(b)(1)(i) and Figure 5 to part 679). Under current regulations, the Outer Marmot Bay Area is open to directed fishing with nonpelagic trawl gear unless otherwise closed. The proposed Marmot Bay Area overlaps with a portion of the Outer Marmot Bay Area. In this area of overlap, the more restrictive measures that would be implemented for the Marmot Bay Area would apply. The proposed Marmot Bay Area, and the existing Marmot Flats and Outer Marmot Bay Areas, are shown in the proposed Figure 5 to part 679. State of Alaska waters to the west of both the proposed Marmot Bay Area and the existing Marmot Flats Area are closed year-round to the use of nonpelagic trawl gear under existing State regulations (5 AAC 39.164).

With one exception, this proposed rule would close the Marmot Bay Area year-round to directed fishing for groundfish by vessels using trawl gear. The term ''directed fishing'' is defined in regulation at § 679.2. Directed fishing for pollock by vessels using pelagic trawl gear would be exempt from this closure. Overall, the effect of the proposed Marmot Bay Area closure would be to extend closures on the use of nonpelagic trawl gear to north and east of existing State and Federal waters closed to nonpelagic trawl gear. The Marmot Bay Area closure also would prohibit the use of all trawl gear, other than pelagic trawl gear used in the directed fishery for pollock. The Council recommended this exemption due to the limited potential reductions of Tanner crab PSC that would occur if the pelagic trawl pollock fishery were subject to the closure. The use of pelagic trawl gear for species other than pollock was not identified in the Marmot Bay Area; therefore, the Council determined that no additional exemptions to the trawl closure were warranted. (See Section 3.3.2 of the Area Closures EA/RIR/IRFA for additional detail.)

The Council recommended the Marmot Bay Area trawl gear closure based primarily on the high observed rate of Tanner crab mortality by nonpelagic trawl gear in the Marmot Bay Area relative to other areas in the Central GOA. See Section 3.3 of the EA/

RIR/IRFA prepared for the area closures for additional detail. The areas with the greatest abundance of crab are the Marmot Bay Area, northeast of Kodiak Island; the Chiniak Gully east of Kodiak Island; and Alaska Department of Fish and Game (ADF&G) Statistical Areas 525702 and 525630, southeast of Kodiak Island. The Marmot Bay Area had the highest average mortality rate of crab per metric ton (mt) of groundfish catch by vessels using nonpelagic trawl gear in the Kodiak District between 2001 and 2009 (the most recent years of available data) at 7.68 crab/mt groundfish. (See Section 3.3 of the Area Closures EA/RIR/IRFA for additional detail.)

The Council considered a range of alternative closure areas to limit the use of nonpelagic trawl gear and pot gear in the Marmot Bay Area, ADF&G Statistical Areas 525702 and 525630, and the Chiniak Gully. Ultimately, the Council determined that limiting the closure to trawl gear in the Marmot Bay Area is necessary and appropriate based on: (1) The high rate of Tanner crab mortality in the Marmot Bay Area relative to other areas; (2) the observation of mature male and female Tanner crab populations within the Marmot Bay Area; (3) the occurrence of known Tanner crab habitat within the Marmot Bay Area; (4) the high rate of Tanner crab bycatch by vessels using trawl gear relative to pot gear; and (5) the limited impact that the Marmot Bay Area closure would likely have on existing nonpelagic trawl participants relative to closures in other areas. See Section 3.1 of the Area Closures EA/RIR/IRFA for additional detail of the alternatives considered. The Council considered but rejected closing areas to pot, longline, and pelagic trawl gear in the directed pollock fishery given the small amount of Tanner crab bycatch by these gear types relative to Tanner crab bycatch by nonpelagic trawl gear. (See Section 3.3.3 of the Area Closures EA/RIR/IRFA for additional detail.)

The Marmot Bay Area closure implemented under Amendment 89 would be consistent with past measures the Council has recommended, and NMFS has implemented, to limit impacts of nonpelagic trawl gear on crab populations directly by limiting injury and mortality, and indirectly by reducing potential adverse habitat impacts. Overall, observed Tanner crab mortality in the Central GOA accounts for less than two fifths of one percent of the assessed crab population in the Central GOA. (See Section 3.3.3 of the Area Closures EA/RIR/IRFA for additional detail.) Because overall crab bycatch in the GOA groundfish fisheries can be small in relation to crab population, but potentially concentrated in certain areas or at certain times, time and area closures are more effective than Tanner crab PSC limits in reducing the potential impacts of nonpelagic trawl gear on crab stocks. The proposed closure to nonpelagic trawl gear in the Marmot Bay Area may assist in the conservation of the Tanner crab stock by reducing injury and mortality and potential adverse effects of nonpelagic trawl gear on bottom habitat used by Tanner crab.

In October 2010, the Council also recommended that NMFS incorporate statistically robust observer information from specific areas near Kodiak, AK (ADF&G Statistical Area 525702, and Chiniak Gully). Overall, the intent of the Council's recommendation was to improve estimates of Tanner crab bycatch data in the GOA groundfish fisheries. At the same meeting that the Council recommended enhanced observer coverage for these three areas, the Council recommended Amendment 86 to the BSAI FMP and Amendment 76 to the GOA FMP to comprehensively restructure the funding and deployment of onboard observers under the North Pacific Groundfish Observer Program (Observer Program). Aware of its decision on Amendments 86 and 76, the Council included as part of its recommendation for improved estimates of Tanner crab bycatch that NMFS ''incorporate, to the extent possible, in [the restructured Observer Program], an observer deployment strategy that ensures adequate coverage to establish statistically robust observations'' in the three specific areas near Kodiak, AK.

NMFS published a notice of availability for Amendments 86 and 76 to the FMPs on March 14, 2012 (77 FR 15019), and a proposed rule for the restructured Observer Program on April 18, 2012 (77 FR 23326). On June 7, 2012, the Secretary of Commerce approved Amendments 86 and 76 to the FMPs for the restructured Observer Program in the Alaska groundfish fisheries and the final rule to implement the amendments, effective January 1, 2013, was published on November 21, 2012 (77 FR 70062). Details of the restructured Observer Program are available in the proposed and final rules for that action.

The restructured Observer Program improves the quality of fisheries data, including Tanner crab bycatch information in the GOA groundfish fisheries. Vessels under the restructured Observer Program are either fully or partially observed. A detailed list of vessels in the full and partial observer coverage categories is provided in the restructured Observer Program proposed rule (77 FR 23326, April 18, 2012). A randomized system for the assignment of observer coverage throughout the GOA for partially observed vessels is used to reduce potential bias in the observer data. Selecting specific locations in the Central GOA for increased observer coverage would reduce the ability to randomize observer assignments and therefore potentially bias observer data. Because the restructured Observer Program incorporates an observer deployment strategy that ensures adequate coverage to establish statistically robust observations for the GOA, NMFS has determined that the Council's recommendation has been implemented by Amendments 86 and 76 and no additional measures are needed with GOA Amendment 89. NMFS intends to use the regulations and deployment process established under the restructured Observer Program to obtain fishery catch and bycatch data without specifying specific observer coverage requirements in specific areas in the GOA. In order to ensure that the Council's desire to obtain better observer data is being met, NMFS will present a deployment plan for observers annually for the Council's review.

Proposed Action 2: Modification of Nonpelagic Trawl Gear Used in the Central GOA Directed Flatfish Fisheries

When the Council recommended the Marmot Bay Area closure in October 2010, it directed its staff to review the practicality of requiring the use of modified nonpelagic trawl gear by vessels directed fishing for flatfish in the Central GOA. The Council recommended this review as a first step in considering additional measures to reduce the potential adverse effects of nonpelagic trawl gear on bottom habitat and to reduce unobserved Tanner crab injury and mortality. The Council's recommendation was based on past experience with the use of modified nonpelagic trawl gear to reduce potential adverse effects on bottom habitat in Bering Sea flatfish fisheries. In 2008, NMFS, including its Office of Law Enforcement, and the fishing industry tested modified nonpelagic fishing gear in the Bering Sea under normal fishing conditions to determine if this gear could be used safely and effectively in ways that may reduce potential adverse effects on bottom habitat while maintaining effective catch rates for flatfish target species. These initial tests were successful, and in October 2009, the Council recommended Amendment 94 to the BSAI FMP to require vessels directed fishing for flatfish in the Bering Sea

subarea to use modified nonpelagic trawl gear. In 2010, NMFS published final regulations implementing Amendment 94 (75 FR 61642, October 6, 2010). In February 2012, the Council reviewed an analysis of potential impacts of expanding the required use of modified nonpelagic trawl gear to vessels participating in the Central GOA flatfish fisheries. After additional review in April 2012, the Council recommended requiring that vessels directed fishing for flatfish in the Central GOA use modified nonpelagic trawl gear. This Council recommendation was the second proposed action included in Amendment 89.

The proposed action would require vessels using nonpelagic trawl gear when directed fishing for flatfish in the Central GOA to comply with the same performance standard and gear construction requirements required for vessels in the Bering Sea flatfish fisheries (see regulations at § 679.24(f)). Central GOA flatfish fisheries include directed fisheries for shallow-water flatfish, deep-water flatfish, arrowtooth flounder, rex sole, and flathead sole.

The Council considered but rejected alternatives that would have required the use of modified nonpelagic trawl gear in other GOA nonpelagic trawl fisheries (e.g., Pacific cod), and the use of nonpelagic trawl gear in the Eastern and Western GOA flatfish fisheries. Flatfish fisheries in the Central GOA contribute the greatest proportion of Tanner crab PSC, while other nonpelagic trawl gear fisheries in the GOA account for only a modest proportion of Tanner crab PSC. (See Sections 1.1 and 1.5 of the Trawl Sweep EA/RIR/IRFA for additional detail (see **ADDRESSES**)). The Council determined and NMFS agrees that proposed action 2 targets the specific fisheries that consistently have the highest bycatch of Tanner crab in the GOA.

The primary effect of the proposed action would be to require modifications to a specific component of the gear. Nonpelagic trawl gear uses a pair of long lines called ''sweeps'' to herd fish into the net. The sweeps drag across the bottom and may adversely impact benthic organisms (e.g., crab species, sea whips, sponges, and basket stars). Approximately 90 percent of the bottom contact of nonpelagic trawl gear used in directed fishing for flatfish is from the sweeps, which can be more than 1,000 feet (304.8 m) in length.

Studies in the Bering Sea have shown that elevating the trawl sweeps can reduce the adverse effects of nonpelagic trawl gear on Tanner, snow, and red king crabs by reducing the unobserved mortality and injury of these species. In addition, elevating the trawl sweeps can reduce impacts on benthic organisms, such as basketstars and sea whips. Further research was conducted in 2011 in the GOA to identify the appropriate construction of modified nonpelagic trawl gear, and to identify and resolve any implementation issues specific to the GOA. Field testing in the GOA of the modified nonpelagic trawl gear demonstrated that the participants in the GOA flatfish fisheries can meet the same performance standard and construction requirements that apply to the Bering Sea flatfish fisheries under regulations at § 679.24(f). Additional information on these studies and tests is provided in Section 1.5.5 of the Trawl Sweep EA/RIR/IRFA.

The proposed action would require that vessels using nonpelagic trawl gear when directed fishing for flatfish in the Central GOA must comply with the performance standard to raise the elevated section of the sweeps at least 2.5 inches, as specified in § 679.24(f). Elevating devices would be placed on the sweeps to meet this performance standard. Section 679.24(f) requires elevating devices along the entire length of the elevated section of the sweeps to be spaced no less than 30 feet (9.1 m) apart. To allow for construction flexibility and to allow for wear and tear that might occur during a tow, two different sweep configurations are provided that specify the maximum spacing of elevating devices. The first configuration uses elevating devices that have a clearance height of 3.5 inches (8.9 cm) or less with spacing between the elevating devices of no more than 65 feet (19.8 m). The second configuration uses elevating devices that have a clearance height greater than 3.5 inches (8.9 cm) with spacing between the elevating devices of no more than 95 feet (29 m). Either configuration combined with the minimum spacing for elevated devices of no less than 30 feet (9.1 m) would meet the combined gear construction requirements and performance standard for modified nonpelagic trawl gear.

As noted in Section 1.8 of the Trawl Sweep EA/RIR/IRFA, NMFS cannot quantify a benefit to crab stocks in the Central GOA from modified nonpelagic trawl gear without further testing to understand how sediment conditions in the Central GOA flatfish fisheries compare to the areas in which the Bering Sea experiments occurred. However, the general similarity of GOA trawl gear to that used in the Bering Sea indicates that while the benefits may be smaller due to different sediment conditions in the GOA, they would still be substantial. While requiring this gear modification for vessels fishing in Central GOA flatfish fisheries could provide benefits to crab stocks by reducing unobserved injury and mortality, it likely would not change reported crab PSC totals from nonpelagic trawl fishing, which account only for crabs that come up in the trawl net. As noted in Section 2.9 of the Trawl Sweep EA/RIR/IRFA, the proposed action is not expected to result in a net decrease in the catch rates in the Central GOA flatfish fisheries.

Proposed Action 3: Technical Revision to the Modified Nonpelagic Trawl Gear Construction Requirements in the BSAI

This proposed rule would revise one component of the regulations at § 679.24(f) concerning construction requirements for modified nonpelagic trawl gear. The proposed regulatory change is based on experience gained in 2011 with constructing this gear for use in the Bering Sea flatfish fisheries. This minor technical revision would increase the limit for the lines that connect the doors and the net to the elevated portions of the sweeps from 180 feet (54.8 m) to 185 feet (56.4 m). This limit is shown on proposed Figure 26 to part 679. Specifically, the revision would slightly increase the maximum length to 185 feet (56.4 m) for the lines between the door bridles and the elevated section of the trawl sweeps, and between the net, or headline extension, and the elevated section of the trawl sweeps. The Council determined and NMFS agrees that the additional proposed length would allow for the space required to use standardized cable lengths that are 90 feet (27.4 m), and add connecting devices to attach the trawl doors and net to the sweeps without further trimming the cables. This revision would apply to the construction requirements for modified nonpelagic trawl gear currently required in the BSAI groundfish fisheries and proposed in this rule for the Central GOA flatfish fisheries. Section 2.10 of the Trawl Sweep EA/RIR/IRFA notes that there would be no additional effects from this revision other than reducing the costs of constructing the modified nonpelagic trawl gear.

Summary of Proposed Regulatory Revisions Required by the Actions

In order to implement the proposed actions described above, the following changes to regulations would have to be made. NMFS proposes to revise two definitions and add one definition in regulations at § 679.2. The definition of ''federally permitted vessel'' would be revised to include the application of this

definition to those vessels required to use modified nonpelagic trawl gear in the Central GOA flatfish fisheries. This revision would identify vessels required to comply with the modified nonpelagic trawl gear requirements and would be consistent with existing modified nonpelagic trawl gear requirements.

The definition of ''directed fishing'' would be revised to add a definition of the directed flatfish fisheries in the GOA. This revision would list the flatfish target species that would be used in determining when modified nonpelagic trawl gear would be required under § 679.24(f) based on directed fishing for flatfish. This proposed revision is necessary to identify the target species that would determine when a vessel is directed fishing for flatfish so the requirement to use modified nonpelagic trawl gear can be applied. A definition of the Marmot Bay Tanner Crab Protection Area would be added to § 679.2. This proposed definition is necessary to identify the location of the area and to define this area consistent with other fishery management areas with similar restrictions.

NMFS proposes to revise § 679.7(b) to add a prohibition on directed fishing for flatfish in the Central GOA without using modified nonpelagic trawl gear. This proposed revision is necessary to require the use of modified nonpelagic trawl gear for directed fishing for flatfish in the Central GOA Regulatory Area and to ensure that the modified nonpelagic trawl gear meets the performance standard and construction requirements specified at § 679.24(f).

NMFS proposes to revise § 679.22 to add the Marmot Bay Tanner Crab Protection Area as an area closed to trawling in the GOA. The closure would include an exemption for vessels directed fishing for pollock with pelagic trawl gear. This proposed revision is necessary to identify the area closed, the applicable gear type, and the target fishery exempted from the closure.

NMFS proposes to revise § 679.24(f) to include reference to the Central GOA flatfish fisheries. This proposed revision is necessary to require vessels using nonpelagic trawl gear to directed fish for flatfish in the Central GOA to comply with the modified nonpelagic trawl gear requirements in this section.

NMFS proposes to revise Figure 5 to part 679 to add an illustration and definition of the Marmot Bay Tanner Crab Protection Area. This area would include Federal waters westward from 151 degrees 47 minutes W longitude to State waters between 58 degrees 0 minutes N latitude and 58 degrees 15 minutes N latitude. Use of trawl gear, other than pelagic trawl gear used in directed fishing for pollock, would be prohibited at all times in the Marmot Bay Tanner Crab Protection Area. This proposed revision is necessary to identify the Marmot Bay Tanner Crab Protection Area as recommended by the Council in proposed Amendment 89. Due to the revision of Figure 5 to part 679, the table of coordinates for this figure would be revised to reflect the removal of letters that identified coordinate locations on several, already established protection areas. In addition, this proposed rule would correct the coordinates in the current table from degree, minutes, seconds, to degree, decimal minutes. This revision would improve the clarity of the table coordinates in combination with the revised figure and ensure the correct coordinates are listed in the consistent format used for other closure areas in the regulations.

NMFS proposes to modify Figure 26 to part 679 to show the 185 foot (56.4 m) limit for the lines connecting the elevated section of the sweeps to the door bridles and to the net or headline extensions. The proposed revision to Figure 26 is necessary to illustrate the proposed changes to the construction requirements for modified nonpelagic trawl gear.

Classification

Pursuant to section 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 89, the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for the purposes of Executive Order (E.O.) 12866.

IRFAs were prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFAs describe the economic impact this proposed rule, if adopted, would have on small entities. A description of the proposed action, why it is being considered, and the legal basis for the proposed action is contained at the beginning of this section and in the **SUMMARY** section of the preamble and are not repeated here. A summary of the analysis follows. Copies of the complete analyses are available from NMFS (see **ADDRESSES**).

Number and Description of Small Entities Regulated by the Proposed Action

Information regarding ownership of vessels that would be used to estimate the number of small entities that are directly regulated by this action is limited. Two IRFAs were prepared to support this action. The IRFA prepared for the area closure (Proposed Action 1), and the IRFA prepared for the trawl modification requirement (Proposed Action 2) and the gear construction requirement revision (Proposed Action 3) estimated the number of small versus large entities, gross earnings from all fisheries of record for 2009 by vessel, the known ownership of those vessels, and the known affiliations of those vessels in the BSAI or GOA groundfish fisheries for that year. The entities directly regulated by Proposed Action 1 are those entities that participate in the groundfish fisheries using trawl gear in the proposed Marmot Bay Area (except for pelagic trawl vessels directed fishing for pollock). From 2003 through 2009, 68 vessels used nonpelagic trawl gear in the Central GOA and therefore would be directly regulated by Proposed Action 1. Of these 68 vessels, 26 vessels had gross earnings of less than $4.0 million, thus categorizing them as small entities based on the threshold that the Small Business Administration (SBA) uses to define small fishing entities. For Proposed Action 2, 51 vessels participated in the Central GOA flatfish fisheries in one or more years between 2003 and 2010, making these vessels directly regulated under Proposed Action 2. Of these vessels, 2 catcher processors and 8 catcher vessels that participate in the Central GOA flatfish fisheries had gross earnings of less than $4.0 million, thus categorizing them as small entities. For Proposed Action 3, these same 10 GOA vessels that are small entities under Proposed Action 2 also would be small entities for the correction to the modified nonpelagic trawl gear construction requirements for the Bering Sea and Central GOA flatfish fisheries. From 2000 to 2008, approximately 46 vessels operated in the directed flatfish fisheries in one or multiple years in the Bering Sea subarea. All of the catcher processors directed fishing for flatfish in the Bering Sea exceeded the $4.0 million threshold, when considering their combined groundfish revenues, and would be considered large entities for purposes of the RFA. None of the four catcher vessels that participated in the Bering Sea flatfish fisheries met the threshold, based on their combined groundfish revenues, and these four vessels are considered small entities for purposes of the RFA. It is likely that some of these vessels also are linked by company affiliation, which may then qualify them as large entities, but

information is not available to identify ownership status of all vessels at an entity level. Therefore, the IRFA for Proposed Action 3 may overestimate the number of small entities in the Bering Sea directly regulated by Proposed Action 3.

Duplicate, Overlapping, or Conflicting Federal Rules

No duplication, overlap, or conflict between this proposed action and existing Federal rules has been identified.

Description of Significant Alternatives That Minimize Adverse Impacts on Small Entities

For Proposed Action 1, the Council evaluated three alternatives with components and options for area closures in the Central GOA to reduce Tanner crab PSC. Alternative 1 is the status quo or no action alternative, which would not change the nonpelagic trawl gear closures currently established in the Central GOA, or require the use of modified nonpelagic trawl gear when directed fishing for flatfish in the Central GOA. This alternative did not meet the Council's intent to provide further protection to Tanner crab from the potential effects of the groundfish fisheries.

Alternative 2 would close one or more of the following areas to pot and trawl groundfish fisheries; a portion of Marmot Bay (Marmot Bay Area), northeast of Kodiak; a portion of the Chiniak Gully, east of Kodiak, and ADF&G Statistical Areas 525702 and 525630, southeast of Kodiak. These areas were considered for closure because of the relatively high abundance of Tanner crab occurring there. Alternative 2 also considered closure timing for these areas as either year-round or from January 1 through July 31. Suboptions considered under Alternative 2 (which could be combined together) included closures to pot gear and trawl gear individually and exemptions for vessels with modified nonpelagic trawl gear, vessels using pelagic trawl gear, or vessels using pelagic trawl gear when directed fishing for pollock. As described above, the Marmot Bay Area had a high rate of Tanner crab mortality compared to the other areas considered, and closing the Marmot Bay Area would have limited adverse impact to participants in the nonpelagic trawl fishery compared to the additional closures considered. Data presented in the Section 3.3.2 of the Area Closures EA/RIR/IRFA prepared for area closures indicated that closures to pot gear would not contribute substantially to the objective to reduce Tanner crab PSC, therefore pot gear vessels were not included in the Council's recommendation. Section 3.3.3 of the Area Closures EA/RIR/IRFA indicates that year-round closures would minimize bycatch and potential adverse effects on Tanner crab habitat relative to seasonal closures. Section 5.3 of the Area Closures EA/RIR/IRFA notes that exemptions to the closure area for vessels using modified nonpelagic trawl gear presents a difficult enforcement challenge because it is not possible to easily distinguish between modified and non-modified nonpelagic trawl gear under current fishery management practices. Section 3.3.3 of the Area Closures EA/RIR/IRFA notes that exempting vessels using pelagic trawl gear to directed fish for pollock would have very limited impact on Tanner crab bycatch.

Alternative 3 considered allowing pot gear and trawl gear to target groundfish in the areas considered for closure provided they had additional observer coverage, compared to existing observer requirements, when fishing in these areas. Vessels using trawl gear would be required to carry observers 100 percent of the days fished in the area(s) selected. This additional coverage would not apply towards meeting the existing coverage requirements outside the tanner crab protection areas. Vessels using pot gear less than 125 feet (38.1 m) length overall would be required to carry observers 30 percent of the days fished in the area(s) selected. These additional coverage requirements were considered because the Council desired more robust estimates of PSC to further develop management protection measures for Tanner crab. Section 5.5 of the Area Closures EA/RIR/IRFA notes that with the anticipated implementation of the restructured Observer Program, a randomized system for the assignment of observer coverage throughout the GOA for partially observed vessels would be used to reduce potential bias in the observer data. Selecting specific locations in the Central GOA for increased observer coverage would reduce the ability to randomize observer assignments and therefore potentially bias observer data.

Alternative 4 (the preferred alternative), which was recommended by the Council and would be implemented by this proposed rule, is a modification of Alternative 2. Under Alternative 4, the Council recommended the Marmot Bay Tanner Crab Protection Area for year-round closure to vessels directed fishing for groundfish using trawl gear, with the exception of vessels using pelagic trawl gear to directed fish for pollock. Under Alternative 4, the Council also recommended that NMFS incorporate, to the extent possible, an observer deployment strategy under the anticipated restructured Observer Program that ensures adequate coverage to establish statistically robust observations in the specific areas considered for closure under Alternative 2. As noted earlier in the preamble, in October 2010 the Council recommended enhanced observer coverage under Amendment 89, Amendment 86 to the BSAI FMP, and Amendment 76 to the GOA FMP to restructure the Observer Program. The Council was aware of these concurrent actions, and recommended as part of Amendment 89 that NMFS ''incorporate, to the extent possible, in [the restructured Observer Program], an observer deployment strategy that ensures adequate coverage to establish statistically robust observations'' in the specific areas near Kodiak, AK. Amendments 86/76 were approved by the Secretary of Commerce on June 7, 2012. NMFS published a final rule to implement Amendments 86/76 on November 21, 2012 (77 FR 70062) with an effective date of January 1, 2013. In order to ensure that the Council's desire to obtain better observer data is being met, NMFS will present a deployment plan for observers annually for the Council's review.

Under Alternative 4, NMFS anticipates that the imposition of this trawl closure will not prevent the GOA groundfish fisheries from achieving the annual total allowable catch (TAC) for these species. The impact on vessels will be proportional to the extent that they rely on the Marmot Bay Area, the success they have in offsetting forgone catch from fishing outside of the Marmot Bay Area in the remaining open areas, and the net cost of making the adjustment. Because catch from the Marmot Bay Area represents only a small proportion of the total groundfish catch by vessels using nonpelagic trawl gear, NMFS anticipates that vessels will be able to catch the TAC of species that have been caught in the Marmot Bay Area in neighboring areas not closed to this gear. (See Section 6.6 of the Area Closures EA/RIR/IRFA for additional detail.) Alternative 4 meets the objectives of the action to protect Tanner crab while minimizing the economic impact on gear types and fisheries that are not as likely to adversely impact Tanner crab.

For Proposed Action 2, the Council evaluated two alternatives. Alternative 1, the status quo or no action alternative, would not require the use of modified nonpelagic trawl gear by vessels directed fishing for flatfish in

the Central GOA. Alternative 1 does not meet the Council's objective to protect Tanner crab.

Alternative 2, the Council's preferred alternative, would require vessels directed fishing for flatfish in the Central GOA to use modified nonpelagic trawl gear. This proposed action has identical performance standard and gear construction requirements as those implemented under Amendment 94 to the BSAI FMP, which requires modified nonpelagic trawl gear for vessels directed fishing for flatfish in the Bering Sea subarea (75 FR 61642, October 6, 2010).

The average initial cost of gear modification for participants in the Central GOA flatfish fisheries is approximately $12,600, and requires approximately $3,000 in annual maintenance. For vessels using main line winches to set and haul back the modified nonpelagic trawl gear, there also may be a one-time cost for modifying the vessel to accommodate the modified nonpelagic trawl gear. Depending on a vessel's configuration, the cost may be $20,000 to $25,000 or higher. This cost may be offset if the modification to the nonpelagic trawl gear extends the useful life of the sweeps, and reduces the frequency with which new gear must be purchased. The owners of nonpelagic trawl gear vessels, not dependent on revenues derived from the Central GOA flatfish fisheries, may decide to forego the modified nonpelagic trawl gear and not participate in the Central GOA flatfish fisheries.

For Proposed Action 3, the technical revision to nonpelagic trawl gear construction requirements, the revision would reduce the cost of gear construction by approximately $2,000.00. The proposed change would facilitate the use of the 90 feet (27.4 m) standard length of cables used in constructing the modified nonpelagic trawl gear by allowing for the additional length needed for the connecting devices. This would allow for the gear to be constructed within the construction requirements without further labor and materials costs to trim the standard length of cables. No other alternative to Proposed Action 3 is identified that would reduce costs to small entities and meet the Council's objective to improve the construction requirements for modified nonpelagic trawl gear.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries.

Dated: June 11, 2013.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, performing the functions and duties of the Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447.

■ 2. In § 679.2, revise the definitions of ''directed fishing'' and ''Federally permitted vessel'' and add in alphabetical order the definition of ''Marmot Bay Tanner Crab Protection Area'' to read as follows:

§ 679.2 Definitions.

* * * * *

Directed fishing means:

* * * * *

(6) *With respect to the harvest of flatfish in the Central GOA Regulatory Area,* for purposes of modified nonpelagic trawl gear requirements under §§ 679.7(b)(9) and 679.24(f), fishing with nonpelagic trawl gear during any fishing trip that results in a retained aggregate amount of shallow-water flatfish, deep-water flatfish, rex sole, arrowtooth flounder, and flathead sole that is greater than the retained amount of any other trawl fishery category as defined at § 679.21(d)(3)(iii).

* * * * *

Federally permitted vessel means a vessel that is named on either a Federal fisheries permit issued pursuant to § 679.4(b) or on a Federal crab vessel permit issued pursuant to § 680.4(k) of this chapter. Federally permitted vessels must conform to regulatory requirements for purposes of fishing restrictions in habitat conservation areas, habitat conservation zones, habitat protection areas, and the Modified Gear Trawl Zone; for purposes of anchoring prohibitions in habitat protection areas; for purposes of requirements for the BS and GOA nonpelagic trawl fishery pursuant to § 679.7(b)(9), § 679.7(c)(5), and § 679.24(f); and for purposes of VMS requirements.

* * * * *

Marmot Bay Tanner Crab Protection Area means a habitat protection area of the Gulf of Alaska specified in Figure 5 to this part that is closed to directed fishing for groundfish with trawl gear, except directed fishing for pollock by vessels using pelagic trawl gear.

* * * * *

■ 3. In § 679.7, add paragraph (b)(9) to read as follows:

§ 679.7 Prohibitions.

* * * * *

(b) * * *

(9) Conduct directed fishing for flatfish, as defined in § 679.2, with a vessel required to be federally permitted in the Central GOA Regulatory Area, as defined in Figure 3 to this part, without meeting the requirements for modified nonpelagic trawl gear specified at § 679.24(f) and illustrated in Figures 25, 26, and 27 to this part.

* * * * *

■ 4. In § 679.22, revise paragraph (b)(3) to read as follows:

§ 679.22 Closures.

* * * * *

(b) * * *

(3) *Marmot Bay Tanner Crab Protection Area.* No federally permitted vessel may fish with trawl gear in the Marmot Bay Tanner Crab Protection Area, as described in Figure 5 to this part, except federally permitted vessels directed fishing for pollock using pelagic trawl gear.

* * * * *

■ 5. In § 679.24, revise the introductory text in paragraph (f) to read as follows:

§ 679.24 Gear limitations.

* * * * *

(f) *Modified nonpelagic trawl gear.* Nonpelagic trawl gear modified as shown in Figure 26 to this part must be used by any vessel required to be federally permitted and that is used to directed fish for flatfish, as defined in § 679.2, in any reporting area of the BS or in the Central GOA Regulatory Area or directed fish for groundfish with nonpelagic trawl gear in the Modified Trawl Gear Zone specified in Table 51 to this part. Nonpelagic trawl gear used by these vessels must meet the following standards:

* * * * *

■ 6. Revise Figure 5 to part 679 to read as follows:

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Figure 5 to Part 679– Kodiak Island Type 1, 2, and 3 Nonpelagic Trawl Closure Status and Marmot Bay Tanner Crab Protection Area (see § 679.22(b)(1) and (b)(3))

a. Map

■ 7. Revise Figure 26 to part 679 to read as follows:

Figure 5 to Part 679. Kodiak Island Areas Closed to Non-pelagic Trawl Gear and Marmot Bay Tanner Crab Protection Area
b. Coordinates

Name and Description of Reference Area	North Latitude / West Longitude	Reference Point
Alitak Flats and Towers Areas	All waters of Alitak Flats and the Towers Areas enclosed by a line connecting the following 7 points in the order listed:	
	56°59.4'N, 154°31.1'W	Low Cape
	57°00.0'N, 155°00.0'W	
	56°17.0'N, 155°00.0'W	
	56°17.0'N, 153°52.0'W	
	56°33.5'N, 153°52.0'W	Cape Sitkinak
	56°54.5'N, 153°32.5'W	East point of Twoheaded Island
	56°56.0'N, 153°35.5'W	Kodiak Island, thence, along the coastline of Kodiak Island until intersection of Low Cape.
	56°59.4'N, 154°31.1'W	Low Cape
Marmot Flats Area	All waters enclosed by a line connecting the following five points in the clockwise order listed:	
	58°00.0'N, 152°30.0'W	
	58°00.0'N, 151°47.0'W	
	57°37.0'N, 151°47.0'W	
	57°37.0'N, 152°10.1'W	Cape Chiniak, then along the coastline of Kodiak Island to
	57°54.5'N, 152°30.0'W	North Cape.
	58°00.0'N, 152°30.0W	
Chirikof Island Area	All waters surrounding Chirikof Island enclosed by a line connecting the following four points in the counter-clockwise order listed:	
	56°07.0'N, 155°13.0'W	
	56°07.0'N, 156°00.0'W	
	55°41.0'N, 156°00.0'W	
	55°41.0'N, 155°13.0'W	
	56°07.0'N, 155°13.0'W	
Barnabas Area	All waters enclosed by a line connecting the following six points in the counter clockwise order listed:	
	57°00.0'N, 153°18.0'W	Black Point.
	56°56.0'N, 153°09.0'W	
	57°22.0'N, 152°18.5'W	South Tip of Ugak Island
	57°23.5'N, 152°17.5'W	North Tip of Ugak Island
	57°25.3'N, 152°20.0'W	Narrow Cape, thence, along the coastline of Kodiak Island
	57°04.2'N, 153°30.0'W	Cape Kasick to
	57°00.0'N, 153°18.0'W	Black Point, including inshore waters
Marmot Bay Tanner Crab Protection Area	All waters of the EEZ enclosed by straight lines across EEZ waters and following the boundary of the State of Alaska waters connecting the following six points clockwise in the order listed:	
	58°15.0'N, 152°30.0'W	
	58°15.0'N, 151°47.0'W	
	58°00.0'N, 151°47.0'W	
	58°00.0'N, 152°30.0W	
	58°15.0'N, 152°30.0'W	

Figure 26 to Part 679 – Modified Nonpelagic Trawl Gear

This figure shows the location of elevating devices in the elevated section of modified nonpelagic trawl gear, as specified under § 679.24(f). The top image shows the location of the end elevating devices in the elevated section for gear with net bridles no greater than 185 feet in length. The bottom image shows the location of the beginning elevating devices near the doors and the end elevating devices near the net for gear with net bridles no greater than 185 feet in length.

[FR Doc. 2013–14328 Filed 6–14–13; 8:45 am]
BILLING CODE 3510–22–C

Notices

Federal Register

Vol. 78, No. 116

Monday, June 17, 2013

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 11, 2013.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques and other forms of information technology.

Comments regarding this information collection received by July 17, 2013 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC, 20503. Commentors are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Forest Service

Title: National Visitor Use Monitoring, and Customer and Use Survey Techniques for Operations, Management, Evaluation, and Research.

OMB Control Number: 0596–0110.

Summary of Collection: The National Forest Management Act (NFMA) of 1976 and the Government Performance and Results Act of 1993 (GPRA) require a comprehensive assessment of present and anticipated uses, demand for and supply of renewable resources from the nation's public and private forests and rangelands. An important element in the reporting is the number of visits to National Forests and Grasslands, as well as to Wilderness Areas that the agency manages. The Forest Service and Department of Interior agencies will use the National Visitor Use Monitoring (NVUM) survey to collect the information.

Need and Use of the Information: The Customer and Use Survey Techniques for Operations, Management, Evaluation and Research (CUSTOMER) study combines several different survey approaches to gather data describing visitors to and users of public recreation lands, including their trip activities, satisfaction levels, evaluations, demographic profiles, trip characteristics, spending, and annual visitation patterns. FS will use face-to-face interviewing for collecting information on-site as well as English and Spanish written survey instruments to be mailed back by respondents. The NVUM results and data are a source of data and information in addressing forest land management planning, national strategic planning, service to minorities, and identification of a forest's recreation niche.

Description of Respondents: Individuals or households.

Number of Respondents: 61,080.

Frequency of Responses: Reporting; Quarterly; Annually.

Total Burden Hours: 8,994.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2013–14259 Filed 6–14–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Economic Research Service

Notice of Intent To Request New Information Collection

AGENCY: Economic Research Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Economic Research Service's intention to request approval for a new information collection for a Survey on Rural Community Wealth and Health Care Provision.

DATES: Comments must be received by August 16, 2013 to be assured of consideration.

ADDRESSES: Address all comments concerning this notice to John Pender, Resource and Rural Economics Division, Economic Research Service, U.S. Department of Agriculture, 1400 Independence Ave. SW., Mailstop 1800, Washington, DC 20250–0002. Comments may also be submitted via fax to the attention of John Pender at 202–694–5773 or via email to *jpender@ers.usda.gov.*

FOR FURTHER INFORMATION CONTACT: John Pender, *jpender@ers.usda.gov.* Tel. 202–694–5568.

SUPPLEMENTARY INFORMATION:

Title: Survey on Rural Community Wealth and Health Care Provision.

OMB Number: To be assigned by OMB.

Expiration Date: Three years from the date of approval.

Type of Request: New information collection.

Abstract: The primary purpose of the proposed survey is to collect information on how rural small towns can attract and retain primary health care providers, considering the broad range of assets and amenities that may attract providers. The secondary purpose is to provide information on

how improving health care may affect economic development prospects of rural small towns. The Economic Research Service (ERS) intends to address these purposes by collecting primary data from health care providers and community leaders in 150 rural small towns in nine states in three regions: Mississippi, Louisiana, and Arkansas (representing the Mississippi Delta region); Texas, Oklahoma, and Kansas (Southern Great Plains region); and Iowa, Minnesota, and Wisconsin (Upper Midwest region).

This information will contribute to improved understanding of the roles that rural communities play in attracting and retaining health care providers, and of how improved health care provision contributes to economic development of these communities. Such understanding is critical to develop effective policies and local strategies to address the challenge of inadequate access to health care services in many rural communities, and to realize the opportunities offered by improved health care provision to attract and keep residents and businesses in rural areas, provide employment, and improve the quality of life.

The study will focus on small rural towns (population 2,500 to 20,000) because it is expected that the ability to attract and retain health care providers is most likely to be affected by local assets and amenities for such towns. The universe of small towns in the three regions selected include about 9 percent of the rural population of the United States and represent considerable diversity in levels of economic development and access to health care services. The set of 150 small towns included in the study will be selected using a probability based sample, so that the information collected will be representative of this universe of rural small towns in the nine states.

Although much research has investigated the problems of attracting and retaining health care providers in rural areas, very little research addresses the relationships between economic development and health care provision in rural areas. Virtually no research addresses the issue from the perspective of rural communities themselves, investigating whether and how rural communities seek to attract and keep health care providers, and how they think this influences their economic development prospects. The proposed information collection will address this information gap. It will consist of three phases: (1) Key informant telephone interviews with select local government leaders and health care administrators in the study towns; (2) a dual mode telephone/mail survey of primary health care providers in the towns; and (3) follow up focus groups and/or in-person key informant interviews in a subset of selected towns. The information collected will be augmented by publicly available secondary information on health care provision and economic development in the study regions.

The objectives of the initial key informant interviews with local government leaders and health care administrators are to collect or verify information assembled from secondary sources on (i) which health care services and providers are available in the town, (ii) how provision of health care services in the town has changed in the past five years, (iii) the extent to which recruiting and retaining health care providers is seen as a priority by leaders in the town, (iv) what efforts have been made to recruit and retain providers, and (v) perceived impacts of these efforts on aspects of economic development in the town. Key informant interviews will be conducted with up to four individuals, including at least one representative of the local government—either the chief executive officer (mayor or city/town manager) or a knowledgeable representative designated by that officer—and the administrator of at least one primary health care facility (hospital or clinic), if such facilities are available, in the town. If a hospital or clinic is not available in the town, other informants with knowledge about health care in the town will be sought. Semi-structured interviews will be used, and are expected to last up to 60 minutes each. The key informant interviews will be conducted before the telephone/mail survey of health care providers, since they will help to validate the sample frame of providers and may yield information useful in the design of the provider survey.

The dual mode telephone/mail survey will investigate the perspective of primary health care providers in rural small towns on the factors affecting their decisions to locate, continue and change their operations in these rural communities, including the influence of community assets and amenities. The target population of health care providers includes primary care physicians, physician assistants, nurse practitioners, certified nurse midwives, and dentists. A random sample of up to 8 health care providers will be surveyed in each sample town. The telephone interviews are expected to average about 20 minutes per respondent, based upon cognitive interviews testing a draft of the survey instrument with three rural health care providers. Paper copies of the survey will be mailed to those who are unable or unwilling to complete a telephone interview. It is expected that the paper surveys will also require about 20 minutes to complete.

After the provider survey and analysis of its results are completed, focus groups and/or follow up key informant interviews (possibly including some of the people interviewed during the initial key informant interviews) will be conducted in person in a sub-sample of the surveyed communities (at most 40), with the goal of deepening understanding of (i) how and why the community factors that appear to influence recruitment and retention of health care providers (as will be identified by the telephone survey) are able to do so, and (ii) how development of the health care sector contributes to broader economic development in rural communities. The communities included in this phase of the study will be purposefully selected to be representative of different conditions with regard to region, access to health care providers, and level of economic development. Participants will be individuals knowledgeable about health care and/or economic development issues in the community, including representatives of local government, the business sector, the non-profit sector, and the health care industry. Current plans are to conduct at least one focus group with up to 10 participants in each of the sub-sample of communities, with one-on-one semi-structured interviews as circumstances require. We expect to interview no more than 12 people per community regardless of whether one or more focus groups or one-on-one interviews are conducted. It is anticipated that each focus group and one-on-one interview will last 60 minutes. A semi-structured instrument will be used to guide these focus groups and interviews.

All study instruments will be kept as simple and respondent-friendly as possible. Participation in the interviews will be voluntary and confidential. Survey responses will be used for statistical analysis and to produce research reports only; not for any other purpose. Responses will be linked to secondary data to augment information with no additional respondent burden. For example, the survey data will be combined with available town and county level data from the Census Bureau on community socioeconomic and demographic characteristics and data from the Department of Health and Human Services on health care provision, to analyze factors affecting local changes in health care provision.

Authority: These data will be collected under the authority of 7 U.S.C. 2204(a) and 7 U.S.C. 2661. ERS will comply with OMB Implementation Guidance, ''Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA)'', 72 FR 33362, June 15, 2007. Respondent information will be protected under the CIPSEA and the 7 U.S.C. 2276.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.91 hours per response.

Type of Respondents: Respondents to the first phase key informant telephone interviews will include chief executive officers (or their designated representatives) of the towns, administrators of health care facilities (in towns having such facilities), or other individuals knowledgeable about health care (particularly in towns not having such facilities) in the 150 rural small towns selected for the study. Respondents in the second phase telephone survey will include primary health care providers in the selected towns, including primary care physicians, physician assistants, nurse practitioners, certified nurse midwives, and dentists. Respondents in the third phase focus groups and in-person key informant interviews will include representatives of local government, the local health care industry, businesses, and non-profit organizations concerned with health care and/or economic development.

Estimated Number of Respondents: (i) Key informant telephone interviews: 4 respondents per community × 150 communities = 600 respondents (assuming 67% response rate); (ii) Telephone/mail survey of health care providers: 8 respondents per community (assuming 80% response rate) × 150 communities = 1,200 respondents; (iii) Focus group participants and key informant interviews: 12 respondents per community × 40 communities = 480 respondents (assuming 80% response rate). Total number of respondents = 2,280. Total number of non-respondents = 720.

Estimated Number of Responses: 2,280 from respondents, 720 refusals from non-respondents.

Estimated Number of Responses per Respondent: 1.08 maximum, if all respondents in first phase key informant interviews participate in third phase focus groups/interviews.

Estimated Total Burden on Respondents: 2,730 hours (see table for details).

REPORTING BURDEN

Description	Estimated number of respondents or non-respondents	Responses or non-responses per respondent	Total responses or non-responses	Estimated average number of minutes per response or non-response	Estimated total hours of response and non-response burden
Phase 1: Key informant telephone interviews					
Identify and contact key informants—admin. Staff	900	1	900	10	150
Respondents review request and decide	600	1	600	15	150
Key informant interviews	600	1	600	60	600
Non-respondents review request and decline	300	1	300	15	75
Phase 2: Telephone/Mail surveys with health care providers					
Identify and contact respondents	1500	1	1500	10	250
Respondents review request	1200	1	1200	15	300
Telephone/Mail surveys	1200	1	1200	20	400
Non-respondents review request and decline	300	1	300	15	75
Phase 3: Focus group and in-person key informant interviews					
Identify and contact participants	600	1	600	10	100
Participants review request	480	1	480	15	120
Focus groups & key informant interviews	480	1	480	60	480
Non-respondents review request and decline	120	1	120	15	30
Total Burden					2,730

Comments: Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to John Pender, Resource and Rural Economics Division, Economic Research Service, U.S. Department of Agriculture, 1400 Independence Ave. SW., Mailstop 1800, Washington, DC 20250–0002. Comments may also be submitted via fax to the attention of John Pender at 202–694–5773 or via email to *jpender@ers.usda.gov.* All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: June 10, 2013.

Mary Bohman,

Administrator, Economic Research Service.

[FR Doc. 2013–14202 Filed 6–14–13; 8:45 am]

BILLING CODE 3410–18–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

National Advisory Council on Maternal, Infant and Fetal Nutrition; Notice of Meeting

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. APP., this notice announces a meeting of the National Advisory Council on Maternal, Infant and Fetal Nutrition.

DATES: *Date and Time:* July 23–25, 2013, 9:00 a.m.–5:30 p.m.

Place: The meeting will be held at the Virginian Suites, 1500 Arlington Boulevard, Arlington, Virginia 22209.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Maternal, Infant, and Fetal Nutrition will meet to continue its study of the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), and the Commodity Supplemental Food Program (CSFP). The agenda will include updates and a discussion of Breastfeeding Promotion and Support activities, the WIC food packages, WIC funding, Electronic Benefits Transfer, CSFP initiatives and current research studies.

Status: Meetings of the National Advisory Council on Maternal, Infant and Fetal Nutrition are open to the public. Members of the public may participate, as time permits. Members of the public may file written statements with the contact person named below before or after the meeting.

Contact Person For Additional Information: Anne Bartholomew, Supplemental Food Programs Division, Food and Nutrition Service, Department of Agriculture, (703) 305–2746. If members of the public need special accommodations, please notify Anita Cunningham by July 17, 2013, at (703) 305–0986, or email at *Anita.Cunningham@fns.usda.gov*.

Dated: June 10, 2013.

Yvette S. Jackson,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 2013–14308 Filed 6–14–13; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Bitterroot National Forest, Darby Ranger District, Como Forest Health Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service, Bitterroot National Forest will prepare an environmental impact statement (EIS) to document and disclose the effects analysis of the proposed Como Forest Health Project (Como FHP). The Como FHP covers approximately 5,640 acres of national forest land between Lake Como and Lost Horse Roads, about XX miles northwest of Darby in Ravalli County, Montana. The purpose of the Como FHP is to (1) reduce potential mortality of large diameter ponderosa pine caused by increasing mountain pine beetle populations; (2) reduce fuel loads and maintain the historic fire return interval; (3) improve forest resilience to dwarf mistletoe, root rot, Douglas-fir beetle, and spruce budworm; (4) and maintain the visual integrity of the larger Lake Como Recreation Area. Commercial harvest is proposed on about 1,860 acres, pre-commercial thinning on about 330 acres, and prescribed fire on about 3,000 acres to achieve the purposes of the Como FHP. Three sections of road totaling about 0.8 of a mile are proposed for construction to support the timber harvest. The roads would be closed after timber operations. Site-specific Bitterroot National Forest Plan amendments may be proposed for coarse woody debris, snags, elk habitat effectiveness, thermal cover, old growth, and visual quality.

DATES: Comments concerning the scope of the analysis must be received by July 17, 2013. The draft environmental impact statement is expected December 2013 and the final environmental impact statement is expected July 2014.

ADDRESSES: Send written comments to Chuck Oliver, Darby District Ranger, P.O. Box 388, Darby, MT, 59829. Comments may also be sent via email to *comments-northern-bitterroot-darby@fs.fed.us,* or via facsimile to 406–821–4264.

FOR FURTHER INFORMATION CONTACT: Sara Grove, South Zone Interdisciplinary Team Leader; West Fork Ranger Station; 6735 West Fork Road; Darby, Montana 59829; phone (406) 821–1251; email *sgrove@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 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The Como Forest Health project (Como FHP) is proposed to manage the forest in the 5,640 acre project area to: (1) Reduce potential mountain pine beetle-caused tree mortality in large diameter ponderosa pine, (2) reduce fuel loads and maintain the historic fire return interval, (3) improve the forest resilience to native insects and diseases, and (4) maintain the visual integrity of the larger Lake Como Recreation Area. Mountain pine beetle populations are increasing across the Bitterroot National Forest and in this popular recreation area. Decreasing forest density and maintaining the historic fire return interval would preserve the large diameter ponderosa pine characteristic of this forest type, improve general forest resilience to natural disturbances (native insects, diseases, and fire), and maintain the aesthetics of the larger recreation area. Because the project area is in and adjacent to the popular Lake Como recreation area, visual integrity standards would be a focus of project design during and after treatments.

Proposed Action

The Darby District Ranger on the Bitterroot National Forest proposes to treat 5,190 acres of forest in the 5,640-acre Lake Como Forest Health project area. The Como Forest Health project area lies between Lake Como Road and Lost Horse Road, about three miles northwest of Darby, Montana (R22W,T4N, Sec. 13, 24, 25, 36; R21W,T4N, Sec 17–21, 28–31). Treatments include commercial timber harvest on 1,860 acres, small tree thinning on 330 acres, and low to moderate severity prescribed fires on about 3,000 acres.

To support timber harvest, three sections of road totaling 0.8 mile would need to be constructed and added to the National Forest System of Roads. These road sections are needed now and in the future to access Unit 41 and units in a recent acquisition to the forest. In addition to the new system road segments, the use of 2.3 miles of temporary road and 3.5 miles of tracked line machine trail would be needed to yard timber from the cutting units. The new system road would be closed, and the temporary road and tracked line machine trail would be obliterated following harvest. Another 0.5 mile of forest road would be converted to a non-motorized trail. Approximately six miles of undetermined roads exist in the

project area. About three miles of these roads are needed to haul timber from the sale area and for future management of the national forest. These roads would be added to the Bitterroot National Forest System of Roads database and closed until needed for forest management. The remaining three miles of undetermined roads not needed for future national forest management would be obliterated by full or partial recontouring.

Possible Alternatives

Two alternatives to the proposed action have been identified. One alternative would treat units that are accessible with the existing road system. No new system roads or temporary roads would be constructed and tracked line machine trail would not be developed. The second alternative to the proposed action would address potential conflicts by focusing on forest plan objectives for wildlife habitat and visual quality in management areas 2, 3a, 3b, and 3c.

Another alternative that would not require any forest plan amendments was considered. It will not be carried through the analysis because existing conditions in the project area do not meet forest plan standards and there are no management actions that can create conditions to meet forest plan standards.

Responsible Official

Julie K. King, Bitterroot National Forest Supervisor, 1801 N. First, Hamilton, Montana 59840–3114.

Nature of Decision To Be Made

The Responsible Official will select the proposed action, an alternative to the proposed action (including the no action alternative), or modify the proposed action or alternatives to the proposed action. The decision may include amendments to the Bitterroot National Forest Plan standards for coarse woody debris, visual quality objectives, old growth, and thermal and hiding cover.

Preliminary Issues

Scoping was initiated in November 2010 and restarted in February 2013. Issues identified through these scoping processes include: (1) Road management; (2) balancing forest management practices with recreation, visual quality, wildlife, fisheries, hydrology, and fire management; (3) economics of timber harvest; and (4) the effects and costs of obliterating roads.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however, anonymous comments will not provide the Agency with the ability to provide the respondent with subsequent environmental documents.

Dated: June 3, 2013.

Julie K. King,

Forest Supervisor.

[FR Doc. 2013–14229 Filed 6–14–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Tongass National Forest; Ketchikan-Misty Fiords Ranger District; Alaska; Saddle Lakes Timber Sale Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Corrected notice of intent to prepare an environmental impact statement; correction.

SUMMARY: A Notice of Intent (NOI) to prepare an Environmental Impact Statement for the Saddle Lakes Timber Sale project was published in the **Federal Register** (77 FR 27013) on May 8, 2012. Due to the length of time that has passed since the first NOI was published, and changes in the dates that the Draft and Final Environmental Impact Statements are expected, the Tongass National Forest is publishing this Corrected NOI. Additionally, the United States Department of Agriculture published a final rule in the **Federal Register** (78 FR 18481–18504) on March 27, 2013 to establish a new process by which the public may file objections seeking predecisional administrative review of proposed projects and activities implementing land management plans documented with a Record of Decision or Decision Notice (reference 36 CFR part 218). This new process replaces the administrative appeals process at 36 CFR part 215. As the Record of Decision for the Saddle Lakes project is not expected until after September 27, 2013, the Saddle Lakes project is now subject to these new predecisional administrative review procedures.

FOR FURTHER INFORMATION CONTACT: Susan Howle, Team Leader, Ketchikan-Misty Fiords Ranger District, 3031 Tongass Avenue, Ketchikan, Alaska 99901, (907) 225–3542.

Corrections

In the **Federal Register** (77 FR 27013–27015) of May 8, 2012 on page 27014, in the first column, correct the **DATES** caption to read:

DATES: Additional opportunity for formal comments will be accepted after release of the Draft Environmental Impact Statement, which is expected to be published in October 2013. The Final Environmental Impact Statement is expected in May 2014.

In the **Federal Register** (77 FR 27013–27015) of May 8, 2012 on page 27014, in the first column, correct the **FOR FURTHER INFORMATION CONTACT** caption as follows:

Remove the contact information for Rob Reeck and Linda Pulliam. Correct the caption to read:

FOR FURTHER INFORMATION CONTACT: ; or Susan Howle, Team Leader, telephone (907) 225–3542, also at the Ketchikan-Misty Fiords Ranger District, 3031 Tongass Avenue, Ketchikan, Alaska 99901.

In the **Federal Register** (77 FR 27013–27015) of May 8, 2012 on page 27015, in the first column, after last paragraph, correct by adding the following under ''Scoping Process'' caption:

Scoping Process: Forest Service regulations at 36 CFR part 218, Subparts A and B, published March 27, 2013 (78 FR 18481–18504) regarding the project-level predecisional administrative review process applies to projects and activities implementing land management plans that are not authorized under the Healthy Forest Restoration Act. This proposed project is subject to 36 CFR part 218. Instead of an appeal period, there will be an objection process before the final decision is made, and after the Final Environmental Impact Statement and draft Record of Decision are mailed (reference 36 CFR 218.7). Individuals and entities as defined in 36 CFR 218.2 who have submitted timely, specific written comments (see 36 CFR 218.2) regarding a proposed project or activity that is subject to these regulations during any designated opportunity for public comment may file an objection. Objections will be accepted only from those who have previously submitted timely, specific written comments regarding the proposed project during scoping, the 45-day DEIS comment period, or other public

involvement opportunity where written comments are requested by the responsible official in accordance with 36 218.5(a).

Dated: June 7, 2013.

Forrest Cole,

Forest Supervisor, Tongass National Forest.

[FR Doc. 2013–14136 Filed 6–14–13; 8:45 am]

BILLING CODE 3410–11–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: Wednesday, June 19, 2013, 8:00 a.m.–8:05 a.m. EDT.

PLACE: Radio Free Europe/Radio Liberty, 1201 Connecticut Ave. NW., 4th Floor, Washington, DC 20036.

SUBJECT: Notice of Meeting of the Broadcasting Board of Governors.

SUMMARY: The Broadcasting Board of Governors (BBG) will meet at the time and location listed above. A quorum of the Board will not be present on the date of the meeting.

The public may attend this meeting in person at the address listed above as seating capacity permits. Member of the public seeking to attend the meeting in person must register at *http://bbgboardmeetingjune2013.eventbrite.com/* by 9:00 a.m. (EDT) on June 18. For more information, please contact BBG Public Affairs at (202) 203–4400 or by email at *pubaff@bbg.gov.* This meeting will also be available for public observation via streamed webcast, both live and on-demand, on the BBG's public Web site at *www.bbg.gov.* Information regarding this meeting, including any updates or adjustments to its starting time, can also be found on the Agency's public Web site.

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Paul Kollmer-Dorsey at (202) 203–4545.

Paul Kollmer-Dorsey,

Deputy General Counsel.

[FR Doc. 2013–14423 Filed 6–13–13; 11:15 am]

BILLING CODE 8610–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1903]

Designation of New Grantee; Foreign Trade Zone 186; Waterville, Maine

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following Order:

The Foreign-Trade Zones (FTZ) Board (the Board) has considered the application (filed 3/26/13) submitted by the Maine International Foreign Trade Zone, Inc., grantee of FTZ 186, requesting reissuance of the grant of authority for said zone to the City of Waterville, which has accepted such reissuance subject to approval by the FTZ Board. Upon review, the Board finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that the proposal is in the public interest.

Therefore, the Board approves the application and recognizes the City of Waterville as the new grantee for Foreign-Trade Zone 186, subject to the FTZ Act and the Board's regulations, including Section 400.13.

Signed at Washington, DC, this 10th day of June 2013.

Paul Piquado,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman Foreign-Trade Zones Board.

Attest:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–14358 Filed 6–14–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1904]

Reorganization/Expansion of Foreign-Trade Zone 104; (Expansion of Service Area and Expansion of Zone); Under Alternative Site Framework, Savannah, Georgia

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the World Trade Center Savannah, LLC, grantee of Foreign-Trade Zone 104, submitted an application to the Board (FTZ Docket B–50–2012, docketed 07–17–2012) for authority to expand the service area of the zone to include Richmond and Columbia Counties, Georgia, as described in the application, adjacent to the Columbia, South Carolina Customs and Border Protection port of entry; and the grantee proposes three usage-driven sites (Sites 18, 19 and 20);

Whereas, notice inviting public comment was given in the **Federal Register** (77 FR 43047, 07/23/12) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby orders:

The application to reorganize FTZ 104 to expand the service area and the zone under the ASF is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, and to the Board's standard 2,000-acre activation limit for the zone, and to a three-year ASF sunset provision for usage-driven sites that would terminate authority for Sites 18, 19 and 20 if no foreign-status merchandise is admitted for a *bona fide* purpose by June 30, 2016.

Signed at Washington, DC, this 10th day of June 2013.

Paul Piquado,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–14360 Filed 6–14–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1902]

Reorganization and Expansion of Foreign-Trade Zone 79 Under Alternative Site Framework Tampa, Florida

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (74 FR 1170–1173, 01/12/2009; correction 74 FR 3987, 01/22/2009; 75 FR 71069–71070, 11/22/2010) as an option for the establishment or reorganization of general-purpose zones;

Whereas, the City of Tampa, grantee of Foreign-Trade Zone 79, submitted an application to the Board (FTZ Docket 24–2012, filed 03/23/12) for authority to reorganize and expand under the ASF with a service area of the Counties of

Hillsborough and Polk and the City of Tampa, within and adjacent to the Tampa Customs and Border Protection port of entry; FTZ 79's existing Sites 2, 4, 5, 6 and 7 and proposed site 9 would be categorized as magnet sites; proposed Site 10 would be categorized as a usage-driven site; and, Sites 1 and 3 would be removed.

Whereas, notice inviting public comment was given in the **Federal Register** (77 FR 19001–19002, 03/29/12), and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report (including for the removal of Site 8) and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby orders:

The application to reorganize and expand FTZ 79 under the alternative site framework is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the zone, to a five-year sunset provision for magnet sites that would terminate authority for Sites 2, 4, 6, 7 and 9 if not activated by June 30, 2018, and to a three-year ASF sunset provision for a usage-driven site that would terminate authority for Site 10 if no foreign status merchandise is admitted for a *bona fide* customs purpose by June 30, 2016.

Signed at Washington, DC, this 10th day of June 2013.

Paul Piquado,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–14344 Filed 6–14–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–900]

Diamond Sawblades and Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010–2011

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On December 10, 2012, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on diamond sawblades and parts thereof (diamond sawblades) from the People's Republic of China (the PRC). The period of review (POR) is November 1, 2010, through October 31, 2011. For the final results, we continue to find that certain companies covered by this review made sales of subject merchandise at less than normal value.

DATES: As of June 17, 2013.

FOR FURTHER INFORMATION CONTACT: Michael Romani or Yang Jin Chun, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0198 or (202) 482–5760, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 10, 2012, the Department published the preliminary results of the administrative review of the antidumping duty order on diamond sawblades from the PRC.[1] We received case and rebuttal briefs with respect to the *Preliminary Results* and, at the request of interested parties, we held a hearing on April 15, 2013. We extended the due date for the final results of review to June 10, 2013.[2] We have conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Fraud Allegation

On April 5, 2012, the Diamond Sawblades Manufacturers Coalition (the petitioner) alleged that Korean respondents Ehwa Diamond Industrial Co., Ltd., Shinhan Diamond Industrial Co., Ltd. and SH Trading Inc., and Hyosung Diamond Industrial Co., Ltd., and their respective Chinese subsidiaries Weihai Xiangguang Mechanical Industrial Co., Ltd. (Weihai), Qingdao Shinhan Diamond Industrial Co., Ltd. (Qingdao Shinhan), and Qingdao Hyosung Diamond Tools Co., Ltd. (Qingdao Hyosung),[3] sold diamond sawblades into the United States bearing false country of origin designations. On March 19, 2013, we issued a post-preliminary analysis memorandum finding that the information submitted by Weihai and Qingdao Shinhan is reliable for the final results of the review.[4] For the final results, we continue to find the information Weihai and Qingdao Shinhan submitted in this review to be reliable.[5]

Scope of the Order

The merchandise subject to the order is diamond sawblades. The diamond sawblades subject to the order are currently classifiable under subheadings 8202 to 8206 of the Harmonized Tariff Schedule of the United States (HTSUS), and may also enter under 6804.21.00. The HTSUS subheadings are provided for convenience and customs purposes. A full description of the scope of the order is contained in the Final Decision Memorandum. The written description is dispositive.

Analysis of Comments Received

All issues raised in the case briefs by parties to this administrative review are addressed in the Final Decision Memorandum. A list of the issues raised is attached to this notice as an appendix. The Final Decision Memorandum is a public document and is on file electronically *via* Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Final Decision Memorandum can be accessed directly on the Import Administration Web site at *http://ia.ita.doc.gov/frn/index.html.* The signed Final Decision Memorandum and the electronic version of the Final Decision Memorandum are identical in content.

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[1] *See Diamond Sawblades and Parts Thereof From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review: 2010–2011,* 77 FR 73417 (December 10, 2012) (*Preliminary Results*).

[2] *See* the memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, entitled ''Diamond Sawblades and Parts Thereof from the Republic of Korea and the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Reviews'' dated April 29, 2013.

[3] Qingdao Hyosung is not a respondent in this review.

[4] *See* the memorandum to Paul Piquado, Assistant Secretary for Import Administration, entitled ''Administrative Review of the Antidumping Duty Order on Diamond Sawblades and Parts Thereof from the People's Republic of China for the 2010–2011 Period: Post-Preliminary Analysis'' dated March 19, 2013. *See also* the memorandum to Paul Piquado, Assistant Secretary for Import Administration, from Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, entitled ''Issues and Decision Memorandum for the Administrative Review of the Antidumping Duty Order on Diamond Sawblades and Parts Thereof from the People's Republic of China covering the Period November 1, 2010, through October 31, 2011'' dated June 10, 2013 (Final Decision Memorandum), which is hereby adopted by this notice, at pages 3–4.

[5] *See* Final Decision Memorandum for more details.

Final Determination of No Shipments

We continue to find that Qingdao Shinhan, which has a separate rate, did not have any exports of subject merchandise during the POR. Consistent with our ''automatic assessment'' clarification, we will issue appropriate instructions to CBP based on our final results.[6]

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made revisions that have changed the results for certain companies, including the valuation of certain factors of production. Additionally, we have made calculation programming changes for the final results. For further details on the changes we made for these final results, *see* the company-specific analysis memoranda, the Final Decision Memorandum, and the final surrogate value memorandum dated concurrently with this notice.

Final Results of the Review

As a result of this administrative review, we determine that the following weighted-average dumping margins exist for the period November 1, 2010, through October 31, 2011:

Company [a]	Margin (percent)
Advanced Technology & Materials Co., Ltd	0.00
AT&M International Trading Co., Ltd	0.00
Beijing Gang Yan Diamond Products Co	0.00
Bosun Tools Co., Ltd	8.10
Chengdu Huifeng Diamond Tools Co., Ltd	8.10
Cliff International Ltd	0.00
Danyang Huachang Diamond Tools Manufacturing Co., Ltd	8.10
Danyang NYCL Tools Manufacturing Co., Ltd	8.10
Danyang Weiwang Tools Manufacturing Co., Ltd	8.10
Guilin Tebon Superhard Material Co., Ltd	8.10
Hangzhou Deer King Industrial & Trading Co., Ltd	8.10
Hebei Husqvarna-Jikai Diamond Tools Co., Ltd	8.10
Huzhou Gu's Import & Export Co., Ltd	8.10
HXF Saw Co., Ltd	0.00
Jiangsu Fengtai Diamond Tool Manufacture Co., Ltd	8.10
Jiangsu Inter-China Group Corporation	8.10
Jiangsu Youhe Tool Manufacturer Co., Ltd	8.10
Quanzhou Zhongzhi Diamond Tool Co. Ltd	8.10
Rizhao Hein Saw Co., Ltd	8.10
Saint-Gobain Abrasives (Shanghai) Co., Ltd	8.10
Shanghai Robtol Tool Manufacturing Co., Ltd	8.10
Weihai Xiangguang Mechanical Industrial Co., Ltd [b]	8.10
Wuhan Wanbang Laser Diamond Tools Co	8.10
Xiamen ZL Diamond Technology Co., Ltd	8.10
Zhejiang Wanli Tools Group Co., Ltd	8.10
PRC-Wide Entity [c]	164.09

[a] During this segment of the proceeding, we identified certain name variations for several companies. *See Preliminary Results,* 77 FR at 73418–49, and accompanying Preliminary Decision Memorandum at 14.

[b] Weihai exported some of the subject merchandise to the United States through its Korean parent company, Ehwa Diamond Industrial Co., Ltd. *See, e.g.,* Weihai's March 23, 2012, section A response at 1–2.

[c] The deadline to file a separate rate application, separate rate certification, or a notification of no sales, exports or entries is 60 days after the initiation of the administrative review, which in this case was February 28, 2012. Therefore, as of February 29, 2012, the remaining companies under review that did not demonstrate eligibility for a separate rate effectively became part of the PRC-wide entity. Accordingly, the PRC-wide entity includes the following companies: Central Iron and Steel Research Institute Group, China Iron and Steel Research Institute Group, Danyang Aurui Hardware Products Co., Ltd., Danyang Dida Diamond Tools Manufacturing Co., Ltd., Danyang Hantronic, Danyang Tsunda Diamond Tools Co., Ltd., Danyang Youmei Tools Co., Ltd., Electrolux Construction Products (Xiamen) Co. Ltd., Fujian Quanzhou Wanlong Stone Co., Ltd., Hebei Jikai Industrial Group Co., Ltd., Hua Da Superabrasive Tools Technology Co., Ltd., Huachang Diamond Tools Manufacturing Co., Ltd., Jiangsu Fengyu Tools Co., Ltd., Jiangyin Likn Industry Co., Ltd., Protech Diamond Tools, Pujiang Talent Diamond Tools Co., Ltd., Quanzhou Shuangyang Diamond Tools Co., Ltd., Shanghai Deda Industry & Trading Co., Ltd., Shijiazhuang Global New Century Tools Co., Ltd., Sichuan Huili Tools Co., Task Tools & Abrasives, Wuxi Lianhua Superhard Material Tools Co., Ltd., Zhejiang Tea Import & Export Co., Ltd., Zhejiang Wanda Import and Export Co., Zhejiang Wanda Tools Group Corp., Zhejiang Wanli Super-hard Materials Co., Ltd., and Wanli Tools Group.

Assessment

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. For customers or importers of Weihai for which we do not have entered value, we calculated customer-/importer-specific antidumping duty assessment amounts based on the ratio of the total amount of dumping duties calculated for the examined sales of subject merchandise to the total sales quantity of those same sales.[7] For customers or importers of Weihai for which we received entered-value information, we have calculated customer/importer-specific antidumping duty assessment rates based on customer-/importer-specific *ad valorem* rates in accordance with 19 CFR 351.212(b)(1).

The Department has applied the assessment rate calculation method adopted in *Final Modification for Reviews, i.e.,* on the basis of monthly average-to-average comparisons using only the transactions associated with that importer with offsets being provided for non-dumped comparisons.[8] For all non-selected respondents that received a separate rate, we will instruct CBP to apply an antidumping duty assessment rate of 8.10 percent [9] to all entries of subject merchandise that entered the United States during the POR. For all other companies, we will instruct CBP to apply an antidumping duty assessment rate of 164.09 percent [10] to all entries of subject merchandise exported by these companies.

On October 24, 2011, the Department announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate.[11] In addition, for companies where the Department determined that the exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the PRC-wide rate.[12]

We intend to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

[6] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 4, 2011) (*Assessment Practice Refinement*); *see also* the ''Assessment'' section of this notice, below.

[7] *See* 19 CFR 351.212(b)(1).

[8] *See Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8103 (February 14, 2012) (*Final Modification for Reviews*).

[9] *See* Final Decision Memorandum at 5.

[10] *See Diamond Sawblades and Parts Thereof From the People's Republic of China and the Republic of Korea: Antidumping Duty Orders,* 74 FR 57145, 57147 (November 4, 2009).

[11] For a full discussion of this practice, *see Assessment Practice Refinement.*

[12] *Id.*

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of these final results of review for all shipments of the subject merchandise from the PRC 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) For subject merchandise exported by the companies listed above that have separate rates, the cash deposit rate will be the rate established in this final results of review for each exporter as listed above; [13] (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the exporter-specific rate; (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 that for the PRC-wide entity; (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 that supplied that non-PRC exporter. These deposit requirements shall remain in effect until further notice.

Notification

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 the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or 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.

These final results of review are issued and published in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: June 10, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix

1. Separate Rate
2. Corporate Affiliation
3. Targeted Dumping Allegation
4. Post-Preliminary FOP Data
5. Surrogate Country
6. Surrogate Values
   —Bronze Powder
   —Cores
   —Diamond Powder
   —Energy Inputs
   —Financial Ratios
   —Labor Costs
   —Oxygen
   —Steel Types
   —Truck Freight
   —The Philippine Data
7. U.S. Repacking Expense

[FR Doc. 2013–14374 Filed 6–14–13; 8:45 am]

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[13] We note that, pursuant to a section 129 determination, the Department announced it would instruct CBP ''to discontinue the collection of cash deposits for estimated antidumping duties for AT&M.'' *See Certain Frozen Warmwater Shrimp From the People's Republic of China and Diamond Sawblades and Parts Thereof From the People's Republic of China: Notice of Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Orders,* 78 FR 18958 (March 28, 2013). However, because of an injunction issued by the U.S. Court of International Trade in CIT Ct. No. 09–00511, the Department also explained that ''future entries of such merchandise are subject to suspension of liquidation at the cash deposit rate of zero. Subsequent action will be consistent with the final court decision.'' *Id.* at 18960, n.20. Thus, while the Department continues to be enjoined from ordering the lifting of suspension of liquidation regarding incoming entries, future entries of such merchandise will continue to be subject to suspension of liquidation at the cash deposit rate of zero, consistent with the final section 129 determination.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010–2011

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On December 12, 2012, the Department of Commerce (Department) published the *Preliminary Results* of the 2010–2011 administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC). The period of review (POR) is November 1, 2010, through October 31, 2011.[1] The final dumping margins are listed in the ''Final Results of Review'' section below.

DATES: *Effective Date:* June 17, 2013.

FOR FURTHER INFORMATION CONTACT: Lingjun Wang and David Lindgren, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2316 and (202) 482–3870, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 12, 2012, the Department published the *Preliminary Results.*[2] In January, the Department conducted verification of Golden Bird. On March 25, 2013, the Department fully extended the time limit for these final results by 60 days to June 10, 2013.[3]

The Department received case briefs from Petitioners,[4] Hebei Golden Bird Trading Co., Ltd. (Golden Bird), Shenzhen Xinboda Industrial Co., Ltd. (Xinboda), Weifang Hongqiao International Logistics Co., Ltd. (Hongqiao) and Zhengzhou Huachao Industrial Co., Ltd. (Huachao) on April 25, 2013. Further, between April 30 and May 2, 2013, Petitioners, Golden Bird, Xinboda, Hongqiao, and Jinxiang Hejia Co., Ltd. (Hejia) filed rebuttal briefs. No other case or rebuttal briefs were filed by interested parties.

Scope of the Order

The products subject to the order are all grades of garlic, whole or separated into constituent cloves. Fresh garlic that is subject to the order is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 0703.20.0000, 0703.20.0005, 0703.20.0010, 0703.20.0015, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700, 2005.99.9700. A full description of the scope of the order is contained in the Final Decision Memorandum, incorporated by

[1] *See Fresh Garlic From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2010–2011,* 77 FR 73980 (December 12, 2012) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *Id.,* 77 FR at 73981.

[3] *See* Memorandum to Edward Yang, Senior Director, China/Non-Market Economy Unit regarding ''Fresh Garlic from the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' dated March 25, 2013.

[4] Petitioners are the Fresh Garlic Producers Association, its individual members being Christopher Ranch L.L.C., The Garlic Company, Valley Garlic, and Vessey and Company, Inc.

reference.[5] The written description is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Final Decision Memorandum, dated concurrently with this notice and hereby adopted by this notice. A list of the issues raised in the briefs and addressed in the Final Decision Memorandum is appended to this notice.[6] The Final Decision Memorandum is on file electronically *via* Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov,* and is available to all parties in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building. In addition, a complete version of the Final Decision Memorandum can be accessed directly on the Internet at *http://www.trade.gov/ia/.* The signed Final Decision Memorandum and the electronic versions of the Final Decision Memorandum are identical in content.

Changes Since the Preliminary Results

For the final results, based on analysis of the comments received and our review of the record, the Department has made certain changes to the margin calculations for each respondent. Detailed discussions of these changes can be found in the Final Decision Memorandum, the Final Surrogate Values Memorandum, Golden Bird's Final Calculation Memorandum, and Xinboda's Final Calculation Memorandum.[7] In addition, because we have calculated a *de minimis* rate for the two mandatory respondents, consistent with our practice, we have assigned to the companies not selected for individual examination the most recently-calculated rate under this order which was not affected by the Department's zeroing methodology, *i.e.,* $1.28 per kilogram (kg.), the rate in the 08/09 Garlic NSR.[8] *See* Appendix II.

PRC-Wide Entity

We will treat all seven companies listed in Appendix III as part of the PRC-wide entity for these final results. Accordingly, these seven companies will be subject to the PRC-wide entity and have been assigned the PRC-wide rate of $4.71 per kilogram. *See* Final Decision Memorandum for our determination with respect to the PRC-wide entity.

Final Determination of No Shipments

In the *Preliminary Results,* after confirming their ''no shipment'' certifications with U.S. Customs and Border Protection (CBP) we determined that five companies[9] did not have any reviewable transactions during the POR. On December 5, 2012, after the *Preliminary Results* were published, three additional companies[10] notified the Department via-email that they had timely filed no shipment certifications but were instead included as part of the PRC-wide entity. The Department discovered that those certifications were filed in IA ACCESS with an incorrect POR end date of October 30, 2011, instead of October 31, 2011, which resulted in their exclusion from the POR record but the submissions remained on the Order's record.[11] The three certifications were timely filed and served with no deficiencies, and this minor error was easily remedied; as such, the Department had no basis to reject them. Subsequently, we confirmed the ''no shipment'' claims with CBP.

Therefore, the Department has made the final determination that eight companies did not have any reviewable entries of subject merchandise during the POR, and will issue appropriate instructions that are consistent with our ''automatic assessment'' clarification, for these final results.

Final Results of Review

The Department determines that the following dumping margins exist for the period November 1, 2010, through October 31, 2011.

Producer/exporter	Weighted-average margin (U.S. Dollars per kilogram)
Hebei Golden Bird Trading Co., Ltd	0.00.
Shenzhen Xinboda Industrial Co., Ltd	0.00.
Qingdao Xintianfeng Foods Co., Ltd	$1.28/kg.
Shandong Jinxiang Zhengyang Import & Export Co., Ltd	$1.28/kg.
Weifang Hongqiao International Logistics Co., Ltd	$1.28/kg.
PRC-Wide Rate	$4.71/kg.

Disclosure

The Department intends to disclose to parties to the proceeding the calculations performed within five days after the date of publication of final results in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department will direct CBP to assess importer-specific assessment rates based on the resulting per-unit (*i.e.,* per kilogram) amount on each entry of the subject merchandise during the POR. The Department intends to issue appropriate assessment instructions for such producers/exporters directly to

[5] *See* Memorandum to Paul Piquado, Assistant Secretary for Import Administration from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Issues and Decision Memorandum for the Final Results and Rescission, in Part, of the Antidumping Duty Administrative Review of Fresh Garlic from the People's Republic of China,'' dated concurrently with this notice (Final Decision Memorandum).

[6] *See* Appendix I.

[7] *See* Memorandum to the File ''Fresh Garlic from the People's Republic of China: Calculation Memorandum for the Final Results of Antidumping Duty Administrative Review—Hebei Golden Bird Trading Co., Ltd.,'' dated June 10, 2013 (Golden Bird's Final Calculation Memorandum); *see also* Memorandum to the File ''Fresh Garlic from the People's Republic of China: Calculation Memorandum for the Final Results of Antidumping Duty Administrative Review—Shenzhen Xinboda Industrial Co., Ltd.,'' dated June 10, 2013 (Xinboda's Final Calculation Memorandum); *see also* Memorandum to the File ''Fresh Garlic from the People's Republic of China: Surrogate Values for the Final Results'' dated June 10, 2013 (Final Surrogate Values Memorandum).

[8] *See Fresh Garlic From the People's Republic of China: Final Results of New Shipper Review,* 75 FR 61130 (October 4, 2010) (*08/09 Garlic NSR*). Because the rate in this review was based on a single U.S. sale, it was not impacted by the zeroing methodology.

[9] *See* Appendix III #1–#5.

[10] *See* Appendix III #6–#8.

[11] *See* Memorandum to The File dated April 18, 2013, regarding Companies with No Shipments.

CBP 15 days after the date of publication of this notice in the **Federal Register**. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis.* Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. The Department recently announced a refinement to its assessment practice in non-market economy (NME) cases.[12] Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the NME-wide rate.[13]

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) For the exporters listed above, the cash deposit rate will be the rate established in these final results of review; (2) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide entity rate of $4.71 per kilogram; and (3) 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 that supplied that non-PRC exporter. These 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 of antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of the 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 an Administrative Protective Order (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 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 terms of an APO is a violation which is subject to sanction.

These final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 10, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I

Issues Addressed in the Final Decision Memorandum

Comment 1: The Department's Non-Market Economy Policy
Comment 2: Department's 15-Day Liquidation Instruction Policy
Comment 3: Zeroing
Comment 4: Differential Pricing
Comment 5: India as the Surrogate Country
Comment 6: Garlic Input Surrogate Value
Comment 7: Price Adjustments to Fruit Inform
Comment 8: GTA Ukraine Import Statistics
Comment 9: Financial Statements
Comment 10: Hejia's No Shipment Certification
Comment 11: Hongqiao Eligibility for a Separate Rate
Comment 12: Huachao's No Shipment Letter
Comment 13: Cangshan's Factor Reporting
Comment 14: By-Product vs Co-Product

Appendix II

Companies Assigned a Separate Rate

1. Qingdao Xintianfeng Foods Co., Ltd.
2. Weifang Hongqiao International Logistics Co., Ltd.
3. Shandong Jinxiang Zhengyang Import & Export Co., Ltd.

Appendix III

Companies Included in the PRC-Wide Entity

1. Foshan Fuyi Food Co., Ltd.
2. Henan Weite Industrial Co., Ltd.
3. Shandong Chenhe Intl trading Co., Ltd.
4. Shanghai LJ International Trading Co., Ltd.
5. Sunny Import & Export Limited
6. Zhengzhou Huachao Industrial Co., Ltd.
7. Zhengshou Yuanli Trading Co., Ltd.

Appendix IV

Companies Determined To Have No Shipments

1. Chengwu County Yuanxiang Industry & Commerce Co., Ltd.
2. Jinan Farmlady Trading Co., Ltd.
3. Jinxiang Chengda Import & Export Co., Ltd.
4. Jinxiang Hejia Co., Ltd.
5. Qingdao Sea-line International Trading Co.
6. Jining Yongjia Trade Co., Ltd.
7. Qingdao Tiantaixing Foods Co. Ltd.
8. Yantai Jinyan Trading Co., Ltd.

[FR Doc. 2013–14329 Filed 6–14–13; 8:45 am]

BILLING CODE 3510–DS–P

[12] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

[13] *Id.*

DEPARTMENT OF COMMERCE

International Trade Administration

University of Pittsburgh, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L.106–36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 3720, U.S. Department of Commerce, 14th and Constitution Ave. NW., Washington, DC.

Comments: None received. *Decision:* Approved. We know of no instruments of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, that was being manufactured in the United States at the time of its order.

Docket Number: 12–064. *Applicant:* University of Pittsburgh, Pittsburgh, PA 15260. *Instrument:* Dilution Refrigerator with 18T Solenoid Superconducting Magnet. *Manufacturer:* Leiden Cryogenics, the Netherlands. *Intended Use:* See notice at 78 FR 7399–7400, February 1, 2013. *Comments:* None received. *Decision:* Approved. We know of no instruments of equivalent scientific value to the foreign instruments described below, for such purposes as this is intended to be used, that was being manufactured in the United States at the time of order. *Reasons:* The instrument will be used for three purposes: To develop ways for preserving quantum information in a way that is immune to a wide variety of decoherence mechanisms by using predicted topological properties of superconductors in two dimensions, to program fundamental couplings at near-

atomic scales and quantum simulation of ''metasuperconductors'' by using the extreme nanoscale precision with which the $LaAlO_3/SrTiO_3$ interface can be gated, and to develop new mechanisms for the transfer of quantum information between long-lived localized states (nitrogen-vacancy centers) and delocalized states (superconducting resonators). The experiments will combine the unique local control capable with the $LaAlO_3/SrTiO_3$ interface with the natural tendency of $SrTiO_3$ to become superconducting to develop superconducting structures with vortices that will be manipulated to achieve topologically protected quantum computation, as well as electrostatic programming of the $LaAlO_3/SrTiO_3$ interface with V(x,y) to create new electronic states of matter which themselves can become superconducting. The unique properties of this instrument are the capability of cooling the sample below the superconducting transition temperature (Tc~200mK), to apply large magnetic fields >18T) to investigate the large spin-orbit present in these samples (Bso~15T), and the ability to orient the sample in any orientation relative to the magnetic fields.

Docket Number: 12–066. *Applicant:* University of Pittsburgh, Pittsburgh, PA 15260. *Instrument:* mK Scanning Probe Microscope. *Manufacturer:* Nanomagnetics, Turkey. *Intended Use:* See notice at 78 FR 7399–7400, February 1, 2013. *Comments:* None received. *Decision:* Approved. We know of no instruments of equivalent scientific value to the foreign instruments described below, for such purposes as this is intended to be used, that was being manufactured in the United States at the time of order. *Reasons:* The instrument will be used for three purposes: to develop ways for preserving quantum information in a way that is immune to a wide variety of decoherence mechanisms, by using predicted topological properties of superconductors in two dimensions, to program fundamental couplings at near-atomic scales and quantum simulation of ''metasuperconductors'' by using the extreme nanoscale precision with which the $LaAlO_3/SrTiO_3$ interface can be gated, and to develop new mechanisms for the transfer of quantum information between long-lived localized states (nitrogen-vacancy centers) and delocalized states (superconducting resonators). The experiments will combine the unique local control capable with the $LaAlO_3/SrTiO_3$ interface with the natural tendency of $SrTiO_3$ to become superconducting to develop superconducting structures with vortices that will be manipulated to achieve topologically protected quantum computation, as well as electrostatic programming of the $LaAlO_3/SrTiO_3$ interface with V(x,y) to create new electronic states of matter which themselves can become superconducting. The unique properties of this instrument are the capability of scanning probe microscopy at base temperature (T<50mK), and to locally (on nanometer scales) gate, modify, and probe nanowire devices and quantum dot arrays.

Docket Number: 13–006. *Applicant:* Oregon Health and Science University, Portland, OR 97239. *Instrument:* Electron Microscope. *Manufacturer:* FEI Company, the Netherlands. *Intended Use:* See notice at 78 FR 13860–13861, March 1, 2013. *Comments:* None received. *Decision:* Approved. We know of no instruments of equivalent scientific value to the foreign instruments described below, for such purposes as this is intended to be used, that was being manufactured in the United States at the time of order. *Reasons:* The instrument will be used to obtain a powerfully detailed picture of the architecture of the molecular signals that function in normal and diseased tissues at the molecular, cell, tissue and organism levels.

The data will be used to improve management of human diseases including cancer, cardiovascular disease, immunodeficiency and dementia.

Dated: June 11, 2013.

Gregory W. Campbell,

Director, Subsidies Enforcement Office, Import Administration.

[FR Doc. 2013–14368 Filed 6–14–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Announcement of Federal Funding Opportunity (FFO)

AGENCY: Office of Economic Adjustment (OEA), Department of Defense (DoD).

ACTION: Federal Funding Opportunity Announcement.

SUMMARY: This notice announces a federal funding opportunity (FFO) to obtain funding from the DoD OEA for community planning assistance and economic diversification in response to reductions or cancellations in Department of Defense (DoD) spending. Assistance may be granted if the reduction has a direct and significant adverse impact on a community or its residents. This notice includes proposal submission requirements and instructions, and eligibility and selection criteria that will be used to evaluate proposals from state or local governments. OEA assistance awards to a state or local government may result from proposals submitted under this notice, subject to available appropriations.

DATES: Proposals will be considered for funding on a continuing basis, subject to available appropriations, commencing on the date of publication of this notice. OEA will evaluate all proposals and provide a response to a respondent within 30 business days of OEA's receipt of a final, complete application.

ADDRESSES: *Email: FFOsubmit@osd.mil.* Include ''Proposal for Defense Industry Community Adjustment Assistance'' on the subject line of the message and request delivery/read confirmation to ensure receipt.

OEA will review all applications confirmed to be received.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Gilroy, DIA Program Co-Lead, OEA, at (703) 697–2081 or *michael.gilroy@osd.mil.*

SUPPLEMENTARY INFORMATION:

Federal Funding Opportunity Title: Community Economic Adjustment Assistance for Reductions in Defense Industry Employment.

Announcement Type: Federal Funding Opportunity.

Catalog of Federal Domestic Assistance (CFDA) Number: 12.611.

I. Funding Opportunity Description

OEA is a DoD Field Activity authorized under 10 U.S.C. 2391 to provide assistance to entities of state or local governments, including regional governmental organizations, to plan and carry out community adjustment and economic diversification activities in response to the cancellation or termination of a Department of Defense contract, the failure to proceed with an approved major weapon system program, a publicly announced planned major reduction in DoD spending, or the closure or significantly reduced operations of a defense facility as the result of the merger, acquisition, or consolidation of the defense contractor operating a defense facility.

II. Award Information

OEA is accepting proposals for grant awards to support communities or regions in organizing and planning local economic adjustment programs. Proposals will be evaluated by OEA staff in coordination with Department of

Commerce, as well as other Federal agencies as invited by OEA, against the eligibility criteria provided in Section III of this notice and the selection criteria provided in Section V of this notice. OEA expects to invite successful respondents to complete full e-grant applications for funding following its determination of an eligible applicant and proposal review. To receive an award, an eligible applicant must submit both a successful proposal and an acceptable grant application. The final amount of each award will be determined by OEA based upon a review of the proposal, as well as comments from other Federal agencies, and will be subject to availability of funds. Grant awards may pay for up to 90% of a project's total cost, with the applicant required to pay not less than 10% of the project's total cost through non-Federal funding as local match. OEA reserves the right to cancel an award for non-performance.

States may request assistance to enhance their capacity to assist adversely affected communities, businesses and workers; support local adjustment and diversification initiatives; and stimulate cooperation between statewide and local adjustment and diversification efforts.

III. Eligibility Information

States, counties, municipalities, other political subdivisions of a State; special purpose units of a State or local government; and tribal nations are eligible for funding under this notice. If multiple sub-State jurisdictions respond to the same event, only one proposal will be considered. A proposal must respond to: A publicly announced planned major reduction in DoD spending; the closure or significantly reduced operations of a defense facility as the result of the merger, acquisition, or consolidation of the defense contractor operating the defense facility; the cancellation or termination of a DoD contract; or the failure to proceed with an approved major weapon system program.

This DoD activity must result in the loss of: 2,500 or more employee positions, in the case of a Metropolitan Statistical Area; 1,000 or more employee positions, in the case of a labor market area outside of a Metropolitan Statistical Area; or one percent of the total number of civilian jobs in the local labor market for the impacted area. For the purposes of demonstrating eligibility, only direct (i.e., prime and supply chain) job loss may be counted, and respondents may document a cumulative job loss over the span of not more than three consecutive years (e.g., one year prior to proposal and two years forward). Induced job loss will *not* be considered as a factor in demonstrating eligibility. The applicant must also explain how this job loss will cause direct and significant adverse impacts to the community or residents in the area.

Funding will be awarded to only one governmental entity on behalf of a region, so regional applicants should demonstrate a significant level of cooperation in their proposal.

A proposal from a State applicant must demonstrate how the proposed grant would support adversely affected communities, businesses and workers; support local adjustment and diversification initiatives or planning for such initiatives; and stimulate cooperation between statewide and local adjustment and diversification efforts. The proposal should also explain efforts to provide business planning and market exploration services to defense contractors and subcontractors seeking modernization or diversification assistance as well as any training, counseling, and placement services to dislocated armed forces and defense workers.

Eligible projects from non-State applicants must be designed to allow an impacted region to: (1) Organize itself to represent and respond on behalf of affected communities, workers, and businesses; (2) plan local community and economic adjustment activities to assist affected communities, workers, and businesses; and (3) carry-out plans to effectively respond to the defense impacts and stabilize the local economy. Eligible activities may include (but are not limited to): Staffing, operating and administrative costs for an organization; outreach to businesses, workers, and other community interests; regional supply-chain mapping of defense-specific industry clusters; asset mapping to support a response; economic data collection and analysis to identify regional comparative advantages; preparation of diversification plans to lessen economic dependency on defense expenditures; facilitation of workforce adjustment and retraining efforts; provision of business planning and market exploration services for defense contractors and sub-contractors that seek modernization or diversification assistance; and, preliminary strategies and plans for the potential reuse or redevelopment of existing defense facilities.

Funds available under this program should not duplicate nor replicate activities otherwise eligible for/funded through other Federal programs. Respondents are encouraged to submit proposals which demonstrate appropriate leverage of all public and private resources and programs, such as:

- U.S. Department of Commerce's Manufacturing Extension Partnership (MEP) Program for provision of relevant assistance to the region's manufacturers that operate as part of affected Defense supply chains;
- State, regional, and local economic development organizations which often work with the U.S. Department of Commerce's (DOC) Economic Development Administration (EDA);
- Small Business Development Centers as well as local Small Business Administration District offices; and
- U.S. Department of Labor's (DOL) Employment and Training Administration (ETA) grantees, including local Workforce Investment Boards and/or American Job Centers.

Funds provided under this program may not be used to directly identify or assist a business, including a business expansion, in the relocation of a plant, facility, or operation from one Labor Market Area (LMA) to another if the relocation is likely to result in the loss of jobs in the LMA from which the relocation occurs.

IV. Application and Submission Information

Proposals will be accepted as received on a continuing basis commencing on the date of this publication and processed when deemed to be a final, complete application. Each proposal shall consist of no more than ten (10) single-sided pages exclusive of cover sheet and/or transmittal letter, and must include the following information:

A. *Point of Contact:* Name, phone number, email address, and organization address of the respondent's primary point of contact;

B. *Defense Action/Impact:* A description of the publicly announced planned major reduction in Department of Defense (DoD) spending; the closure or significantly reduced operations of a defense facility as the result of the merger, acquisition, or consolidation of the defense contractor operating the defense facility; the cancellation or termination of a DoD contract; or the failure to proceed with an approved major weapon system program. Also include documentation of the known or anticipated job loss; the average unemployment rate over the past year; the current unemployment rate; and other factors indicating community impact and need;

C. *Project Description:* A description of the proposed project, including how the project addresses the impacts of Defense actions on communities, workers, and businesses;

D. *Project Parties:* A description of the local partner organizations/jurisdictions, and their roles and responsibilities, that will carry out the proposed project, including letters of support as attachments that will *not* count against the ten-page limit;

E. *Grant Funds and Other Sources of Funds:* A summary of local needs, including need for Federal funding; an overview of all State and local funding sources, including the funds requested under this notice; financial commitments for other Federal and non-Federal funds needed to undertake the project to include acknowledgment to provide not less than 10% of the funding from non-Federal sources; a description of any other Federal funding for which the respondent has applied, or intends to apply to support this effort; and, a statement detailing how the proposal is not duplicative of other available Federal funding;

F. *Project Schedule:* A sufficiently detailed project schedule, including milestones;

G. *Performance Metrics:* A description of metrics to be tracked and evaluated over the course of the project to gauge performance of the project;

H. *Grants Management:* Evidence of the intended recipient's ability and authority to manage grant funds;

I. *Submitting Official:* Documentation that the Submitting Official is authorized by the applicant to submit a proposal and subsequently apply for assistance.

OEA reserves the right to ask any applicant to supplement the information in its proposal, but expects proposals to be complete upon submission. To the extent practicable, OEA encourages applicants to provide data and evidence of all project merits in a form that is publicly available and verifiable.

Proposals must be submitted electronically to: Director, OEA, using the electronic address described in **ADDRESSES**.

V. Application Review Information

Selection Criteria—Upon validating applicant eligibility, to include job loss numbers and whether there is a direct and significant adverse impact as a result of the job loss on the area, OEA will consider each of the following equally-balanced factors as a basis to invite formal grant applications:

- An appropriate and clear project design to address the need, problem, or issue identified;
- Evidence of an holistic approach to the problem which leverages education, the workforce system, businesses, higher education, economic development, and other relevant assets at local, state, regional, and Federal levels;
- The innovative quality of the proposed approach to economic adjustment, or economic diversification; and,
- A reasonable proposed budget with local match commitment and schedule for completion of the work program specified.

Review and Selection Process—All proposals will be reviewed on their individual merit by a panel of OEA staff, all of whom are Federal employees. OEA will also seek the input of other Federal agencies with relevant expertise (e.g., Labor, Commerce, and the Small Business Administration) in the evaluation of proposals. OEA will notify the applicant within thirty (30) days of receipt of a proposal whether their proposal was successful in selection for grant award and will then invite the applicant to submit a more detailed electronic grant (eGrant) application. The Director, OEA, will then assign a Project Manager to advise and assist successful applicants in the preparation of the application. Grant applications will be reviewed for their completeness and accuracy and a grant award notification will be issued, to the extent possible, within seven (7) business days.

Unsuccessful applicants will be notified by mail or email that their proposal was not selected for further action and funding, and may request a debriefing on their submitted proposal. Requests for debriefing must be submitted within 3 calendar days of notification of an unsuccessful proposal.

OEA is committed to conducting a transparent financial assistance award process and publicizing information about decisions. Applicants are advised that their respective applications and information related to their review and evaluation may be shared publicly. In the event of a grant award, information about project progress and related results may also be made publicly available.

VI. Award Administration Information

In the event a grant is awarded, the successful applicant (Grantee) will receive a notice of award in the form of a Grant Agreement, signed by the Director, OEA (Grantor), on behalf of the Department of Defense. The Grant Agreement will be transmitted electronically or, if necessary, by U.S. Mail.

Administrative and National Policy Requirements—The Grantee and any consultant/contractor operating under the terms of a grant shall comply with all Federal, State, and local laws applicable to its activities including the following: Part 33 of title 32, Code of Federal Regulations (CFR), ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,'' Part 225 of title 2, CFR, ''Cost Principles for State, Local, and Indian Tribal Governments,'' OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations,'' and the Single Audit Act, 31 U.S.C. § 7502(h),'' Parts 180, ''OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement),'' and 1125, ''Department of Defense Nonprocurement Debarment and Suspension,'' of title 2, CFR, Subpart B, ''Requirements for Recipients Other Than Individuals,'' of Part 26 of title 32, CFR, ''Government wide Requirements for Drug-Free Workplace (Financial Assistance),'' Part 28 of title 32, CFR, ''New Restrictions on Lobbying,'' Part 25 of title 2, CFR, ''Universal Identifier and Central Contractor Registration'' (now found in the System for Award Management (SAM) at *www.sam.gov*).

Grant Award Determination—Selection of an organization under this FFO does not constitute approval of the proposed project as submitted. Before any funds are awarded, OEA may enter into negotiations about such items as program components, staffing and funding levels, and administrative systems in place to support implementation of the award. The amount of available funding may require the final award amount to be less than that originally requested by the applicant. If the negotiations do not result in a mutually acceptable submission, OEA reserves the right to terminate the negotiations and decline to fund the application. OEA further reserves the right not to fund any proposal or application received under this FFO.

In the event the applicant is awarded a grant that is less than the amount requested, the applicant will be required to modify its grant application to conform to the reduced amount before execution of the grant agreement. OEA reserves the right to reduce or withdraw the award if acceptable modifications are not submitted by the awardee within 15 working days from the date the request for modification is made. Any modifications must be within the scope of the original application.

Reporting—OEA requires quarterly performance reports, an interim financial report for each 12 months a grant is active, and one final performance report for any grant. The performance reports will contain information on the following:

• A comparison of actual accomplishments to the objectives established for the period;
• Reasons for slippage if established objectives were not met;
• Additional pertinent information when appropriate;
• A comparison of actual and projected quarterly expenditures in the grant; and,
• Amount of Federal cash on hand at the beginning and end of the reporting period.

The final performance report must contain a summary of activities for the entire grant period. All required deliverables should be submitted with the final performance report. The final SF 425, ''Federal Financial Report,'' must be submitted to OEA within 90 days after the end of the grant. Any grant funds actually advanced and not needed for grant purposes shall be returned immediately to OEA. Upon award, OEA will provide a schedule for reporting periods and report due dates in the Grant Agreement.

VII. Agency Contacts

For further information, to answer questions, or for help with problems, contact: Mr. Michael Gilroy, OEA DIA Program Co-Lead, at (703) 697–2081, *michael.gilroy@osd.mil,* or regular mail at 2231 Crystal Drive, Suite 520, Arlington, VA 22202–3711. The OEA homepage address is: *http://www.oea.gov.*

VIII. Other Information

No Obligation for Future Funding—Amendment or renewal of an award to increase funding or to extend the period of performance is at the discretion of OEA. If an applicant is awarded funding under this FFO, neither the DOC, EDA, National Institute of Standards and Technology, DOL, ETA, nor Small Business Administration are under any obligation to provide any additional future funding in connection with that award or to make any future award(s).

Intellectual Property Rights—In the event of a grant award, the Grantee may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under an award. The Federal awarding agencies reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so. Such uses include, but are not limited to, the right to modify and distribute such products worldwide by any means, electronically or otherwise. The grantee may not use Federal funds to pay any royalty or license fee for use of a copyrighted work, or the cost of acquiring by purchase a copyright in a work, where the Department has a license or rights of free use in such work. If revenues are generated through selling products developed with grant funds, including intellectual property, these revenues are program income. Program income is added to the grant and must be expended for allowable grant activities.

Dated: June 12, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–14300 Filed 6–14–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulation System

[Docket No. DARS–2013–0006]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by July 17, 2013.

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 228, Bonds and Insurance, and related clauses at 252.228; OMB Control Number 0704–0216.

Type of Request: Extension.

Number of Respondents: 125.

Responses per Respondent: 1.

Annual Responses: 125.

Average Burden per Response: Approximately 4 hours.

Annual Burden Hours: 471.

Needs and Uses: DoD uses the information obtained through this collection to determine the allowability of a contractor's costs of providing war-hazard benefits to its employees; to determine the need for an investigation regarding an accident that occurs in connection with a contract; and to determine whether a contractor performing a service or construction contract in Spain has adequate insurance coverage.

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

Frequency: On occasion.

Respondent's Obligation: Required to obtain or maintain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket 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 number, and title for the **Federal Register** document. The general policy for comments and other public 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 provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Kortnee Stewart,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2013–14302 Filed 6–14–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army; Army Corps of Engineers

Notice of Solicitation of Applications for Stakeholder Representative Members of the Missouri River Recovery Implementation Committee

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice.

SUMMARY: The Commander of the Northwestern Division of the U.S. Army Corps of Engineers (Corps) is soliciting applications to fill vacant stakeholder representative member positions on the Missouri River Recovery Implementation Committee (MRRIC). Members are sought to fill vacancies on

a committee to represent various categories of interests within the Missouri River basin. The MRRIC was formed to advise the Corps on a study of the Missouri River and its tributaries and to provide guidance to the Corps with respect to the Missouri River recovery and mitigation activities currently underway. The Corps established the MRRIC as required by the U.S. Congress through the Water Resources Development Act of 2007 (WRDA), Section 5018.

DATES: The agency must receive completed applications and endorsement letters no later than July 19, 2013.

ADDRESSES: Mail completed applications and endorsement letters to U.S. Army Corps of Engineers, Omaha District (Attn: MRRIC), 1616 Capitol Avenue, Omaha, NE 68102–4901 or email completed applications to *info@mrric.org*. Please put ''MRRIC'' in the subject line.

FOR FURTHER INFORMATION, CONTACT: Mary S. Roth, 402–995–2919.

SUPPLEMENTARY INFORMATION: The operation of the MRRIC is in the public interest and provides support to the Corps in performing its duties and responsibilities under the Endangered Species Act, 16 U.S.C. 1531 *et seq.;* Sec. 601(a) of the Water Resources Development Act (WRDA) of 1986, Public Law 99–662; Sec. 334(a) of WRDA 1999, Public Law 106–53, and Sec. 5018 of WRDA 2007, Public Law 110–114. The Federal Advisory Committee Act, 5 U.S.C. App. 2, does not apply to the MRRIC.

A Charter for the MRRIC has been developed and should be reviewed prior to applying for a stakeholder representative membership position on the Committee. The Charter, operating procedures, and stakeholder application forms are available electronically at *www.MRRIC.org*.

Purpose and Scope of the Committee. The duties of the MRRIC cover two areas:

1. The Committee provides guidance to the Corps, and affected federal agencies, state agencies, or Native American Indian Tribes on a study of the Missouri River and its tributaries to determine the actions required to mitigate losses of aquatic and terrestrial habitat, to recover federally-listed species protected under the Endangered Species Act, and to restore the river's ecosystem to prevent further declines among other native species. This study is identified in Section 5018 (a) of the WRDA. It will result in a single, comprehensive plan to guide the implementation of mitigation, recovery, and restoration activities in the Missouri River Basin. This plan is referred to as the Missouri River Ecosystem Restoration Plan (MRERP). For more information about the MRERP go to *www.MRERP.org*.

2. The MRRIC also provides guidance to the Corps with respect to the Missouri River recovery and mitigation plan currently in existence, including recommendations relating to changes to the implementation strategy from the use of adaptive management; coordination of the development of consistent policies, strategies, plans, programs, projects, activities, and priorities for the Missouri River recovery and mitigation plan. Information about the Missouri River Recovery Program is available at *www.MoRiverRecovery.org*.

3. Other duties of MRRIC include exchange of information regarding programs, projects, and activities of the agencies and entities represented on the Committee to promote the goals of the Missouri River recovery and mitigation plan; establishment of such working groups as the Committee determines to be necessary to assist in carrying out the duties of the Committee, including duties relating to public policy and scientific issues; facilitating the resolution of interagency and intergovernmental conflicts between entities represented on the Committee associated with the Missouri River recovery and mitigation plan; coordination of scientific and other research associated with the Missouri River recovery and mitigation plan; and annual preparation of a work plan and associated budget requests.

Administrative Support. To the extent authorized by law and subject to the availability of appropriations, the Corps provides funding and administrative support for the Committee.

Committee Membership. Federal agencies with programs affecting the Missouri River may be members of the MRRIC through a separate process with the Corps. States and federally-recognized Native American Indian Tribes, as described in the Charter, are eligible for Committee membership through an appointment process. Interested state and Tribal government representatives should contact the Corps for information about the appointment process.

This Notice is for individuals interested in serving as a stakeholder member on the Committee. In accordance with the Charter for the MRRIC, stakeholder membership is limited to 28 people, with each member having an alternate. Members and alternates must be able to demonstrate that they meet the definition of ''stakeholder'' found in the Charter of the MRRIC. Applications are currently being accepted for representation in the stakeholder interest categories listed below:

a. Conservation Districts;
b. Fish and Wildlife;
c. Flood Control;
d. Hydropower;
e. Irrigation;
f. Major Tributaries;
g. Recreation;
h. Thermal Power;
i. Water Quality; and
j. Waterway Industries.

Terms of stakeholder representative members of the MRRIC are three years. There is no limit to the number of terms a member may serve. Incumbent Committee members seeking reappointment do not need to re-submit an application. However, they must submit a renewal letter and related materials as outlined in the ''Streamlined Process for Existing Members'' portion of the document *Process for Filling MRRIC Stakeholder Vacancies* (*www.MRRIC.org*).

Members and alternates of the Committee will not receive any compensation from the federal government for carrying out the duties of the MRRIC. Travel expenses incurred by members of the Committee will not be reimbursed by the federal government.

Application for Stakeholder Membership. Persons who believe that they are or will be affected by the Missouri River recovery and mitigation activities may apply for stakeholder membership on the MRRIC. Committee members are obligated to avoid and disclose any individual ethical, legal, financial, or other conflicts of interest they may have involving MRRIC. Applicants must disclose on their application if they are directly employed by a government agency or program (the term ''government'' encompasses state, tribal, and federal agencies and/or programs).

Applications for stakeholder membership may be obtained electronically at *www.MRRIC.org*. Applications may be emailed or mailed to the location listed (see **ADDRESSES**). In order to be considered, each application must include:

1. The name of the applicant and the primary stakeholder interest category that person is qualified to represent;

2. A written statement describing the applicant's area of expertise and why the applicant believes he or she should be appointed to represent that area of expertise on the MRRIC;

3. A written statement describing how the applicant's participation as a

stakeholder representative will fulfill the roles and responsibilities of MRRIC;

4. A written description of the applicant's past experience(s) working collaboratively with a group of individuals representing varied interests towards achieving a mutual goal, and the outcome of the effort(s);

5. A written description of the communication network that the applicant plans to use to inform his or her constituents and to gather their feedback, and

6. A written endorsement letter from an organization, local government body, or formal constituency, which demonstrates that the applicant represents an interest group(s) in the Missouri River basin.

To be considered, the application must be complete and received by the close of business on July 19, 2013, at the location indicated (see **ADDRESSES**). Applications must include an endorsement letter to be considered complete. Full consideration will be given to all complete applications received by the specified due date.

Application Review Process. Committee stakeholder applications will be forwarded to the current members of the MRRIC. The MRRIC will provide membership recommendations to the Corps as described in Attachment A of the *Process for Filling MRRIC Stakeholder Vacancies* document (*www.MRRIC.org*). The Corps is responsible for appointing stakeholder members. The Corps will consider applications using the following criteria:

- Ability to commit the time required.
- Commitment to make a good faith (as defined in the Charter) effort to seek balanced solutions that address multiple interests and concerns.
- Agreement to support and adhere to the approved MRRIC Charter and Operating Procedures.
- Demonstration of a formal designation or endorsement by an organization, local government, or constituency as its preferred representative.
- Demonstration of an established communication network to keep constituents informed and efficiently seek their input when needed.
- Agreement to participate in collaboration training as a condition of membership.

All applicants will be notified in writing as to the final decision about their application.

Certification. I hereby certify that the establishment of the MRRIC is necessary and in the public interest in connection with the performance of duties imposed on the Corps by the Endangered Species Act and other statutes.

Dated: June 10, 2013.

Mary S. Roth,

Project Manager for the Missouri River, Recovery Implementation Committee (MRRIC).

[FR Doc. 2013–14315 Filed 6–14–13; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC13–17–000]

Commission Information Collection Activities (FERC–551); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, Reporting of Flow Volume and Capacity by Interstate Natural Gas Pipelines. This collection originally affected both intrastate and interstate natural gas pipelines, but for reasons described below only pertains to interstate natural gas pipelines.

DATES: Comments on the collection of information are due August 16, 2013.

ADDRESSES: You may submit comments (identified by Docket No. IC13–17–000) by either of the following methods:

- *eFiling at Commission's Web site: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: Reporting of Flow Volume and Capacity by Interstate Natural Gas Pipelines.

OMB Control No.: 1902–0243.

Type of Request: Three-year extension of the FERC–551 information collection requirements with no changes to the current reporting requirements except as described below.

Abstract: Interstate pipelines are required to post on their Web sites the volumes of no-notice service flows [1] at each receipt and delivery point before 11:30 a.m. central clock time three days after the day of gas flow.

FERC implemented Order Nos. 720 and 720–A to comply with the Energy Policy Act of 2005 (''EPAct 2005'') and specifically Section 23 of EPAct 2005, which amended the NGA to direct FERC to ''facilitate price transparency in markets for the sale or transportation of physical natural gas in interstate commerce.'' On October 24, 2011, the United States Court of Appeals for the Fifth Circuit issued a decision granting the Texas Pipeline Association and the Railroad Commission's petition for review and vacating FERC's Order Nos. 720 and 720–A. In its order, the 5th Circuit held that Order Nos. 720 and 720–A exceeded the scope of FERC' authority under the Natural Gas Act of 1938 and FERC could not require intrastate natural gas pipelines to post the information. However, the court's decision did not disrupt the reporting and posting obligations of interstate natural gas pipelines.[2]

Type of Respondents: Interstate Natural Gas Pipelines.

Estimate of Annual Burden:[3] The Commission estimates the total Public Reporting Burden for this information collection for Interstate Natural Gas

[1] *See* 18 CFR 284.7(a)(4) (requiring pipelines to provide no-notice service).

[2] Order Granting Motion to Clarify Opinion, *Texas Pipelines Ass'n* v. *FERC,* 661 F.3d 258 (Dec. 20. 2011).

[3] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

Pipelines has not changed since the Final Rule on Rehearing was issued on January 21, 2012 in Docket No. RM08–2–001.[4]

Number of respondents	Number of daily postings per respondent	Estimated annual burden hours per respondent	Total annual hours for all respondents
101	1	183	18,483

The Commission estimates $1,040,038 as the total collection cost based on 18,483 hours at $56.27/hour[5] (18,483 hours*$56.27/hour=1,040,038 (rounded)).

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: June 10, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–14277 Filed 6–14–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP13–486–000]

Dominion Transmission, Inc.; Notice of Application

Take notice that on May 29, 2013, Dominion Transmission, Inc. (DTI), 120 Tredegar Street, Richmond, VA 23219, filed in Docket No. CP13–486–000, a request for authority, pursuant section 7(b) of the Natural Gas Act and Commission regulations, to abandon Line No. M–3350 located in Magnolia District, Wetzel County, West Virginia. Specifically, DTI proposes to abandon by sale approximately 5,687 feet of two-inch diameter pipe, along with meters and associated equipment to Hope Gas, Inc. d/b/a Dominion Hope. DTI avers that the requested abandonment will not affect the operation of the remain of DTI's pipeline system, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Any questions regarding this application should be directed Lois M. Henry, Senior Counsel, Dominion Resources Services, Inc. 120 Tredegar Street, Richmond, VA 23219, telephone No. (804) 819–2946, facsimile No. (804) 819–2183 and email: *lois.m.henry@dom.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's

[4] 18 CFR still lists the posting requirements for intrastate pipelines at 284.14. The Commission notes that because of the court's decision, FERC no longer requires intrastate pipelines to report this information.

[5] This figure includes wages plus benefits and comes from the Bureau of Labor Statistics Management Analyst category (13–1111) (*http://bls.gov/oes/current/naics2_22.htm* and *http://www.bls.gov/news.release/ecec.nr0.htm*).

environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on June 19, 2013.

Dated: June 10, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–14271 Filed 6–14–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP13–485–000]

Texas Gas Transmission, LLC; Notice Of Application

Take notice that on May 29, 2013, Texas Gas Transmission, LLC (Texas Gas), 9 Greenway Plaza, Suite 2800, Houston, Texas 77046, filed in Docket No. CP13–485–000, pursuant to section 7(b) of the Natural Gas Act (NGA) this abbreviated application for authorization to abandon certain mainline facilities. Texas Gas requests authority to abandon approximately 623 miles of pipeline segments and associated facilities from Eunice, Louisiana to Hardinsburg, Kentucky. The facilities to be abandoned consist primarily of one of three ''looped'' parallel pipelines that comprise a portion of Texas Gas' mainline facilities. All of Texas Gas' installed facilities south of Eunice and north of Hardinsburg will remain in interstate natural gas transportation service. Following abandonment, Texas Gas will continue to provide natural gas transportation service on its remaining pipeline facilities as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions regarding this application may be directed to J. Kyle Stephens, Vice President of Regulatory Affairs, Boardwalk Pipeline Partners, LP, 9 Greenway Plaza, Houston, Texas, 77046; by fax to (713) 479–1846; or by email to *kyle.stephens@bwpmlp.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit an original plus five copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and five copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: July 2, 2013.

Dated: June 11, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–14276 Filed 6–14–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14501–000]

Carlsbad Municipal Water District; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, Protests, Recommendations, and Terms and Conditions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Conduit Exemption.

b. *Project No.:* 14501–000.

c. *Date filed:* February 21, 2013, and supplemented on May 13, 2013.

d. *Applicant:* Carlsbad Municipal Water District.

e. *Name of Project:* Pressure Control Hydroelectric Facility at Maerkle Reservoir Project.

f. *Location:* The proposed Pressure Control Hydroelectric Facility at Maerkle Reservoir Project would be located on a water supply pipeline entering the Maerkle Reservoir in San Diego County, California. The land on which all the project structures are located is owned by the applicant.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. William Plummer, Engineering Manager, Carlsbad Municipal Water District, 5950 El Camino Real, Carlsbad, CA 92008; phone (760) 602–2768.

i. *FERC Contact:* Robert Bell, (202) 502–6062, *robert.bell@ferc.gov.*

j. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

k. *Deadline for filing responsive documents:* Due to the small size of the proposed project, as well as the resource agency consultation letters filed with the application, the 60-day timeframe specified in 18 CFR 4.34(b) for filing all comments, motions to intervene, protests, recommendations, terms and conditions, and prescriptions is shortened to 30 days from the issuance date of this notice. All reply comments filed in response to comments submitted by any resource agency, Indian tribe, or person, must be filed with the Commission within 45 days from the issuance date of this notice.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* The Commission strongly encourages electronic filings.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of the project:* The proposed Pressure Control Hydroelectric Facility at Maerkle Reservoir Project would consist of: (1) A proposed 30-inch-diameter by 16-inch-diameter reducer; (2) a proposed 80-foot-long, 16-inch-diameter intake pipe; (3) a proposed 18-foot by 18-foot powerhouse containing one generating unit with an installed capacity of 135 kilowatts; (4) a proposed 16-inch diameter, 50-foot discharge pipe, connecting to existing 42-inch diameter and 10-inch diameter pipes conveying the water to the Maerkle Tank and Maerkle Dam Reservoir; and (5) appurtenant facilities. The applicant estimates the project would have an average annual generation of 0.833 gigawatt-hours.

m. This filing is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the ''eLibrary'' link. Enter the docket number, P–14501, in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for review and reproduction at the address in item h above.

n. *Development Application*—Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

o. *Notice of Intent*—A notice of intent must specify the exact name, business, address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a competing development application. A notice of intent must be served on the applicant named in this public notice.

p. *Protests or Motions to Intervene*—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

q. All filings must (1) bear in all capital letters the title ''PROTEST,'' ''MOTION TO INTERVENE,'' ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading, the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and seven copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Office of Energy Projects, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in

the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

r. *Waiver of Pre-filing Consultation:* In January 2011, the applicant informed agencies and affected Indian Tribes of its request to waive the Commission's consultation requirements under 18 CFR 4.38(c). No objections were received. Therefore, the Commission intends to accept the consultation that has occurred on this project during the pre-filing period and to waive pre-filing consultation under section 4.38(c), which requires, among other things, conducting studies requested by resource agencies, and distributing and consulting on a draft exemption application.

Dated: June 11, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–14273 Filed 6–14–13; 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 corporate filings:

Docket Numbers: EC13–91–000.
Applicants: Florida Power & Light Company.
Description: Florida Power & Light Company submits response to May 15, 2013 letter requesting additional information on the impact of the transaction on rates etc.
Filed Date: 5/28/13.
Accession Number: 20130528–5157.
Comments Due: 5 p.m. ET 6/24/13.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG13–39–000.
Applicants: Osprey Energy Center, LLC.
Description: Self-Certification of Exempt Wholesale Generator Status of Osprey Energy Center, LLC.
Filed Date: 6/10/13.
Accession Number: 20130610–5069.
Comments Due: 5 p.m. ET 7/1/13.

Docket Numbers: EG13–40–000.
Applicants: CCFC Sutter Energy, LLC.
Description: Self-Certification of Exempt Wholesale Generator Status of CCFC Sutter Energy, LLC.
Filed Date: 6/10/13.
Accession Number: 20130610–5071.
Comments Due: 5 p.m. ET 7/1/13.

Docket Numbers: EG13–41–000.
Applicants: Westbrook Energy Center, LLC.
Description: Self-Certification of Exempt Wholesale generator Status of Westbrook Energy Center, LLC.
Filed Date: 6/10/13.
Accession Number: 20130610–5072.
Comments Due: 5 p.m. ET 7/1/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2738–002.
Applicants: The Empire District Electric Company.
Description: Supplement to June 29, 2012 Triennial Market Power Analysis.
Filed Date: 2/6/13.
Accession Number: 20130206–5043.
Comments Due: 5 p.m. ET 6/24/13.

Docket Numbers: ER13–1649–000.
Applicants: Trademark Merchant Energy, LLC.
Description: Amendment to MBR Tariff—Polaris to be effective 8/9/2013.
Filed Date: 6/10/13.
Accession Number: 20130610–5058.
Comments Due: 5 p.m. ET 7/1/13.

Docket Numbers: ER13–1650–000.
Applicants: Tyr Energy LLC.
Description: Amendment to MBR Tariff—Polaris to be effective 8/9/2013.
Filed Date: 6/10/13.
Accession Number: 20130610–5059.
Comments Due: 5 p.m. ET 7/1/13.

Docket Numbers: ER13–1651–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: Original Service Agreement No. 3570; Queue No. NQ81 to be effective 5/9/2013.
Filed Date: 6/10/13.
Accession Number: 20130610–5078.
Comments Due: 5 p.m. ET 7/1/13.

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 10, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–14317 Filed 6–14–13; 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: EC13–107–000.
Applicants: Beech Ridge Energy LLC, Bishop Hill Energy LLC, Bishop Hill Energy III LLC, Bishop Hill Interconnection LLC, California Ridge Wind Energy LLC, Forward Energy LLC, Grand Ridge Energy LLC, Grand Ridge Energy II LLC, Grand Ridge Energy III LLC, Grand Ridge Energy IV LLC, Grand Ridge Energy V LLC, Gratiot County Wind LLC, Gratiot County Wind II LLC, Invenergy TN LLC, Judith Gap Energy LLC, Sheldon Energy LLC, Spring Canyon Energy LLC, Stony Creek Energy LLC, Vantage Wind Energy LLC, Willow Creek Energy LLC, Wolverine Creek Energy LLC, Wolverine Creek Goshen Interconnection LLC, Prairie Breeze Wind Energy LLC.
Description: Supplement to May 22, 2013 Section 203 Filing of Beech Ridge Energy LLC, et al.
Filed Date: 6/10/13.
Accession Number: 20130610–5033.
Comments Due: 5 p.m. ET 6/20/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–1139–002.
Applicants: Imperial Valley Solar 1, LLC.
Description: Imperial Valley Solar 1, LLC submit a revised horizontal market power analysis that relies on the analysis of the CASIO market submitted by Agua Caliente Solar, LLC.
Filed Date: 6/7/13.
Accession Number: 20130607–5145.
Comments Due: 5 p.m. ET 6/21/13.

Docket Numbers: ER13–1394–000.
Applicants: Indiana Michigan Power Company, American Electric Power Service Corporation, PJM Interconnection, L.L.C.
Description: AEP (I&M) submits supplemental information to clarify effective date to be effective N/A.
Filed Date: 6/7/13.
Accession Number: 20130607–5055.
Comments Due: 5 p.m. ET 6/28/13.

Docket Numbers: ER13–1647–000.
Applicants: Pacific Gas and Electric Company.

Description: Notice of Termination for Potrero Hills Energy Producers to be effective 5/22/2013.
Filed Date: 6/10/13.
Accession Number: 20130610–5000.
Comments Due: 5 p.m. ET 7/1/13.

Docket Numbers: ER13–1648–000.
Applicants: PJM Interconnection, L.L.C.
Description: Original Service Agreement No. 3529; Queue No. Y2–037 to be effective 5/9/2013.
Filed Date: 6/10/13.
Accession Number: 20130610–5031.
Comments Due: 5 p.m. ET 7/1/13.

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 10, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–14316 Filed 6–14–13; 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: RP13–968–000.
Applicants: Sea Robin Pipeline Company, LLC.
Description: Extend Hurricane Surcharge to be effective 7/7/2013.
Filed Date: 6/6/13.
Accession Number: 20130606–5039.
Comments Due: 5 p.m. ET 6/18/13.

Docket Numbers: RP13–970–000.
Applicants: Texas Eastern Transmission, LP.
Description: NJRES 910531 7–1–2013 Negotiated Rate to be effective 7/1/2013.
Filed Date: 6/7/13.
Accession Number: 20130607–5065.
Comments Due: 5 p.m. ET 6/19/13.

Docket Numbers: RP13–971–000.
Applicants: Alliance Pipeline L.P.
Description: June 12–30 2013 Auction to be effective 6/12/2013.
Filed Date: 6/7/13.
Accession Number: 20130607–5090.
Comments Due: 5 p.m. ET 6/19/13.

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 10, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–14319 Filed 6–14–13; 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: RP13–972–000.
Applicants: Equitrans, L.P.
Description: Requests for temporary waiver of certain NAESB Standards and the Commission regulations.
Filed Date: 6/10/13.
Accession Number: 20130610–5077.
Comments Due: 5 p.m. ET 6/14/13.

Docket Numbers: RP13–973–000.
Applicants: Columbia Gas Transmission, LLC.
Description: Negotiated Rate Agreement—UGI (SST–79133) to be effective 6/11/2013.
Filed Date: 6/10/13.
Accession Number: 20130610–5123.
Comments Due: 5 p.m. ET 6/24/13.

Docket Numbers: RP13–974–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Amendment to Neg Rate Agmt (FPL 40097–3) to be effective 6/11/2013.
Filed Date: 6/11/13.
Accession Number: 20130611–5014.
Comments Due: 5 p.m. ET 6/24/13.

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.

Filings in Existing Proceedings

Docket Numbers: RP13–778–001.
Applicants: Millennium Pipeline Company, LLC.
Description: Notice of Commencement of Service.
Filed Date: 6/10/13.
Accession Number: 20130610–5106.
Comments Due: 5 p.m. ET 6/24/13.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 11, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–14320 Filed 6–14–13; 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: CP13–489–000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: Application to Abandon Exchange Services Provided Under Rate

Schedule X–65 of Tennessee Gas Pipeline Company, L.L.C.

Filed Date: 6/3/13.

Accession Number: 20130603–5163.

Comments Due: 5 p.m. ET 6/17/13.

Docket Numbers: CP13–490–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: Abbreviated Application of Algonquin Gas Transmission, LLC for Approval to Abandon Exchange Service.

Filed Date: 6/3/13.

Accession Number: 20130603–5164.

Comments Due: 5 p.m. ET 6/17/13.

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.

Filings in Existing Proceedings

Docket Numbers: RP13–189–001.

Applicants: National Fuel Gas Supply Corporation.

Description: RP13–189 Compliance Filing to be effective 4/28/2013.

Filed Date: 6/5/13.

Accession Number: 20130605–5081.

Comments Due: 5 p.m. ET 6/17/13.

Docket Numbers: RP13–941–002.

Applicants: Southern Star Central Gas Pipeline, Inc.

Description: Rate Case (RP13–941) Errata Filing—June 5, 2013 to be effective 7/1/2013.

Filed Date: 6/5/13.

Accession Number: 20130605–5069.

Comments Due: 5 p.m. ET 6/17/13.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 6, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–14318 Filed 6–14–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR13–51–000]

Calpine Texas Pipeline, L.P.; Notice of Filing

Take notice that on June 7, 2013, Calpine Texas Pipeline, L.P. filed to cancel its Statement of Operating Conditions and rates for interstate transportation service under Section 311 of the Natural Gas Policy Act, as more fully described in the filing.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on Friday, June 21, 2013.

Dated: June 10, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–14274 Filed 6–14–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR13–52–000]

APL SouthTex Transmission Company LP, Formerly TEAK Texana Transmission Company, LP; Notice of Filing

Take notice that on June 7, 2013, APL SouthTex Transmission Company LP (APL SouthTex) filed to notify the Commission of its name change from TEAK Texana Transmission Company, LP. In addition, APL SouthTex filed a revised Statement of Operating Conditions reflecting the name change and certain housekeeping revisions, as more fully described in the filing.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed

docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on Friday, June 21, 2013.

Dated: June 10, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–14275 Filed 6–14–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of the Commission's staff may attend the following meeting related to the transmission planning activities of the South Carolina Regional Transmission Planning (SCRTP) group:

SCRTP Stakeholder Group

June 13, 2013.

The above-referenced meeting is open to stakeholders and will be held via Web conference.

For additional information, *see www.scrtp.com.*

The discussions at the meeting described above may address matters at issue in the following proceedings:

Docket No. ER13–107–000, ER13–107–001 and ER13–107–002, *South Carolina Electric & Gas Company*

For More Information Contact: Michael Lee, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–8658 or *Michael.Lee@ferc.gov.*

Dated: June 11, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–14272 Filed 6–14–13; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9823–7]

State Allotment Percentages for the Drinking Water State Revolving Fund Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In this notice, the U.S. Environmental Protection Agency (EPA) is announcing the revised Drinking Water State Revolving Fund (DWSRF) allotments that will be provided to the States, the District of Columbia, Puerto Rico, U.S. Territories, American Indian Tribes and Alaska Native Villages if the President's budget request for Fiscal Year 2014 is enacted. These allotments reflect the results from EPA's most recent Drinking Water Infrastructure Needs Survey and Assessment which was released on June 3, 2013. The revised State allotment percentages will be the basis for distributing the DWSRF program appropriations to the States for the four years from Fiscal Years 2014 through 2017.

DATES: This notice is effective June 17, 2013.

FOR FURTHER INFORMATION CONTACT: For inquiries, contact Robert Barles, Drinking Water Protection Division, Office of Ground Water and Drinking Water (4606M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–3814; fax number: (202) 564–3757; email address: *barles.robert@epa.gov.* Copies of this document and information on the Drinking Water Infrastructure Needs Survey and Assessment and the DWSRF program can be found on EPA's Office of Ground Water and Drinking Water Web site at *http://water.epa.gov/grants_funding/dwsrf/index.cfm.*

SUPPLEMENTARY INFORMATION: The 1996 Safe Drinking Water Act (SDWA) Amendments established a DWSRF program. Congress directed that allotments for FY 1998 and each subsequent year would be distributed among States based on the results of an assessment by EPA of the relative infrastructure investment needs of the drinking water systems within each State (SDWA section 1452(a)(1)(D)(ii)) which must be conducted every four years.

EPA's Drinking Water Infrastructure Needs Survey and Assessment

EPA's first assessment, which reflected 1995 survey data, was released in 1997; the second assessment, which reflected 1999 survey data, was released in 2001; the third assessment, which reflected the 2003 survey data, was released in 2005; and the fourth assessment, which reflected the 2007 survey data, was released in 2009. The 2011 Drinking Water Infrastructure Needs Survey and Assessment (Needs Assessment) was released on June 3, 2013 (EPA 816–R–13–006). The 2011 Needs Assessment was completed in cooperation with State and Navajo Nation agencies with primacy for implementing the SDWA programs within their borders. EPA regional offices facilitated the surveying of water systems serving American Indian (AI) communities and Alaska Native Villages (ANV). These agencies participated in both the design of the survey and in the collection of data. The survey examined the needs of water systems and used these data to determine the aggregate infrastructure investment needs of drinking water systems within each individual State and for AI/ANV systems within each EPA Region or the Navajo Nation.

The survey included all of the nation's 606 largest systems (serving over 100,000 people) with 598 providing data (a response rate of 98.7%). For the nation's 8,059 medium sized systems (each serving 3,301–100,000 people), the survey relied on a statistically-representative random selection of 2,234 with 2,159 systems responding (a response rate of 96.6%). For the 791 American Indian water systems, the survey relied on a statistical random selection of 220 with 218 systems responding (a response rate of 99%). For the 165 water systems serving Alaska Native Villages, the survey relied on a statistical random selection of 86 systems with 84 responding (a response rate of 97.7%). The survey also sampled the 4 medium and 1 large systems of the U.S. Territories (with a 100% response rate). For small, non-tribal water systems (each serving less than 3,301 people), the 2011 assessment extrapolated the findings from the 2007 survey by adjusting to 2011 dollars.

The sample design for the survey and assessment produces a statistically-valid State-by-State estimate of the total need, which reflects the capital costs for all drinking water infrastructure projects allowed for inclusion in the survey. The 2011 Needs Assessment also presents capital needs for each State by system size and by category of need (i.e., treatment, distribution and transmission, storage, source and ''other'').

In general, an infrastructure project was included in the Needs Assessment if project documentation demonstrated that meeting the need would address the public health objectives of SDWA. The total State need includes both projects that are currently needed and future projects that will be needed over the next 20 years. Projects to correct immediate public health threats (e.g., replacing a deteriorated filter plant) are given the same weight in the assessment as less critical needs (e.g., replacing a

storage tank that is expected to reach the end of its useful life in five years). The Needs Assessment excluded capital projects that are ineligible for DWSRF program assistance such as dams, reservoirs and projects needed solely for growth.

The 2011 Needs Assessment found that the total national need is $384.2 billion (Table 1). This estimate represents the needs of the approximately 52,000 community water systems and 21,400 not-for-profit non-community water systems that are eligible to receive DWSRF program assistance. These systems are found in all 50 States, Puerto Rico and the District of Columbia; in the Virgin Island and Pacific Island territories; and on American Indian lands and in Alaska Native Villages.

TABLE 1—2011 DRINKING WATER INFRASTRUCTURE NEEDS SURVEY AND ASSESSMENT 20-YEAR NEEDS

Type of need	Need (billions)
States, Puerto Rico, District of Columbia	$375.3
Territories	0.7
American Indian and Alaska Native Villages	3.3
Costs for Proposed and Recent Regulations	4.9
Total National Need	384.2

Note: Numbers may not total due to rounding.

The total national need also includes $4.90 billion in capital needs associated with recently promulgated and proposed regulations as identified in EPA Economic Analyses accompanying the rules. Although these needs are included in the total national need, they were not apportioned to the States based on the unanimous recommendation of the State representatives who participated in the survey design. The States expressed concern that the methods available for allocating the costs of these more recent or proposed regulations would not yet be represented in the capital improvement plans of water systems at the time of the 2011 survey. The total State need, which is the figure that EPA will use to calculate the State allotments, includes only the needs of the 50 States, Puerto Rico and the District of Columbia. The 2011 Needs Assessment estimates that the total State need is $375.3 billion.

Allocation Method

On October 31, 1996, EPA solicited public comment on six options for using the results of the first Drinking Water Infrastructure Needs Survey and Assessment to allocate DWSRF program funds to the States (61 FR 56231). On March 18, 1997, EPA announced its decision to allocate DWSRF program funds for fiscal years 1998 through 2001 appropriations based on each State's proportional share of the total eligible needs for the States as derived from the 1995 Needs Assessment (62 FR 12900). EPA used this same method when allocating DWSRF program funds for: fiscal years 2002 through 2005, utilizing the results of the 1999 Needs Assessment; fiscal years 2006 through 2009, utilizing the results of the 2003 Needs Assessment; and fiscal years 2010 through 2013 utilizing the results of the 2007 Needs Assessment. EPA has made the determination that it will continue to use this method for allocating DWSRF program funds for fiscal years 2014 through 2017 appropriations utilizing the results of the 2011 Needs Assessment. The funds available to the States will be the level of funds appropriated by Congress less any national set-aside such as the set aside for American Indian and Alaska Native Village water systems. Of the remaining funds available to States, the SDWA includes a specific combined allocation for the Virgin Island and Pacific Island territories and a minimum for the District of Columbia. Each State (including Puerto Rico) will receive an allotment of DWSRF program funds based on each State's proportional share of the total combined need for all States and the District of Columbia ($375.3 billion) provided that each State receives a minimum allocation of one percent of the funds available to States, as required by the SDWA. The 2011 Needs Assessment found that 17 States, Puerto Rico and the District of Columbia each had less than one percent of the total national need; for 2014 to 2017, each of these will be eligible for one percent of the annual DWSRF funds made available to States (or, in aggregate, 19 percent of the total DWSRF funds made available to States).

Allocation of Funds

Table 2 contains each State's expected DWSRF program allotment based on the President's budget request for FY 2014. The national set-aside for Fiscal Year for American Indian and Alaska Native Village water systems is 2.0 percent of the total appropriation or $16,340,000 for FY 2014 under the President's budget request. If funds are appropriated for the DWSRF program at the level of $817,000,000, the total funds available to the States, the District of Columbia and Territories would then equal $798,660,000. Because the percentages are based on allotting all available funds annually to the States regardless of the year in the four-year cycle, they can be used for general planning purposes for the entire four-year cycle. Once the 2014 and subsequent year appropriated amounts and any national set-asides are known, a State's allotment can be estimated by subtracting any national set-aside from the total funds available for allotment and then applying the appropriate percentage shown below. EPA will annually notify each State of its allotment from a specific fiscal year's appropriation after the final budget has been passed.

TABLE 2—DWSRF STATE PERCENTAGES AND DOLLAR ALLOTMENTS BASED ON THE PRESIDENT'S BUDGET REQUEST FOR FY 2014 AND THE 2011 NEEDS ASSESSMENT

State	FY 2014 Allotment	2014 Allotment (%)
Alabama	$15,253,000	1.91
Alaska	7,987,000	1.00
Arizona	14,419,000	1.81
Arkansas	12,220,000	1.53
California	75,142,000	9.41
Colorado	13,901,000	1.74
Connecticut	8,093,000	1.01
Delaware	7,987,000	1.00
Florida	29,211,000	3.66
Georgia	17,413,000	2.18
Hawaii	7,987,000	1.00

TABLE 2—DWSRF STATE PERCENTAGES AND DOLLAR ALLOTMENTS BASED ON THE PRESIDENT'S BUDGET REQUEST FOR FY 2014 AND THE 2011 NEEDS ASSESSMENT—Continued

State	FY 2014 Allotment	2014 Allotment (%)
Idaho	7,987,000	1.00
Illinois	33,328,000	4.17
Indiana	12,955,000	1.62
Iowa	11,945,000	1.50
Kansas	9,102,000	1.14
Kentucky	12,434,000	1.56
Louisiana	10,950,000	1.37
Maine	7,987,000	1.00
Maryland	13,555,000	1.70
Massachusetts	14,846,000	1.86
Michigan	24,858,000	3.11
Minnesota	14,291,000	1.79
Mississippi	8,270,000	1.04
Missouri	16,123,000	2.02
Montana	7,987,000	1.00
Nebraska	7,987,000	1.00
Nevada	11,390,000	1.43
New Hampshire	7,987,000	1.00
New Jersey	15,195,000	1.90
New Mexico	7,987,000	1.00
New York	38,334,000	4.80
North Carolina	18,686,000	2.34
North Dakota	7,987,000	1.00
Ohio	22,200,000	2.78
Oklahoma	12,868,000	1.61
Oregon	11,344,000	1.42
Pennsylvania	25,536,000	3.20
Puerto Rico	7,987,000	1.00
Rhode Island	7,987,000	1.00
South Carolina	7,987,000	1.00
South Dakota	7,987,000	1.00
Tennessee	7,987,000	1.00
Texas	57,746,000	7.23
Utah	8,334,000	1.04
Vermont	7,987,000	1.00
Virginia	13,232,000	1.66
Washington	17,825,000	2.23
West Virginia	7,987,000	1.00
Wisconsin	13,928,000	1.74
Wyoming	7,987,000	1.00
District of Columbia	7,987,000	1.00
U.S. Territories*	11,980,000	1.50
Total Funds Available to the States, the District of Columbia, Puerto Rico, and U.S. Territories	798,660,000	
American Indian & Alaska Native Water Systems	16,340,000	
Monitoring for Unregulated Contaminants	2,000,000	
Total SRF Appropriation	817,000,000	

* Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

Dated: June 6, 2013.

Peter C. Grevatt,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 2013–14333 Filed 6–14–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). 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 burden for 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 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 (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before August 16, 2013. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA questions to Judith B. Herman, Federal Communications Commission. To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0192.

Title: Section 87.103—Posting Station License.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions and state, local or tribal government.

Number of Respondents: 34,857 respondents; 34,857 responses.

Estimated Time per Response: .25 hours.

Frequency of Response: Recordkeeping requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. section 303 of the Communications Act of 1934, as amended.

Total Annual Burden: 8,714 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this expiring information collection after this comment period to obtain the full, three year clearance from the Office of Management and Budget (OMB). The Commission is requesting approval for an extension (no change in the recordkeeping requirement). There is a change to the Commission's previous burden estimates. The Commission is now requesting a 2,260 hour reduction adjustment. This reduction is due to a reduction in the number of respondents.

The recordkeeping requirement in Section 87.103 is necessary to demonstrate that all transmitters in the Aviation Service are properly licensed in accordance with the requirements of Section 301 of the Communications Act of 1934, as amended; 47 U.S.C. section 303; No. 2020 of the International Radio Regulations; and Article 30 of the Convention on International Civil Aviation.

The information is used by FCC staff during inspections and investigations to ensure the particular station is licensed and operated in compliance with applicable rules, statutes and treaties.

OMB Control Number: 3060–1159.

Title: Part 25—Satellite Communications; and Part 27—Miscellaneous Wireless Communications Services in the 2.3 GHz Band.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 158 respondents; 5,605 responses.

Estimated Time per Response: .5 hours to 40 hours.

Frequency of Response: On occasion and quarterly reporting requirements, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. sections 154, 301, 302(a), 303, 309, 332, 336 and 337 of the Communications Act of 1934, as amended.

Total Annual Burden: 24,572 hours.

Total Annual Cost: $928,200.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this information collection after this comment period to obtain the full, three year clearance from the Office of Management and Budget (OMB). The Commission is requesting approval for a revision. There are changes to the Commission's burden estimates. The Commission is now reporting a 1,065 hour increase adjustment. This is due to a recalculation of the previous burden estimates. There is no change in the cost estimates.

On October 17, 2012, the Commission adopted an Order on Reconsideration in WT Docket No. 07–293, IB Docket No. 95–91, GEN Docket No. 90–357, FCC 12–130, which affirmed, modified and clarified the Commission's actions in the 1st and 2nd Report and Orders.

Among the actions taken in the Order on Reconsideration:

- Revised technical rules to enhance the ability of WCS licensees to deploy mobile broadband networks while establishing additional safeguards to protect neighboring SDARS, AMT, and DSN networks from harmful interference.
- Prohibited WCS mobile and portable devices' transmissions in WCB Blocks C and D to further protect SDARS operations.
- Relaxed the WCS licensee notification requirements regarding low-power WCS stations and minor WCS station modifications, and clarified WCS notification and coordination procedures.
- Restarted and provided a limited extension of the WCS performance periods to enable licensees to respond to revisions of technical rules.

The information filed by WCS licensees in support of their construction notifications will be used to determine whether licensees have complied with the Commission's performance benchmarks. Further, the information collected by licensees in support of their coordination obligations will help avoid harmful interference to SDARS, AMT and DSN operations in other spectrum bands.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–14282 Filed 6–14–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection(s) Being Submitted for Review and Approval to the Office of Management and Budget (OMB)

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). 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 estimates; 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 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 (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before July 17, 2013. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Judith B. Herman, Federal Communications Commission, via the Internet at *Judith-b.herman@fcc.gov*. To submit your PRA comments by email send them to: *PRA@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, FCC, at 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0261.

Title: Section 90.215, Transmitter Measurements.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions and state, local or tribal Government.

Number of Respondents: 174,661 respondents; 369,495 responses.

Estimated Time per Response: .33 hours.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. section 303(f) of the Communications Act of 1934, as amended.

Total Annual Burden: 12,193 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) during this 30 day comment period in order to obtain the full three year clearance from them. The Commission is requesting OMB approval for an extension (no change in the recordkeeping requirement).

There is a change in the Commission's previous burden estimates. Accordingly to the Commission's Universal Licensing System (ULS), a total of 174,661 licensees are required to make 369,495 transmitter measurements.

Section 90.215 requires station licensees to measure the carrier frequency, output power, and modulation of each transmitter authorized to operate with power in excel of two watts when the transmitter is initially installed and when any changes are made which would likely affect the modulation characteristics. Such measurements, which help ensure proper operation of transmitters, are to be made by a qualified engineering measurement service, and are required to be retained in the station records, along with the name and address of the engineering measurement service, and the name of the person making the measurements.

The information is normally used by the licensee to ensure that equipment is operating within prescribed tolerances. Prior technical operation of transmitters helps limit interference to other users and provides the licensee with the maximum possible utilization of equipment.

OMB Control Number: 3060–XXXX.

Title: Section 87.287, Aeronautical Advisory Stations (Unicoms)—''Squitters''.

Form No.: N/A.

Type of Review: New collection.

Respondents: Individuals or households, business or other for-profit, not-for-profit institutions and state, local or tribal Government.

Number of Respondents: 200 respondents; 200 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. section 151, 154(i), 154(j), 155, 157, 225, 303® and 309 of the Communications Act of 1934, as amended.

Total Annual Burden: 200 hours.

Total Annual Cost: $28,750.

Privacy Act Impact Assessment: Yes. The Commission has a system of records for this information collection, FCC/WTB–1, ''Wireless Services Licensing Records'', which covers the personally identifiable information (PII) that individual applicants may include in their submissions for licenses or grants of equipment authorization. At such time as the Commission revises this System of Records Notice (SORN), the Commission will conduct a Privacy Act Impact Assessment (PIA) and publish the revised SORN in the **Federal Register**. In addition, the Commission will post a copy of both the PIA and the SORN on the FCC's Privacy Web page.

Nature and Extent of Confidentiality: There is a need for confidentiality with respect to filers who are individuals in this collection. Pursuant to section 208(b) of the E-Government Act of 1002, 44 U.S.C. 3501, in conformance with the Privacy Act of 1974, 5 U.S.C. 552(a), the Commission's Wireless Telecommunications Bureau instructs licensees to use the FCC's Universal Licensing System (ULS), Antenna Structure Registration (ASR), Commission Registration System (CORES) and related systems and subsystems to submit information.

Needs and Uses: The Commission will submit this new information collection to the Office of Management and Budget (OMB) during this 30 day comment period in order to obtain the full three year clearance from them. The Commission is requesting OMB approval for a new information collection resulting in a minor increase in burden on the public.

On March 1, 2013, the Commission released a Report and Order, FCC 13–30, which amended its Part 87 rules to authorize new ground station technologies that will promote aviation safety, and allow use of frequency 1090 MHz by aeronautical utility mobile stations for airport surface detection equipment, commonly referred to as vehicle ''squitters'', to help reduce collisions between aircraft and the airport ground vehicles. ''Squitter'' refers to random output pulses from a transponder caused by ambient noise or by an international random triggering system, but not by the interrogation pulses. Further, the Commission establishes service rules for audio visual warning systems to help aircraft in flight avoid antenna structures and other obstacles, and adopts rules to permit ground testing of aviation data link test systems. However, in this R&O, the Commission declined to authorize remote monitoring of certain automated ground stations.

Section 87.287(b) requires that before submitting an application for an aircraft data link land test station, an applicant

must obtain written permission from the licensee of the aeronautical enroute stations serving the areas in which the aircraft data link land test station will operate on a co-channel basis. The Commission may request an applicant to provide documentation to that fact.

The written permission will aid the Commission in ensuring that licensees are complying with its policies and rules, while allowing the owners of antenna structures and other aviation obstacles to use Audio Visual Warning Systems (AVWS) stations, thereby helping aircraft avoid potential collisions and enhancing aviation safety, without causing harmful interference to other communications.

OMB Control Number: 3060–XXXX.

Title: Signal Boosters—Sections 1.1307(b)(1), 20.3, 20.21(a)(2), 20.29(a)(5), 20.21(e)(2), 20.21(e)(8)(i)(G), 20.21(e)(9)(i)(H), 20.21(f), 20.21(h), 22.9, 24.9, 27.9, 90.203, 90.219(b(1)(i) and 90.219(e)(5).

Form No.: N/A.

Type of Review: New collection.

Respondents: Individuals or households; business or other for-profit, not-for-profit institutions..

Number of Respondents: 632,444 respondents; 632–444 responses.

Estimated Time per Response: .5 hours to 40 hours.

Frequency of Response: Recordkeeping requirement, third party disclosure requirement and on occasion and annual reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 154(i), 303(g), 303(r) and 332(a) of the Communications Act of 1934, as amended.

Total Annual Burden: 324,370 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is a need for confidentiality with respect to filers who are individuals in this collection. Pursuant to Section 208(b) of the E-Government Act of 2002, 44 U.S.C. section 3501, in conformance with the Privacy Act of 1974, 5 U.S.C. 552(a), the Wireless Telecommunications Bureau instructs licensees to use the FCC's Universal Licensing System (ULS), Antenna Structure Registration (ASR), Commission Registration System (CORES) and related systems and subsystems to submit information.

Needs and Uses: The Commission will submit this new information collection to the Office of Management and Budget (OMB) during this 30 day comment period in order to obtain the full three year clearance from them. The Commission is reporting a 324,370 hour increase in burden (program change increase).

The Commission adopted a *Report and Order,* FCC 13–21, which adopts new technical, operational, and registration requirements for signal boosters. The new rules create two new classes of signal boosters—consumer and industrial—with distinct regulatory requirements.

Consumer Signal Boosters are designed to be used ''out of the box'' by individuals to improve their wireless coverage within a limited area such as a home, car, boat, or recreational vehicle. Consumer Signal Boosters will be authorized under provider licenses subject to certain requirements. Specifically, subscribers must obtain some form of licensee consent to operate the booster; register the booster with their provider; use a booster that meets the Network Protection Standard and is FCC certified; and operate the booster on a secondary, non-interference basis and shut it down if it causes harmful interference. Consumers may continue to use existing signal boosters provided they are: (1) Have the consent of their provider; and (2) register the booster with that provider. The Commission will conduct consumer outreach to educate consumers, public safety entities, small businesses, and other about the new regulatory framework.

Industrial Signal Boosters include a wide variety of devices that are designed for installation by licensees or qualified installers. These devices are typically designed to serve multiple users simultaneously and cover large areas such as stadiums, airports, office buildings, hospitals, tunnels, and educational campuses. Industrial Signal Boosters require a FCC license or express licensee consent to operate, and must be appropriately labeled.

The Commission established a two-step transition process for equipment certification for Consumer and Industrial Signal Boosters sold and marketed in the United States. First, as of the release date of the *Report and Order,* the Commission stopped accepting applications for equipment certification of Consumer and Industrial Signal Boosters that do not comply with the new rules and ceased certification of devices that do not comply with the new rules. Second, on or after March 1, 2014, all Consumers and Industrial Signal Boosters sold and marketed in the United States must meet the new requirement.

Finally, the Commission has created an on-line database with screen shots for the Registration Requirements. Screen shots are included in the submission to the OMB and can be viewed in ROCIS (OMB's electronic PRA system).

The Commission will use the information collected from the provider reporting requirement to assess providers' treatment of Consumer Signal Boosters, including the level of consumer access. This information will inform the Commission's decision whether it is necessary to revisit the Consumer Signal Booster authorization mechanism. The provider-based registration requirement will facilitate licensee control over Consumer Signal Boosters, help providers rapidly resolve interference issues, and assist in consumer outreach. The labeling and marketing requirements will inform signal booster operators of their legal responsibilities, facilitate coordination with providers, and assist in interference prevention. The Part 90 registration requirement will help resolve interference should it occur. The RF labeling requirement will inform consumers about the potential RF safety hazards and reference the applicable FCC-adopted limits for RF exposure. The certification requirements will ensure that manufacturers comply with our new technical rules for Consumer and Industrial Signal Boosters. The antenna kitting documentation requirement will aid consumers in the correct installation and use of their devices so as to mitigate interference. The consent documentation requirement will ensure that signal booster operators have the proper authority to operate their devices.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–14283 Filed 6–14–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to

comment on the following information collection(s). 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 burden for 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 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 (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before August 16, 2013. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA questions to Judith B. Herman, Federal Communications Commission, via the Internet at *Judith-b.herman@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0599.

Title: Section 90.187, Trunking in the Bands Between 150 and 512 MHz; and Sections 90.425 and 90.647, Station Identification.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit and state, local, or Tribal governments.

Number of Respondents and Responses: 6,679 respondents; 6,679 responses.

Estimated Time per Response: .25 hours to 3 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in 47 U.S.C. sections 154(i), 309(j) and 332 of the Communications Act of 1934, as amended.

Total Annual Burden: 8,231 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: No Impact(s).

Nature and Extent of Confidentiality: No questions of a confidential nature are asked.

Needs and Uses: The Commission is submitting this information collection to the Office of Management and Budget (OMB) for approval of a revision. The Commission is increasing the total annual burden by 7,974 hours due to a significant increase in the number of respondents/responses in collection. The revision is adding one additional rule section which is 90.187 to this information collection.

On April 18, 2013, the Commission in a Fifth Report and Order, FCC 13–52, adopted changes to 47 CFR 90.425 of the Commission's rules to allow Private Land Mobile Radio (PLMR) licensees in the bands between 150 and 512 MHz that are licensed on an exclusive basis to transmit station identification information in digital format, on the condition that the licensee will provide the Commission with information sufficient to decode the digital transmission to ascertain the call sign transmitted. However, this gives a new group of licensee stations (PLMRs) an option regarding the method of transmission of required call sign information; it modifies the existing burden, and slightly increases the cost burden—specifically the cost associated with providing the Commission sufficient information to decode the transmission—unless they choose the digital transmission option.

The information requested in this collection is used by the Commission's staff to enable the Commission to evaluate the accuracy of frequency coordination pursuant to its rule under 47 CFR 90.187, 90.425 and 90.647.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–14281 Filed 6–14–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 2, 2013.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *State-Investors Bank Employee Stock Ownership Plan (ESOP), and Lawrence C. Caldwell, Jr., Daniel M. McGowan, and Mahlon L. Oustalet,* as trustees, all of Metairie, Louisiana; to retain voting shares of State Investors Bancorp, Inc., and thereby indirectly retain voting shares of State-Investors Bank, both in Metairie, Louisiana.

Board of Governors of the Federal Reserve System, June 12, 2013.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2013–14251 Filed 6–14–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association and nonbanking companies owned by the savings and loan holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in

the HOLA (12 U.S.C. 1467a(e)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 12, 2013.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *AJS Bancorp, MHC,* Midlothian, Illinois; to convert to stock form and merge with AJS Bancorp, Inc., Midlothian, Illinois.

In connection with this application, AJS Bancorp, Inc. will be merged into a *de novo* corporation named AJS Bancorp, Inc., which has applied to become a savings and loan holding company by acquiring 100 percent of the voting shares of A.J. Smith Federal Savings Bank, Midlothian, Illinois.

Board of Governors of the Federal Reserve System, June 12, 2013.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2013–14252 Filed 6–14–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 12, 2013.

A. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Royalty Bancshares, LLC,* Weatherford, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Miami Bancshares, Inc., and thereby indirectly acquire voting shares of First State Bank Miami, both in Miami, Texas.

Board of Governors of the Federal Reserve System, June 12, 2013.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2013–14253 Filed 6–14–13; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0285; Docket 2012–0001; Sequence 17]

Agency Information Collection Activities; Submission for OMB Review; IT Dashboard Feedback Mechanism

AGENCY: Office of Innovative Technology Services and Solutions, Office of Citizen Services and Innovative Technologies, U.S. General Services Administration (GSA).

ACTION: Notice of request for public comments regarding an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the General Services Administration will be submitting to the Office of Management and Budget (OMB) a request to review and approve a previously approved information collection requirement regarding IT Dashboard Feedback Mechanism. A notice was published in the **Federal Register** at 78 FR 13057, on February 26, 2013. No comments were received.

DATES: Submit comments on or before July 17, 2013.

ADDRESSES: Submit comments identified by Information Collection 3090–0285, IT Dashboard Feedback Mechanism, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 3090–0285, IT Dashboard Feedback Mechanism''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 3090–0285, IT Dashboard Feedback Mechanism'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street NW., Washington, DC 20405–0001. ATTN: Hada Flowers/IC 3090–0285, IT Dashboard Feedback Mechanism.

Instructions: Please submit comments only and cite Information Collection 3090–0285, IT Dashboard Feedback Mechanism, in all correspondence related to this collection. Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Lalit Bajaj, Program Manager, Office of Innovative Technology Services and Solutions, Office of Citizen Services and Innovative Technologies, 1275 First Street NE., Washington, DC 20002, telephone number 202–208–7887, or email at *Lalit.Bajaj@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The IT Dashboard Web site (itdashboard.gov) provides agencies and the public access to view details of Federal information technology investments online and to track their progress over time. The IT Dashboard displays IT budget data received from agencies through their Exhibit 53 and 300 submissions, including general information of over 7,000 federal IT investments and nearly 800 investments classified as major by the agencies.

Public comments are particularly invited on: whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate,

and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected.

B. Annual Reporting Burden

Number of Respondents: 1000.
Responses per Respondent: 1.
Total Annual Responses: 1000.
Average Hours per Response: 0.02.
Total Burden Hours: 20.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street NW., Washington, DC 20405–0001, telephone (202) 501–4755. Please cite OMB Control Number 3090–0285, IT Dashboard Feedback Mechanism, in all correspondence.

Dated: June 5, 2013.

Casey Coleman,

Chief Information Officer.

[FR Doc. 2013–14287 Filed 6–14–13; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Biodefense Science Board

AGENCY: Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services is hereby giving notice that the National Biodefense Science Board (NBSB) will be holding a public meeting via teleconference. This notice is being published under exceptional circumstances and provides the reason for providing less than 15 calendar days notice. The meeting is open to the public.

DATES: The NBSB will hold a public meeting on June 25, 2013 from 1:00 p.m. to 2:00 p.m. EST. The agenda is subject to change as priorities dictate.

ADDRESSES: Individuals who wish to participate should send an email to *NBSB@HHS.GOV* with ''NBSB Registration'' in the subject line. The meeting will occur by teleconference. To attend, call 1–888–455–0056, and enter passcode 9790185. Please call 15 minutes prior to the beginning of the conference call to facilitate attendance.

FOR FURTHER INFORMATION CONTACT: The National Biodefense Science Board mailbox: *NBSB@HHS.GOV.*

SUPPLEMENTARY INFORMATION: Pursuant to section 319M of the Public Health Service Act (*42 U.S.C. 247d–7f*) and section 222 of the Public Health Service Act (*42 U.S.C. 217a*), the Department of Health and Human Services established the National Biodefense Science Board. The NBSB shall provide expert advice and guidance to the Secretary on scientific, technical, and other matters of special interest to the Department of Health and Human Services regarding current and future chemical, biological, nuclear, and radiological agents, whether naturally occurring, accidental, or deliberate. The NBSB may also provide advice and guidance to the Secretary and/or the Assistant Secretary for Preparedness and Response (ASPR) on other matters related to public health emergency preparedness and response.

Background: This public meeting teleconference will be dedicated to vote on community resilience and the Public Health Emergency Medical Countermeasures Enterprise (PHEMCE) strategic end states tasks requests from the ASPR. Any additional agenda topics will be available on the NBSB's June meeting Web page prior to the public meeting. Recent administrative constraints have impacted the logistics of scheduling this meeting and schedule coordination necessitates holding this NBSB meeting on June 25. These exceptional circumstances prevent the normal 15 calendar days notice for this meeting. The next scheduled meeting of the Board will be announced in the **Federal Register** within the required time-frame established by the Federal Advisory Committee Act.

Community resilience is defined as the sustained ability of communities to withstand and recover from adversity. Resilient communities include healthy individuals and families with access to health care, both physical and psychological, as well as the knowledge and resources to know what to do to care for themselves and others in both routine and emergency situations. Enhanced resilience is considered critical to mitigating vulnerabilities, reducing negative health consequences, and rapidly restoring community functioning after emergency events. Recent research suggests that social connectedness (or social capital) can be central to the ability of a community to withstand disaster and rebuild both the infrastructure and the societal ties that are at the foundation of any community. The U.S. Department of Health and Human Services (HHS) is committed to community health resilience and improving the nation's ability to respond to and recover from major public health emergencies. The ASPR would like the NBSB to provide actionable recommendations to HHS on how the Department can build and help sustain community health resilience.

The 2012 U.S. Department of Health and Human Services (HHS) Public Health Emergency Medical Countermeasures Enterprise (PHEMCE) Implementation Plan states that the Office of the ASPR, by the end of fiscal year 2013, will lead PHEMCE agencies in defining Strategic End States for all PHEMCE capabilities, based on a clear description of the preparedness goals for addressing particular threats and/or medical countermeasure needs. Although the PHEMCE Implementation Plan has stated goals and objectives for preparedness, the identification of the gaps between these goals and objectives and what can actually be addressed due to finite resources must be considered. So while the perfect end state equals mitigating against all threats, this is not a likely reality. The ASPR is contemplating methodologies to achieve a suitable balance across these diverse needs, i.e., an adequate answer to what is an acceptable level of preparedness in light of constraints. In addition, the ASPR would like to determine how to best communicate levels of preparedness in a way the public could comprehend.

Availability of Materials: The meeting agenda and materials will be posted prior to the meeting on the June meeting Web page at *www.phe.gov/nbsb.*

Procedures for Providing Public Input: Members of the public are invited to attend by teleconference via a toll-free call-in phone number. The teleconference will be operator-assisted to allow the public the opportunity to provide comments to the NBSB. Public participation will be limited to time and space available. Public comments will be limited to no more than three minutes per speaker. To be placed on the public comment list, notify the operator when you join the teleconference.

Public comments received by close of business one week prior to each teleconference will be distributed to the NBSB in advance. Submit comments via email to *NBSB@HHS.GOV,* with ''NBSB Public Comment'' as the subject line.

Dated: June 10, 2013.

Nicole Lurie,

Assistant Secretary for Preparedness and Response.

[FR Doc. 2013–14326 Filed 6–14–13; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

[CDC–2013–0009; Docket Number NIOSH–264]

National Institute for Occupational Safety and Health (NIOSH) Traumatic Injury Research and Prevention Program and Strategic Goals; Draft Document Availability

AGENCY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of draft document for public comment.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the availability of a draft document entitled *National Institute for Occupational Safety and Health (NIOSH) Traumatic Injury Research and Prevention Program and Strategic Goals* now available for public comment. To view the notice and related materials, visit *http://www.regulations.gov* and enter CDC–2013–0009 in the search field and click ''Search.''

Public comment period: Comments must be received September 16, 2013 from publication of the **Federal Register** Notice.

ADDRESSES: You may submit comments, identified by CDC–2013–0009 and Docket Number NIOSH–264, by either of the two following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* NIOSH Docket Office, Robert A. Taft Laboratories, MS–C34, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Instructions: All information received in response to this notice must include the agency name and docket number (CDC–2013–0009; NIOSH–264). All relevant comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. All electronic comments should be formatted as Microsoft Word. Please make reference to CDC–2013–0009 and Docket Number NIOSH–264.

SUPPLEMENTARY INFORMATION: The purpose of this review is to receive public comments and input on a draft document entitled ''NIOSH Traumatic Injury Research and Prevention Program and Strategic Goals.'' This document includes revisions to program strategic goals last updated in 2009. The draft strategic goals are intended to guide NIOSH intramural and extramural research for the 5-year period, 2014–2019. NIOSH is seeking comments on: (1) The relevance of the draft strategic goals; (2) suggested areas where research is needed or no-longer needed; (3) the adequacy of the goals for addressing the changing workplace and emerging hazards that threaten the safety of workers; (4) the adequacy of proposed performance measures; (5) opportunities for collaboration between NIOSH scientists, extramural scientists, and state occupational public health programs; and (6) input on additional potential partners the NIOSH Traumatic Injury Program could work with to enhance future directions of the NIOSH Traumatic Injury Research and Prevention Program.

Background: The strategic goals in the Plan are largely based on fatal and nonfatal surveillance data, and address the following areas:

(1) Reduce Falls in the workplace

(2) Reduce Occupational Injuries and Deaths due to Motor-Vehicle Incidents and Crashes

(3) Reduce Occupational Injuries and Deaths due to Workplace Violence

(4) Reduce Occupational Injuries and Deaths due to Machines and Industrial Vehicles

(5) Reduce Occupational Injuries and Deaths among High Risk and Vulnerable Worker Groups, and

(6) Increase use of Surveillance Data to Guide Occupational Traumatic Injury Research and Prevention Efforts.

FOR FURTHER INFORMATION CONTACT: Dawn Castillo, NIOSH, Division of Safety Research, Mailstop H–1900, 1095 Willowdale Road, Morgantown, West Virginia 26505–2888. Ms. Castillo may be contacted at (304) 285–5894 or Email at *DCastillo@cdc.gov.*

Dated: June 7, 2013.

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2013–14133 Filed 6–14–13; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Alzheimer's Disease Supportive Services Program—Data Reporting Tool

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration on Aging (AoA), Administration for Community Living (ACL) is announcing an opportunity to comment on the proposed collection of 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 collects comments on the information collection requirements relating to the continuation of an existing collection for the Alzheimer's Disease Supportive Services Program.

DATES: Submit written comments on the collection of information by August 16, 2013.

ADDRESSES: Submit written comments on the collection of information by email to *Jane.Tilly@acl.hhs.gov*

FOR FURTHER INFORMATION CONTACT: Jane Tilly 202.357.3438

SUPPLEMENTARY INFORMATION: The Alzheimer's Disease Supportive Services Program (ADSSP) is authorized through Sections 398, 399 and 399A of the Public Health Service (PHS) Act, as amended by Public Law 101–557 Home Health Care and Alzheimer's Disease Amendments of 1990. The ADSSP helps state efforts to expand the availability of community-level supportive services for persons with Alzheimer's disease and their caregivers, including underserved populations. In compliance with the PHS Act, ACL revised an ADSSP Data Reporting Tool (ADSSP–DRT) in 2010. The ADSSP–DRT collects information about the delivery of direct services by ADSSP state grantees, as well as basic demographic information about service recipients. This version includes some revisions to the approved 2010 version. The revised version would be in effect beginning 8/31/2013 and thereafter.

The proposed FY2013 ADSSP–DRT can be found on AoA's Web site at:

http://www.aoa.gov/AoARoot/AoA_Programs/HPW/Alz_Grants/docs/ADSSP_DataCollectionReportingForm_proposed.xls.

ACL estimates the burden of this collection of information as follows:

ANNUAL BURDEN ESTIMATES

Instrument	Type of respondent	Number of respondents	Responses per respondent	Burden hours per response	Total burden hours (annual)
ADSSP Data Reporting Tool	Local Program Site	60	2	5.8	696
ADSSP Data Reporting Tool	State Grantee	30	2	8	480

Estimated Total Annual Burden Hours: 1176.

Dated: June 11, 2013.

Kathy Greenlee,

Administrator & Assistant Secretary for Aging.

[FR Doc. 2013–14189 Filed 6–14–13; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0662]

Agency Information Collection Activities: Proposed Collection; Comment Request; Applications for Food and Drug Administration Approval To Market a New Drug: Patent Submission and Listing 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 reporting requirements for submission and listing of patent information associated with a new drug application (NDA), an amendment, or a supplement.

DATES: Submit either electronic or written comments on the collection of information by August 16, 2013.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., P150–400B, Rockville, MD 20850, 301–796–7726, *Ila.Mizrachi@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.

Applications for FDA Approval To Market a New Drug: Patent Submission and Listing Requirements and Application of 30-Month Stays on Approval of Abbreviated New Drug Applications Certifying That a Patent Claiming a Drug Is Invalid or Will Not Be Infringed—(OMB Control Number 0910–0513)—Extension

Section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355(b)(1)) requires all NDA applicants to file, as part of the NDA, ''the patent number and the expiration date of any patent which claims the drug for which the applicant submitted the application or which claims a method of using such drug and with respect to which a claim of patent infringement could reasonably be asserted if a person not licensed by the owner engaged in the manufacture, use, or sale of the drug.'' Section 505(c)(2) of the FD&C Act (21 U.S.C. 355(c)(2)) imposes a similar patent submission obligation on holders of approved NDAs when the NDA holder could not have submitted the patent information with its application. Under section 505(b)(1) of the FD&C Act, we publish patent information after approval of an NDA in the list entitled ''Approved Drug Products With Therapeutic Equivalence Evaluations'' (the Orange Book). If patent information is submitted after NDA approval, section 505(c)(2) of the FD&C Act directs us to publish the information upon its submission.

FDA regulations at §§ 314.50(h) (21 CFR 314.50(h)) and 314.53 (21 CFR 314.53) clarify the types of patent information that must and must not be submitted to FDA as part of an NDA, an amendment, or a supplement, and require persons submitting an NDA, an amendment, or a supplement, or submitting information on a patent after NDA approval, to make a detailed patent declaration using Forms FDA 3542 and 3542a.

The reporting burden for submitting an NDA, an amendment, or a supplement in accordance with § 314.50

(a) through (f) and (k) has been estimated by FDA and the collection of information has been approved by OMB under OMB control number 0910–0001. We are not reestimating these approved burdens in this document. Only the reporting burdens associated with patent submission and listing, as explained in the following paragraphs, are estimated in this document.

The information collection reporting requirements are as follows:

Section 314.50(h) requires that an NDA, an amendment, or a supplement contain patent information described under § 314.53.

Section 314.53 requires that an applicant submitting an NDA, an amendment, or a supplement, except as provided in § 314.53(d)(2), submit on Forms FDA 3542 and 3542a, the required patent information described in this section.

Compliance with the information collection burdens under §§ 314.50(h) and 314.53 consists of submitting with an NDA, an amendment, or a supplement (collectively referred to as ''application'') the required patent declaration(s) on Form FDA 3542a for each ''patent that claims the drug or a method of using the drug that is the subject of the new drug application or amendment or supplement to it and with respect to which a claim of patent infringement could reasonably be asserted if a person not licensed by the owner of the patent engaged in the manufacture, use, or sale of the drug product'' (§ 314.53(b)). Such patents claim the drug substance (active ingredient), drug product (formulation and composition), or method of use. If a patent is issued after the application is filed with FDA, but before the application is approved, the applicant must submit the required patent information on Form FDA 3542a as an amendment to the application, within 30 days of the date of issuance of the patent.

Within 30 days after the date of approval of an application, the applicant must submit Form FDA 3542 for each patent that claims the drug substance (active ingredient), drug product (formulation and composition), or approved method of use for listing in the Orange Book. In addition, for patents issued after the date of approval of an application, Form FDA 3542 must be submitted within 30 days of the date of issuance of the patent.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR 314.50 (citing § 314.53)	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Form FDA 3542	183	2.8	512	5	2,560
Form FDA 3542a	201	2.8	563	20	11,260
Total	13,820				

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The numbers of patents submitted to FDA for listing in the Orange Book in 2010, 2011, and 2012 were 351, 329, and 458, respectively, for an annual average of 379 (351 patents + 329 patents + 458 patents)/3 years = 379 patents/year). Because many of these individual patents are included in multiple NDA submissions, there could be multiple declarations for a single patent. From our previous review of submissions, we believe that approximately 14 percent of the patents submitted are included in multiple NDA submissions, and thus require multiple patent declarations. Therefore, we estimate that 53 (379 patents × 14 percent) patents will be multiple listings, and there will be a total of 432 patents (379 patents + 53 patents = 432 patents) declared on Form FDA 3542. We approved 84, 93, and 86 NDAs in 2010, 2011, and 2012, respectively, of which approximately 71 percent submitted patent information for listing in the Orange Book. The remaining NDAs submitted Form FDA 3542 as required and declared that there were no relevant patents. We also approved approximately 101, 83, and 101 NDA supplements in 2010, 2011, and 2012, respectively, for which submission of a patent declaration would be required. We estimate there will be 183 instances (based on an average of 88 NDA approvals and 95 supplement approvals per year) where an NDA holder would be affected by the patent declaration requirements, and that each of these NDA holders would, on average, submit 2.8 declarations (432 patent declarations + 76 no relevant patent declarations)/183 instances = 2.8 declarations per instance) on Form FDA 3542. We filed 96, 91, and 112 NDAs in 2010, 2011, and 2012, respectively, and 100, 91, and 112 NDA supplements in 2010, 2011, and 2012, respectively, for which submission of a patent declaration would be required. We estimate there will be 201 instances (based on an average of 100 NDAs filed and 101 NDA supplements filed per year) where an NDA holder would be affected by the patent declaration requirements. We estimate, based on a proportional increase from the number of declarations for approved NDAs, that there will be an annual total of 563 declarations (201 instances × 2.8 declarations per instance = 563 declarations) on Form FDA 3542a submitted with these applications. Based upon information provided by regulated entities and other information, we previously estimated that the information collection burden associated with § 314.50(h) (citing § 314.53) and Forms FDA 3542 and 3542a will be approximately 5 hours and 20 hours per response, respectively.

Dated: June 11, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–14299 Filed 6–14–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0490]

Draft Guidance for Industry and FDA Staff: Investigational New Drug Applications for Minimally Manipulated, Unrelated Allogeneic Placental/Umbilical Cord Blood Intended for Hematopoietic and Immunologic Reconstitution in Patients with Disorders Affecting the Hematopoietic System; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft document entitled ''Guidance for Industry and FDA Staff:

Investigational New Drug Applications for Minimally Manipulated, Unrelated Allogeneic Placental/Umbilical Cord Blood Intended for Hematopoietic and Immunologic Reconstitution in Patients with Disorders Affecting the Hematopoietic System'' dated June 2013. The draft guidance document provides advice to potential sponsors, such as cord blood banks, registries, transplant centers, or individual physicians serving as sponsor-investigators, to assist in the submission of an Investigational New Drug Application (IND) for certain hematopoietic progenitor cells from placental/umbilical cord blood (HPC, Cord Blood), when such HPC, Cord Blood units are not licensed, and when a suitable human leukocyte antigen matched cord blood transplant is needed for hematopoietic and immunologic reconstitution in patients with disorders affecting the hematopoietic system that are inherited, acquired, or result from myeloablative treatment and there is no satisfactory alternative treatment available. If unlicensed HPC, Cord Blood units are made available for clinical use, they must be distributed under an IND. The draft guidance, when finalized, is intended to supersede the document entitled ''Guidance for Industry and FDA Staff: Investigational New Drug Applications (INDs) for Minimally Manipulated, Unrelated Allogeneic Placental/Umbilical Cord Blood Intended for Hematopoietic Reconstitution for Specified Indications'' dated June 2011.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by September 16, 2013.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The draft guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Valerie A. Butler, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft document entitled ''Guidance for Industry and FDA Staff: Investigational New Drug Applications for Minimally Manipulated, Unrelated Allogeneic Placental/Umbilical Cord Blood Intended for Hematopoietic and Immunologic Reconstitution in Patients with Disorders Affecting the Hematopoietic System'' dated June 2013. The draft guidance, when finalized, will provide advice to potential sponsors to assist in the submission of an IND for certain HPC, Cord Blood, when such HPC, Cord Blood units are not licensed in accordance with Title 21 Code of Federal Regulations Part 601 (21 CFR part 601), and when a suitable human leukocyte antigen matched cord blood transplant is needed for hematopoietic and immunologic reconstitution in patients with disorders affecting the hematopoietic system that are inherited, acquired, or result from myeloablative treatment and there is no satisfactory alternative treatment available. If unlicensed HPC, Cord Blood units are made available for clinical use, they must be distributed under an IND meeting the applicable requirements in 21 CFR part 312. The draft guidance, when finalized, is intended to supersede the document entitled ''Guidance for Industry and FDA Staff: Investigational New Drug Applications (INDs) for Minimally Manipulated, Unrelated Allogeneic Placental/Umbilical Cord Blood Intended for Hematopoietic Reconstitution for Specified Indications'' dated June 2011.

The draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent FDA's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statutes and regulations.

Elsewhere in this issue of the **Federal Register,** we also are announcing the availability of another, related draft guidance entitled ''Guidance for Industry: Biologics License Applications for Minimally Manipulated, Unrelated Allogeneic Placental/Umbilical Cord Blood Intended for Hematopoietic and Immunologic Reconstitution in Patients with Disorders Affecting the Hematopoietic System.'' That draft guidance, when finalized, is intended to supersede the document entitled ''Guidance for Industry: Minimally Manipulated, Unrelated Allogeneic Placental/Umbilical Cord Blood Intended for Hematopoietic Reconstitution for Specified Indications'' dated October 2009.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014; 21 CFR part 56 have been approved under OMB control number 0910–0130; 21 CFR part 1271 have been approved under OMB control number 0910–0543; and Form FDA 1571 has been approved under OMB control number 0910–0014.

III. Comments

The draft guidance is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

IV. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: June 10, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–14096 Filed 6–14–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2006–D–0157]

Draft Guidance for Industry: Biologics License Applications for Minimally Manipulated, Unrelated Allogeneic Placental/Umbilical Cord Blood Intended for Hematopoietic and Immunologic Reconstitution in Patients With Disorders Affecting the Hematopoietic System; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft document entitled ''Guidance for Industry: Biologics License Applications for Minimally Manipulated, Unrelated Allogeneic Placental/Umbilical Cord Blood Intended for Hematopoietic and Immunologic Reconstitution in Patients with Disorders Affecting the Hematopoietic System'' dated June 2013. The draft guidance document provides recommendations for manufacturers, generally cord blood banks, to apply for licensure of minimally manipulated, unrelated allogeneic placental/umbilical cord blood, for hematopoietic and immunologic reconstitution. The guidance document is intended to assist manufacturers obtain a biologics license. The guidance contains information about the manufacture of minimally manipulated, unrelated allogeneic placental/umbilical cord blood and how to comply with applicable regulatory requirements. The draft guidance, when finalized, is intended to supersede the guidance entitled ''Guidance for Industry: Minimally Manipulated, Unrelated, Allogeneic Placental/Umbilical Cord Blood Intended for Hematopoietic Reconstitution for Specified Indications'' dated October 2009.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by September 16, 2013.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The draft guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Valerie A. Butler, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft document entitled ''Guidance for Industry: Biologics License Applications for Minimally Manipulated, Unrelated Allogeneic Placental/Umbilical Cord Blood Intended for Hematopoietic and Immunologic Reconstitution in Patients with Disorders Affecting the Hematopoietic System'' dated June 2013. The draft guidance document, when finalized, will provide recommendations for manufacturers to apply for licensure of minimally manipulated, unrelated allogeneic placental/umbilical cord blood, for hematopoietic and immunologic reconstitution in patients with disorders affecting the hematopoietic system that are inherited, acquired, or result from myeloablative treatment. The guidance document is intended to assist manufacturers obtain a biologics license. The guidance contains information about the manufacture of minimally manipulated, unrelated, allogeneic placental/umbilical cord blood and how to comply with applicable regulatory requirements. The draft guidance, when finalized, is intended to supersede the document entitled ''Guidance for Industry: Minimally Manipulated, Unrelated Allogeneic Placental/Umbilical Cord Blood Intended for Hematopoietic Reconstitution for Specified Indications'' dated October 2009.

The draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent FDA's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statutes and regulations.

Elsewhere in this issue of the **Federal Register,** we also are announcing the availability of another, related draft guidance entitled ''Guidance for Industry and FDA Staff: Investigational New Drug Applications for Minimally Manipulated, Unrelated Allogeneic Placental/Umbilical Cord Blood Intended for Hematopoietic and Immunologic Reconstitution in Patients with Disorders Affecting the Hematopoietic System.'' That draft guidance, when finalized, is intended to supersede the document entitled ''Guidance for Industry and FDA Staff: Investigational New Drug Applications (INDs) for Minimally Manipulated, Unrelated Allogeneic Placental/Umbilical Cord Blood Intended for Hematopoietic Reconstitution for Specified Indications'' dated June 2011.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 201 have been approved under OMB control number 0910–0572; 21 CFR part 211 have been approved under OMB control number 0910–0139; 21 CFR part 600 have been approved under OMB control number 0910–0308; 21 CFR parts 601, 610, and FDA Form 356h have been approved under OMB control number 0910–0338; 21 CFR part 1271 have been approved under OMB control number 0910–0543; and FDA Form 3500A has been approved under OMB control number 0910–0291.

III. Comments

The draft guidance is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets

Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

IV. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: June 10, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–14097 Filed 6–14–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

[OMB Control Number 0917–0006]

Request for Public Comment: 60-Day Proposed Information Collection: Application for Participation in the IHS Scholarship Program

AGENCY: Indian Health Service.

ACTION: Notice.

SUMMARY: In compliance with Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which requires 60-days advance opportunity for public comment on proposed information collection projects, the Indian Health Service (IHS) is publishing for comment a summary of a proposed information collection to be submitted to the Office of Management and Budget (OMB) for review.

Proposed Collection: Title: 0917–0006, ''Application for Participation in the IHS Scholarship Program.'' *Type of Information Collection Request:* Three year extension of the currently approved information collection, 0917–0006, ''Application for Participation in the IHS Scholarship Program.'' *Form Number(s):* IHS–856–3, IHS–856–5 through 856–19, IHS–856–21 through 856–24, IHS–817, and IHS–818 are retained for use by the IHS Scholarship Program (IHSSP) as part of this current Information Collection Request. Reporting forms are found on the IHS Web site at *www.ihs.gov/scholarship*. Form Numbers: IHS–856, IHS–856–2, IHS–856–4, IHS–856–20, IHS–815, and IHS–816 have been deleted from the previous Information Collection Request in an effort to comply with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Need and Use of Information Collection: The IHS Scholarship Branch needs this information for program administration and uses the information to: solicit, process, and award IHS Pre-graduate, Preparatory, and/or Health Professions Scholarship recipients; monitor the academic performance of recipients; and to place recipients at payback sites. The IHS Scholarship Program streamlined the application process by converting the IHS–856 to an electronic tool and reduced the number of required supplemental application and reporting forms to minimize the time needed by applicants and recipients to complete the application process and provide required information after receiving a scholarship from the IHSSP. The IHSSP application is electronically available on the internet at the IHS Web site at: *http://www.ihs.gov/scholarship/apply_now.cfm*.

Affected Public: Individuals, not-for-profit institutions and State, local or Tribal Governments.

Type of Respondents: Students pursuing health care professions.

The table below provides: Types of data collection instruments, Estimated number of respondents, Number of responses per respondent, Annual number of responses, Average burden hour per response, and Total annual burden hours.

Data collection instrument(s)	Number of respondents	Responses per respondent	Total annual response	Burden hour per response*	Annual burden hours
Faculty/Employer Evaluation (IHS–856–3)	1500	2	3000	0.42 (25 min)	1250
Delinquent Federal Debt (IHS–856–5)	1500	1	1500	0.13 (8 min)	200
Course Curriculum Verification (IHS–856–6)	1500	1	1500	0.70 (42 min)	1050
Verification of Acceptance or Decline of Award (IHS–856–7).	500	1	500	0.13 (8 min)	67
Recipient's Initial Program Progress Report (IHS–856–8).	1200	1	1200	0.13 (8 min)	160
Notification of Academic Problem (IHS–856–9).	50	1	50	0.13 (8 min)	7
Change of Status (IHS–856–10)	50	1	50	.045 (25 min)	21
Request for Approval of Deferment (IHS–856–11).	20	1	20	0.13 (8 min)	3
Preferred Placement (IHS–856–12)	150	1	150	0.50 (30 min)	75
Notice of Impending Graduation (IHS–856–13).	170	1	170	0.17 (10 min)	28
Notification of Deferment Program (IHS–856–14).	20	1	20	0.13 (8 min)	3
Placement Update (IHS–856–15)	170	1	170	0.18 (11 min)	31
Annual Status Report (IHS–856–16)	200	1	200	0.25 (15 min)	50
Extern Site Preference Request (IHS–856–17).	300	1	300	0.13 (8 min)	40
Request for Extern Travel Reimbursement (IHS–856–18).	150	1	150	0.10 (6 min)	15
Lost Stipend Payment (IHS–856–19)	50	1	50	0.13 (8 min)	7
Summer School Request (IHS–856–21)	100	1	100	0.10 (6 min)	10
Change of Name or Address (IHS–856–22)	20	1	20	0.13 (8 min)	3
Request for Credit Validation (IHS–856–23)	30	1	30	0.10 (6 min)	3
Faculty/Advisor Evaluation (IHS–856–24)	1500	2	3000	0.42 (25 min)	1250
Scholarship Program Agreement (IHS–817)	175	1	175	0.16 (10 min)	29

Data collection instrument(s)	Number of respondents	Responses per respondent	Total annual response	Burden hour per response*	Annual burden hours
Health Professions Contract (IHS–818)	225	1	225	0.16 (10min)	38
Total			12580		4340

* For ease of understanding, burden hours are also provided in actual minutes.

There are no direct costs to respondents other than their time to voluntarily complete the forms and submit them for consideration. The estimated cost in time to respondents, as a group, is $45,396 [4340 burden hours X $10.46 per hour (2013 GS–3 hourly base pay rate)]. This total dollar amount is based upon the number of burden hours per data collection instrument, rounded to the nearest dollar. *Request for Comments:* Your written comments and/or suggestions are invited on one or more of the following points: (a) Whether the information collection activity is necessary to carry out an agency function; (b) whether the agency processes the information collected in a useful and timely fashion; (c) the accuracy of public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information); (d) whether the methodology and assumptions used to determine the estimate are logical; (e) ways to enhance the quality, utility, and clarity of the information being collected; and (f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Send Comments and Requests for Further Information: Send your written comments and requests for more information on the proposed collection or requests to obtain a copy of the data collection instrument(s) and instructions to: Dr. Dawn Kelly, Chief, Scholarship Program, 801 Thompson Avenue, TMP Suite 450A, Rockville, MD 20852, call non-toll free (301) 443–6622, send via facsimile to (301) 443–6048, or send your email requests, comments, and return address to: *Dawn.Kelly@ihs.gov*.

Comment Due Date: Comments regarding this information collection are best assured of having full effect if received within 60 days of the date of this publication.

Dated: June 10, 2013.

Yvette Roubideaux,

Acting Director, Indian Health Service.

[FR Doc. 2013–14291 Filed 6–14–13; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Request for Public Comment: 30-Day Proposed Information Collection: Indian Health Service Medical Staff Credentials and Privileges Files

AGENCY: Indian Health Service, HHS.

ACTION: Notice.

SUMMARY: In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995 which requires 30 days for public comment on proposed information collection projects, the Indian Health Service (IHS) is submitting to the Office of Management and Budget (OMB) a request for a revision of an approved collection of information titled, ''Indian Health Service Medical Staff Credentials and Privileges Files,'' OMB Control Number 0917–0009, which expires June 31, 3013. This proposed information collection project was previously published in the **Federal Register** (78 FR 19721) on April 2, 2013, and allowed 60 days for public comment, as required by 3506(c)(2)(A). The IHS received one comment concerning the ''Optometric Privileges Request Form'' in regards to the defining of physicians and optometrists separately. The IHS responded that it will not include the ''Optometric Privileges Request Form'' for consideration in this request—pending a review of ways to enhance the quality, utility and clarity of this particular form. The purpose of this notice is to allow 30 days for public comment to be submitted directly to OMB.

Proposed Collection: Title: 0917–0009, ''Indian Health Service Medical Staff Credentials and Privileges Files.'' *Type of Information Collection Request:* Revision of an approved information collection, 0917–0009, ''Indian Health Service Medical Staff Credentials and Privileges Files.'' *Form Numbers:* 0917–0009. *Need and Use of Information Collection:* This collection of information is used to evaluate individual health care providers applying for medical staff privileges at IHS health care facilities. The IHS operates health care facilities that provide health care services to American Indians and Alaska Natives. To provide these services, the IHS employs (directly and under contract) several categories of health care providers including: Physicians (M.D. and D.O.), dentists, psychologists, optometrists, podiatrists, audiologists, physician assistants, certified registered nurse anesthetists, nurse practitioners, and certified nurse midwives. IHS policy specifically requires physicians and dentists to be members of the health care facility medical staff where they practice. Health care providers become medical staff members, depending on the local health care facility's capabilities and medical staff bylaws. There are three types of IHS medical staff applicants: (1) Health care providers applying for direct employment with IHS; (2) contractors who will not seek to become IHS employees; and (3) employed IHS health care providers who seek to transfer between IHS health care facilities.

National health care standards developed by the Centers for Medicare and Medicaid Services, the Joint Commission, and other accrediting organizations require health care facilities to review, evaluate and verify the credentials, training and experience of medical staff applicants prior to granting medical staff privileges. In order to meet these standards, IHS health care facilities require all medical staff applicants to provide information concerning their education, training, licensure, and work experience and any adverse disciplinary actions taken against them. This information is then verified with references supplied by the applicant and may include: Former employers, educational institutions, licensure and certification boards, the American Medical Association, the Federation of State Medical Boards, the National Practitioner Data Bank, and the applicants themselves.

In addition to the initial granting of medical staff membership and clinical privileges, the Joint Commission standards require that a review of the medical staff be conducted not less than every two years. This review evaluates the current competence of the medical staff and verifies whether they are maintaining the licensure or

certification requirements of their specialty.

The medical staff credentials and privileges records are maintained at the health care facility where the health care provider is a medical staff member. The establishment of these records at IHS health care facilities is a Joint Commission requirement. Prior to the establishment of this Joint Commission requirement, the degree to which medical staff applications were maintained at all health care facilities in the United States that are verified for completeness and accuracy varied greatly across the Nation.

The application process has been streamlined and is using information technology to make the application electronically available on the Internet. The application may be found at the IHS.gov Web site address: *http://www.ihs.gov/IHM/index.cfm?module=dsp_ihm_pc_p3c1_ex#Manual Exhibit 3-1-A.*

Affected Public: Individuals and households. *Type of Respondents:* Individuals.

The table below provides: Types of data collection instruments, Estimated number of respondents, Number of annual number of responses, Average burden per response, and Total annual burden hours.

Data collection instrument(s)	Estimated number of respondents	Responses per respondent	Average burden hour per response *	Total annual burden hours
Application to Medical Staff	570	1	1.00 (60 mins)	570
Reference Letter	1710	1	0.33 (20 mins)	570
Reappointment Request	190	1	1.00 (60 mins)	190
Ob-Gyn Privileges	20	1	1.00 (60 mins)	20
Internal Medicine	325	1	1.00 (60 mins)	325
Surgery Privileges	20	1	1.00 (60 mins)	20
Psychiatry Privileges	13	1	1.00 (60 mins)	13
Anesthesia Privileges	15	1	1.00 (60 mins)	15
Dental Privileges	150	1	0.33 (20 mins)	50
Psychology Privileges	30	1	0.17 (10 mins)	5
Audiology Privileges	7	1	0.08 (5 mins)	1
Podiatry Privileges	7	1	0.08 (5 mins)	1
Radiology Privileges	8	1	0.33 (20 mins)	3
Pathology Privileges	3	1	0.33 (20 mins)	1
Total	3068			1,784

* For ease of understanding, burden hours are provided in actual minutes.
There are no capital costs, operating costs and/or maintenance costs to respondents.

Request for Comments: Your written comments and/or suggestions are invited on one or more of the following points: (a) Whether the information collection activity is necessary to carry out an agency function; (b) whether the agency processes the information collected in a useful and timely fashion; (c) the accuracy of public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information); (d) whether the methodology and assumptions used to determine the estimate is logical; (e) ways to enhance the quality, utility, and clarity of the information being collected; and (f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Send Requests for Further Information: For the proposed collection, or requests to obtain a copy of the data collection instrument(s) and instructions, to: Paul R. Fowler D.O., J.D., Risk Management Officer, 801 Thompson Avenue, TMP, Suite 331, Rockville, MD 20852, call non-toll free (301) 443–6372, send via facsimile to (301) 594–6213, or send your email requests to email address *paul.fowler@ihs.gov.*

Direct Your Comments to OMB: Send your comments and suggestions regarding the proposed information collection contained in this notice, especially regarding the estimated public burden and associated response time to: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for IHS.

Comment Due Date: Your comments regarding this information collection is best assured of having full effect if received within 30 days of the date of this publication.

Dated: June 10, 2013.

Yvette Roubideaux,

Acting Director, Indian Health Service.

[FR Doc. 2013–14289 Filed 6–14–13; 8:45 am]

BILLING CODE 4160–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Indian Self-Determination and Education Assistance Contracts; Correction

AGENCY: Indian Health Service, HHS.

ACTION: Notice; correction.

SUMMARY: The Indian Health Service published a document in the **Federal Register** on May 30, 2013, concerning a request for a renewal of the collection of information, titled, ''Indian Self Determination and Education Assistance Contracts, 25 CFR Part 900.'' The document contained an error regarding the *''Estimated Time per Response.''*

FOR FURTHER INFORMATION CONTACT: Ms. Tamara Clay, Reports Clearance Officer, Indian Health Service, 801 Thompson Avenue, TMP, Suite 450, Rockville, MD 20852, Telephone 301–443–4750. (This is not a toll-free number.)

Correction

In the **Federal Register** of May 30, 2013, in Vol. 78, No. 104, on page 32406, in the third column, under the heading ''*Estimated Time per Response:* Varies from 1 to 1040 hours, with an average of 11 hours per response'' it should read ''*Estimated Time per Response:* Varies from 1 to 1040 hours, with an average of 15.968 hours per response.''

Dated: June 10, 2013.

Yvette Roubideaux,

Acting Director, Indian Health Services.

[FR Doc. 2013–14293 Filed 6–14–13; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The 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 Institute on Aging Special Emphasis Panel; Longitudinal Study Contract.

Date: June 26, 2013.

Time: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20814, (Telephone Conference Call).

Contact Person: Rebecca Jo Ferrell, Ph.D., Scientific Review Branch, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7703, *rebecca.ferrell@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. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: June 11, 2013.

Melanie J. Gray,

Program Analyst,, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–14207 Filed 6–14–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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 Child Health and Human Development Special Emphasis Panel; Medical Rehab Training Program.

Date: July 10, 2013.

Time: 3:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Carla T. Walls, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute, of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892–7510, 301–435–6898, *wallsc@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 11, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–14209 Filed 6–14–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Cancer Biology and Therapy.

Date: June 24, 2013.

Time: 3:30 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, NCI Shady Grove, 9609 Medical Center Drive, Room 7W106, Bethesda, MD 20892.

Contact Person: Eun Ah Cho, Ph.D., Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, 7W106, Bethesda, MD 20892–9750, 240–276–6342, *choe@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 Cancer Institute Special Emphasis Panel; Cancer Prevention Research Small Grant Program.

Date: July 10, 2013.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Rockville/Gaithersburg, 14975 Shady Grove Rd, Rockville, MD 20850.

Contact Person: Thomas A. Winters, Ph.D., Scientific Review Officer, Special Review & Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W412, Bethesda, MD 20892–9750, 240–276–6386, *twinters@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Cancer Biology-2.

Date: July 15–16, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Eun Ah Cho, Ph.D., Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, 7W106, Bethesda, MD 20892–9750, 240–276–6342, *choe@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/sep/sep.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 11, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–14205 Filed 6–14–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; 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 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 of Neurological Disorders and Stroke Initial Review Group; Neurological Sciences and Disorders K.

Date: June 27, 2013.

Time: 8:30 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Allerton Hotel, 701 North Michigan Avenue, Chicago, IL 60611.

Contact Person: Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS, NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–435–6033, *rajarams@ninds.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 Neurological Disorders and Stroke Special Emphasis Panel; CNS INJURY.

Date: June 27, 2013.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Allerton Hotel, 701 North Michigan Avenue, Chicago, IL 60611.

Contact Person: Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS, NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–435–6033, *rajarams@ninds.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 Neurological Disorders and Stroke Special Emphasis Panel; NeuroNEXT.

Date: June 28, 2013.

Time: 8:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Allerton Hotel, 701 North Michigan Avenue, Chicago, IL 60611.

Contact Person: Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS, NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–435–6033, *rajarams@ninds.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. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: June 11, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–14211 Filed 6–14–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2) 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 purpose of this meeting is to evaluate requests for development resources for potential new cancer diagnostics. The outcome of the evaluation will be information for consideration by an internal NCI committee that will decide whether NCI/DCTD should support the requests and make available contract resources for development of the potential diagnostics to improve the treatment of cancer. The research proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposed research projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Clinical Assay Development Program (CADP).

Date: July 30, 2013.

Time: 9:00 a.m.–4:00 p.m.

Agenda: To evaluate requests for development resources for potential new diagnostics for cancer.

Place: National Cancer Institute, 9609 Medical Center Drive, Room 2W908, Rockville, MD 20850.

Contact Person: Tracy G. Lively, Ph.D., Executive Secretary, Cancer Diagnosis Program (CADP), National Cancer Institute, NIH, 9609 Medical Center Drive, Room 4W420, Rockville, MD 20850, 240–276–5944, *livelyt@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 11, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–14206 Filed 6–14–13; 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; HIV/AIDS Therapeutics.

Date: July 8, 2013.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street NW., Washington, DC 20037.

Contact Person: Robert Freund, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cell, Computational, and Molecular Biology.
Date: July 11, 2013.
Time: 10:00 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.
Contact Person: Maria DeBernardi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7892, Bethesda, MD 20892, 301–435–1355, *debernardima@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Substance Abuse and Associated Problems of Veterans, Military Personnel and Their Families.
Date: July 17–18, 2013.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: John H. Newman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3222, MSC 7808, Bethesda, MD 20892, (301) 267–9270, *newmanjh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Endocrinology and Reproduction.
Date: July 17, 2013.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Dianne Hardy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6175, MSC 7892, Bethesda, MD 20892, 301–435–1154, *dianne.hardy@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Oncology.
Date: July 17, 2013.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Michael L. Bloom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7804, Bethesda, MD 20892, 301–451–0132, *bloomm2@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member conflict: Drugs and Alcohol.
Date: July 17, 2013.
Time: 8:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Michael Selmanoff, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3134, MSC 7844, Bethesda, MD 20892, 301–435–1119, *mselmanoff@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Microbiology and Infectious Diseases AREA Review.
Date: July 17–18, 2013.
Time: 9:00 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: Liangbiao Zheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, MSC 7808, Bethesda, MD 20892, 301–996–5819, *zhengli@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Bioengineering Sciences and Technologies: AREA Review.
Date: July 17–18, 2013.
Time: 10:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: 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–11–100: Alzheimer's Disease Pilot Clinical Trials.
Date: July 17, 2013.
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, (Virtual Meeting).
Contact Person: Mark Lindner, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, 301–435–0913, *mark.lindner@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Molecular Neurogenetics and Neuroimaging.
Date: July 17, 2013.
Time: 2:00 p.m. to 4:00 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: Paek-Gyu Lee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4201, MSC 7812, Bethesda, MD 20892, (301) 613–2064, *leepg@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Biology.
Date: July 17, 2013.
Time: 2:00 p.m. to 4:00 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: Charles Morrow, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6202, MSC 7804, Bethesda, MD 20892, 301–451–4467, *morrowcs@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member conflict: Neurobiology of Member Formation, Decision Making and Somatosensory Processing.
Date: July 17, 2013.
Time: 3:30 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: Wei-Qin Zhao, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC 7846, Bethesda, MD 20892–7846, 301–435–1236, *zhaow@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 11, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–14204 Filed 6–14–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Open Meeting

SUMMARY: The National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), a research institute of the National Institutes of Health (NIH), Department of Health and Human Services (DHHS), will hold a scientific meeting titled ''Novel Phenotyping Methods in Symptoms of Lower Urinary Tract Dysfunction'' and invites the public to attend.

DATES: June 19, 2013 from 12:00 p.m.–1:00 p.m.

ADDRESSES: This is a virtual meeting, and registration information will be sent upon request.

SUPPLEMENTARY INFORMATION: NIDDK is seeking individuals, companies, or organizations that have or use novel and innovative imaging, mobile smart apps, handheld devices, wireless and remote technologies and new tools or devices to evaluate/measure lower urinary function/dysfunction. There may be opportunities to use those technologies in a future phenotyping cohort. This webinar is intended to provide information on the opportunities for novel phenotyping methods to be tested in prospective cohort to the potentially interested parties. This webinar is free and open to the public. Early registration is requested, registration requests after June 18, 2013 COB will not be honored. For more information please contact Dr. Ziya Kirkali.

FOR FURTHER INFORMATION CONTACT: Ziya Kirkali, M.D.; Senior Scientific Advisor, Division of Kidney, Urology and Hematology, NIDDK, NIH. Phone: 301–594–7717, Email: *kirkaliz@mail.nih.gov*.

Dated: June 6, 2013.

Griffin P. Rodgers,

Director, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health.

[FR Doc. 2013–14172 Filed 6–14–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Collaborative Network for Clinical Research on Immune Tolerance.

Date: July 9, 2013.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Priti Mehrotra, Ph.D., Chief, Immunology Review Branch, Scientific Review Program, National Institutes of Health/NIAID, 6700B Rockledge Drive, Room 3138, Bethesda, MD 20892–7616, 301–435–9369, *pm158b@nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Clinical Trials Units for NIAID Networks.

Date: July 10, 2013.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700A Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Robert C. Unfer, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 6700–B Rockledge Dr., MSC–7616, Bethesda, MD 20892–7616, 301–496–2550, *robert.unfer@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 11, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–14208 Filed 6–14–13; 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; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, July 01, 2013, 01:00 p.m. to July 01, 2013, 02:00 p.m., National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD, 20892 which was published in the **Federal Register** on June 06, 2013, 78 FR 34111.

The name of the meeting was changed to Ancillary Studies on Health Insurance Designs. The meeting is closed to the public.

Dated: June 11, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–14210 Filed 6–14–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Pretesting of Substance Abuse Prevention and Treatment and Mental Health Services Communication Messages—(OMB No. 0930–0196)—Extension

As the Federal agency responsible for developing and disseminating authoritative knowledge about substance abuse prevention, addiction treatment, and mental health services and for mobilizing consumer support and increasing public understanding to overcome the stigma attached to addiction and mental illness, the Substance Abuse and Mental Health Services Administration (SAMHSA) is responsible for development and dissemination of a wide range of education and information materials for both the general public and the professional communities. This submission is for generic approval and will provide for formative and qualitative evaluation activities to (1) assess audience knowledge, attitudes, behavior and other characteristics for the planning and development of messages, communication strategies and public information programs; and (2) test these messages, strategies and program components in developmental form to assess audience comprehension, reactions and perceptions. Information obtained from testing can then be used to improve materials and strategies while revisions are still affordable and possible. The annual burden associated with these activities is summarized below.

Activity	Number of respondents	Responses/ respondent	Hours per response	Total hours
Individual In-depth Interviews:				
General Public	400	1	.75	300
Service Providers	200	1	.75	150
Focus Group Interviews:				
General Public	3,000	1	1.5	4,500
Service Providers	1,500	1	1.5	2,250
Telephone Interviews:				
General Public	335	1	.08	27
Service Providers	165	1	.08	13
Self-Administered Questionnaires:				
General Public	2,680	1	.25	670
Service Providers	1,320	1	.25	330
Gatekeeper Reviews:				
General Public	1,200	1	.50	600
Service Providers	900	1	.50	450
TOTAL	11,700			9,290

Written comments and recommendations concerning the proposed information collection should be sent by July 17, 2013 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2013–14215 Filed 6–14–13; 8:45 am]

BILLING CODE 4162–20–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: Evaluation of Programs to Provide Services to Persons who are Homeless with Mental and/or Substance Use Disorders (Homeless Programs)—New

SAMHSA is conducting a cross-program evaluation of Projects for Assistance in Transition from Homelessness (PATH); Services in Supportive Housing (SSH); and Grants for the Benefit of Homeless Individuals (GBHI), which includes grantee tracks focused on SSH, General GBHI grantees, and Cooperative Agreements to Benefit Homeless Individuals (CABHI). The SAMHSA Homeless Programs aim to support local capacity to provide services for homeless individuals with substance abuse and/or mental health problems. The Homeless Programs national evaluation broadly aims to address the contexts in which projects operate; whether a project is successfully implemented and provides appropriate services to the intended target population; and whether the target population demonstrates improved outcomes.

Data collection efforts for the evaluation will include a *Document Review: Project Director Telephone Follow-up, Site Visits, Evidence-Based Practice (EBP) Self-Assessment, Parts 1 and 2* and *Permanent Supportive Housing (PSH) Self-Assessment* which collect grantee project characteristics, process information such as client flow and project logic models, barriers and facilitators to implementation, and data on the types of treatment and housing services provided.

The *Document Review: Project Director Telephone Follow-up* is a telephone interview that covers the following topics: Grantee Agency and Project Characteristics, Target Population, Stakeholders/Partners, Services, EBPs/Best Practices, Housing, Project Organization and Implementation, Sustainability, Local Evaluation, Technical Assistance and Lessons Learned. Grantee project directors from the GBHI 2010, CABHI 2011–2012, and SSH 2009–2010 cohorts and PATH state contacts (n=158) will be contacted to collect grantee project information which will be used to better understand how grantees develop their grant projects.

Site Visit Guides consist of semi-structured discussions with grantee project directors, evaluators, financial staff, clinical treatment staff, case managers, housing supports staff, key stakeholders and consumers/client participants. This approach allows information to be collected from multiple perspectives giving a fuller picture of the grant project. Seventy-five site visits will be conducted during the evaluation (25 per year for 3 years)—60 for GBHI, CABHI and SSH grantees and 15 for PATH grantees. Over the course of multiple discussions the following

major topics will be covered: client level process data (client experience with project services and client flow through the project), project components and activities, costs, project services alignment with client need, program outputs and outcomes, training and quality assurance, and relationships with primary partners and stakeholders.

The *EBP Self-Assessment* will provide data needed to assess and aggregate for analyses the resources and processes required for practice implementation, whether the EBP services are being delivered in accordance with their evidence-based components and how the practices are adapted for the projects' target populations, if relevant. The EBP Self-Assessment includes two parts. The first part is a general overview of EBP implementation and will be administered to all GBHI, CABHI, and SSH grantees (n=127). The second part is an in-depth assessment for grantees who are implementing one or more of the following EBPs: Assertive Community Treatment (ACT), Integrated Dual Disorders Treatment (IDDT), Illness Management and Recovery (IMR), Supported Employment (SE) and Critical Time Intervention (CTI). The estimated number of grantees who will complete Part Two of the EBP Assessment is 87.

The *PSH Self-Assessment* targets the subset of grantees implementing PSH models and aims to help identify the extent to which grantees with PSH models meet the relevant dimensions of PSH. The estimated number of grantees who will complete the PSH Self-Assessment is 100. Both the EBP and PSH Self-Assessment will be web-based questionnaires.

TOTAL BURDEN HOURS FOR THE HOMELESS PROGRAMS EVALUATION GRANTEE DATA COLLECTION

Instrument/activity	Number of respondents	Responses per respondent	Total number of responses	Hours per response	Total burden hours
Project Director Telephone Follow-Up	158	1	158	3.5	553
Opening Session/Project Director Interview	[a] 250	1	250	3.5	875
Case Manager, Treatment, Housing Staff/Provider Interview	[b] 375	1	375	2	750
Stakeholder Interview	[c] 175	1	175	1.5	262.5
Evaluator Interview	[d] 60	1	60	1	60
Client Focus Group	[e] 300	1	300	1.5	450
Cost Interview	[f] 60	1	60	2	120
EBP Self-Assessment Part 1	127	1	127	0.58	73.66
EBP Self-Assessment Part 2	87	1	87	0.5	43.5
PSH Self-Assessment	100	1	100	0.67	67
TOTAL	[g] 1,048		1,692		3,255

[a] 10 respondents × 25 site visits per year = 250 total respondents.
[b] 15 respondents × 25 site visits per year = 375 total respondents.
[c] 7 respondents × 25 site visits per year = 175 respondents.
[d] 3 respondents × 20 site visits per year = 60 respondents *(will not be conducted with PATH grantees)*.
[e] 12 respondents × 25 site visits per year = 300 respondents.
[f] 3 respondents × 20 site visits = 60 respondents *(will not be conducted with PATH grantees)*.
[g] Estimated number of total unique respondents; some respondents, such as project directors, will overlap across the data collection activities.

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 2–1057, One Choke Cherry Road, Rockville, MD 20857 *or* email her a copy at *summer.king@samhsa.hhs.gov.* Written comments should be received by August 16, 2013.

Summer King,

Statistician.

[FR Doc. 2013–14181 Filed 6–14–13; 8:45 am]

BILLING CODE 4162–20–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: Cross-Site Evaluation of the Garrett Lee Smith Memorial Suicide Prevention and Early Intervention Programs (OMB No. 0930–0286)—Revision

The Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Mental Health Services (CMHS) will continue to conduct the cross-site evaluation of the Garrett Lee Smith Memorial Youth Suicide Prevention and Early Intervention State/Tribal Programs and the Garrett Lee Smith Memorial Youth Suicide Prevention Campus Programs. The data collected through the cross-site evaluation addresses four stages of program activity: (1) The context stage includes a review of program plans, such as grantee's target population, target region, service delivery mechanisms, service delivery setting, types of program activities to be funded and evaluation activities; (2) the product stage describes the prevention strategies that are developed and utilized by grantees; (3) the process stage assesses

progress on key activities and milestones related to implementation of program plans; and (4) the impact [1] stage assesses the impact of the program on early identification, referral for services, and service follow-up of youth at risk.

To date, 147 State/Tribal cooperative agreement awardees and 153 Campus grantees have participated in the cross-site evaluation since FY 2005. Currently, 61 State/Tribal cooperative agreement awardees and 60 Campus grantees are participating in the cross-site evaluation. Data will continue to be collected from suicide prevention program staff (e.g., project directors, evaluators), key program stakeholders (e.g., state/local officials, child-serving agency directors, gatekeepers, mental health providers, and campus administrators), training participants, college students, and campus faculty/staff through FY2016.

Since the State/Tribal grantees differ from the Campus grantees in programmatic approaches, specific data collection activities also vary by type of program. The following describes the specific data collection activities and data collection instruments to be used across State/Tribal and Campus grantees for the cross-site evaluation. While most of the data collection instruments described below are revised versions of instruments that have previously received Office of Management and Budget approval (OMB No. 0930–0286 with Expiration Date: August 2013) and are currently in use, new instruments include:

- The Training Utilization and Preservation—Survey (TUP–S): 6-Month Follow-up, Adolescent, and Campus Versions
- The Life skills Activities Follow-up Interview (LAI)
- The Coalition Survey
- The Coalition Profile
- The Short Message Service Survey (SMSS)
- The Student Awareness Intercept Survey (SAIS)

The addition of these new data collection activities does not increase the burden associated with the cross-site evaluation because several lengthy instruments, as well as campus case studies, have been removed from the data collection protocol. A summary table of the number of respondents and respondent burden has also been included.

Previously approved instruments that have been removed include:

- The Training Exit Survey (TES) Individual Form for States/Tribes
- The Suicide Prevention, Exposure, Awareness and Knowledge Survey for Students (SPEAKS–S)
- The Campus Infrastructure Interviews (CIFI)
- Three instruments collected by a subset of Campus grantees
- The Training Utilization and Preservation Interview (TUP–I)

Data Collection Activities for State/Tribal Grantees

For State/Tribal grantees, the Prevention Strategies Inventory State/Tribal (PSI–ST) Baseline and Follow-up, Referral Network Survey (RNS), and the Training Utilization and Preservation—Survey (TUP–S–ST): State/Tribal Version described below are revised versions of instruments that previously received OMB approval (OMB No. 0930–0286 with Expiration Date: August 2013) and are currently in use. The Training Activity Summary Page State/Tribal (TASP–ST), Early Identification, Referral and Follow-up Screening Form (EIRF–S) and the Early Identification, Referral and Follow-up Analysis (EIRF) are data collection activities that utilize existing data sources. The Training Utilization and Preservation Survey (TUP–S): 6-Month Follow-up and Adolescent Versions, the Coalition Profile, and the Coalition Survey are proposed as new data collection instruments.

Prevention Strategies Inventory-State/Tribal (PSI–ST)—Revised: The Prevention Strategies Inventory will collect information on the suicide prevention strategies that grantees have developed and utilized. Prevention strategies include outreach and awareness, gatekeeper training, assessment and referral training for mental health professionals and hotline staff, life skills development programs, screening programs, hotlines and helplines, means restriction, policies and protocols for intervention and postvention, coalitions and partnerships, and direct services and traditional healing practices. Baseline data will be collected from the State/Tribal grantees at the beginning of their grant cycle. Thereafter, they will complete the PSI–ST on a quarterly basis over the duration of their grant period. Baseline data will be collected on information on the types of prevention strategies grantees have developed and utilized, and the follow-up data collection asks the grantees to update the information they have provided on a quarterly basis over the period of the grant. On average, 61 State/Tribal grantees will fill out the PSI–ST per year. One respondent from each site will be responsible for completing the survey. The survey will take approximately 45 minutes; however, the number of products, services and activities implemented under each strategy will determine the number of items each respondent will complete. The PSI has been revised to include response options that better capture subpopulations targeted for prevention strategies. Response options now include the following: American Indian/Alaska Native; Survivors of Suicide; Individuals who engage in nonsuicidal self-injury; Suicide attempters; Individuals with mental and/or substance abuse disorders; Lesbian, gay, bisexual, and transgender populations; Veterans, active military, or military families; Hispanic or Latino population. Additional guidance has also been provided for categorizing prevention strategies that fit in multiple categories. These changes enhance the utility and accuracy of the data collected. The PSI–ST primarily has multiple choice questions with several open-ended questions. Respondents for the Prevention Strategies Inventory will be project evaluators and/or program staff. Each of the 61 State/Tribal grantees will be required to complete the inventory.

Training Activity Summary Page State/Tribal Version (TASP–ST)—Revised: State and Tribal grantees are required to report aggregate training participant information for all training conducted as part of their suicide prevention programs. These data are aggregated from existing data sources, some of which are attendance sheets, management information systems, etc. Grantees are responsible for aggregating these data and submitting to the cross-site evaluation team using the TASP–ST on a quarterly basis. The TASP has been revised to collect information about the settings of trainings and the training goal, as well as the follow-up plans of grantees. It is estimated that abstracting this information will take 20 minutes.

Training Utilization and Preservation Survey (TUP–S): 3-Month Follow-up Version—(Revision) and 6-Month Follow-up Version—(New). The Training Utilization and Preservation Survey (TUP–S) is a quantitative, computer-assisted telephone interview.

[1] The evaluation as designed includes four stages (context, content, process, and impact) each of which is hinged to the fundable activities of the grantees, the research questions outlined in the evaluation statement of work, and the state of the knowledge base in the field of suicide prevention. As such, while the evaluation design does not currently include rigorous impact assessment, it does include the comparative assessment of proximal outcomes as a part of the impact stage. Hereafter, the impact stage is used as an umbrella term to cover evaluation protocols designed and implemented to understand the outcomes of the program.

The previously approved 3-Month Follow-up Version will be administered to a random sample of trainees 3 months following the training. A new version of the survey, the 6-Month Follow-up Version, will be administered to participants 6 months following the training. Both versions will assess trainee knowledge retention and gatekeeper behavior, particularly behavior related to identifying youth at risk. The TUP–S will ask trainees to provide demographic information about individuals they have identified as being at risk, information about the subsequent referrals or supports provided by the trainee, and any available information about services accessed by the at-risk individual.

The target population of TUP–S instruments is participants in GLS sponsored trainings. The different versions of the instrument target distinct strata within that population. The State/Tribal 3-Month Follow-up TUP–S and the 6-Month Follow-up TUP–S will target adults (18 and older) who participated in State/Tribal sponsored trainings (about 900 per grantee in FY 2012). All adult participants of GLS sponsored trainings will be administered a consent-to-contact form by the training facilitator or grantee staff during a training event. Respondents to the State/Tribal TUP–S will be asked to consent to be contacted for a second time (in 3 months).

The cross-site evaluation team will select a probabilistic sample of participants who consent to be contacted on an ongoing basis, as trainings are implemented and consents received, using systematic sampling. The sample fraction will be determined and updated yearly based on the projected number of consents so as to ensure the target sample sizes per year. Changes in the sample fraction will alter inclusion probabilities and must be taken into account in the analysis across years through the use of sampling weights

Target sample sizes were determined so as to afford small standard errors for the estimates of the quantities of interest in a given year considering available resources. In addition, the sample size for each version is roughly proportional to the size of the stratum they represent in FY 2012. Key survey estimates will take the form of the percentage or proportions, such as the proportion of trainees who identified a youth at risk for suicide during the 3 months after the training. In the case of the TUP–S 6-Month Follow-up, the main interest is the change between administrations in these proportions of interest. Results are presented for the maximum standard errors, i.e., for a proportion close to 50%—in which the variance is the largest—and for no correlation over time in the case of the TUP–S 6-month follow-up.

Instrument version	Target sample size	Maximum standard error %
ST TUP–S	2,000	1.1
ST TUP–S 6-Month Follow-up (pilot)*	200	5.0
ST TUP–S 6-Month Follow-up*	600	2.9

*Note the precision here is for a difference in proportions, instead of a single proportion, assuming no correlation over time.

An average of 2,000 participants per year will be sampled for completion of the 3-Month Follow-up Version. The 6-Month Follow-up Version will sample 200 participants the first year and will increase to 600 participants in subsequent years. The two versions of the TUP–S include 25 items each and will take approximately 10 minutes to complete.

Training Utilization and Preservation Survey (TUP–S): Adolescent Version—New. The one-year pilot of the Adolescent version of the Training Utilization and Preservation—Survey will be implemented with grantees sponsoring trainings for youth as part of their grant program. Two methods to reach adolescents to complete the TUP–S will be piloted: One using a Web survey, and another using an SMSS, or text message, survey. The Adolescent Version of the TUP–S will assess adolescent trainees' knowledge retention and gatekeeper behavior. The adolescent version of the survey increases the comprehensiveness of the evaluation, as it allows for the collection of training utilization and retention data among adolescents under the age of 18, who represent more than a fifth of the trainees from States and Tribes, but who heretofore have not participated in the TUP–S.

The Adolescent TUP–S will target adolescents (12 to 17) who participated in State and Tribal sponsored trainings (approximately 170 per grantee in FY 2012). Consent to contact for the Adolescent TUP–S will be obtained from parent/guardians by training facilitators and/or grantee staff in conjunction with the consent to participate in the training itself.

The cross-site evaluation team will select a probabilistic sample of participants who consent to be contacted on an ongoing basis, as trainings are implemented and consents received, using systematic sampling. The sample fraction will be determined and updated yearly based on the projected number of consents so as to ensure the target sample sizes per year. Changes in the sample fraction will alter inclusion probabilities and must be taken into account in the analysis across years through the use of sampling weights.

Target sample sizes were determined so as to afford small standard errors for the estimates of the quantities of interest in a given year considering available resources. In addition, the sample size for the Adolescent Version is roughly proportional to the size of the stratum it represents in FY 2012. Key survey estimates will take the form of the percentage or proportions, such as the proportion of trainees who identified a youth at risk for suicide during the 3 months after the training.

Instrument version	Target sample size	Maximum standard error %
Adolescent TUP–S (pilot)	100	5.0
Adolescent TUP–S	400	2.5

An average of 100 respondents will be sampled during the pilot year; they will increase to 400 participants in subsequent years. The Adolescent Version of the TUP–S will take approximately 10 minutes to complete.

Referral Network Survey (RNS)—Revised: The Referral Network Survey (RNS) will be administered to representatives of youth-serving organizations or agencies that form referral networks supporting youth identified at risk. The RNS examines how collaboration and integration are used for sharing and transferring knowledge, resources, and technology among State/Tribal Program agencies and organizational stakeholders, how these networks influence referral mechanisms and service availability, policies and protocols regarding follow-up for youths who have attempted suicide and who are at risk for suicide, and access to electronic databases. Using zip code data submitted by grantees on the Training Activity Summary Page forms, cross-site evaluation staff will determine the county or region where the grantee has the greatest impact. The grantee will then be asked to provide contact information for at least one and up to three organizations in this county or region. Cross-site evaluation staff will make a preliminary phone call to ask these primary organizations for their referral network. Using snowball sampling to determine the entire referral network for the county or region, cross-site evaluation staff will contact all

organizations within the referral network to conduct the Referral Network Survey. Snowball sampling will be repeated until saturation is reached. However, in large networks, four waves with an average of three referrals per wave will be conducted, for a total of 27 respondents. For these large networks, protocol will be followed:

- Wave 1—grantee identifies one respondent
- Wave 2—1 agency provides 3 respondents
- Wave 3—3 agencies each can provide 3 more respondents
- Wave 4—9 agencies can each provide 3 respondents

If the participant agrees to participate in the survey during the initial phone call, respondents will be asked to provide a current email address. Once the referral network has been established, respondents will be sent an online survey. This online survey will be prefilled with the entire list of the network so respondents may select which organizations are in their direct referral network.

The RNS will be administered to referral networks in years 1 and 3 of the grant. On average, 1467 respondents per year will complete the RNS. Questions on the RNS are multiple-choice, Likert-scale, and open-ended. The RNS includes 57 items and will take approximately 40 minutes to complete. The RNS has undergone several changes. It has been revised to gather more detail about the type, level, and quality of collaboration between agencies, including barriers, facilitators, and outcomes of the collaboration. The mode of administration for this survey will also be changed from phone to the Web to boost response rates.

Coalition Profile—New: The Coalition Profile will be administered once during the grant period to States and Tribes that report engaging in coalition building activities on the Prevention Strategies Inventory (PSI). Grantees will be asked to identify up to ten members of their coalition to participate. The Coalition Profile is a brief survey that provides a summary of the coalition's mission and structure, and will be used in conjunction with the Coalition Survey and the Referral Network Survey. On average, 33 respondents per year will complete the Coalition Profile. The Coalition Profile includes 10 items and will take approximately 20 minutes to complete.

Coalition Survey—New: The Coalition Survey will be administered to all State/Tribal grantees that indicate participation in coalition building activities in their Prevention Strategies Inventory (PSI) once in the first year of the grant, and again during the third year of grant funding. Each grantee will be asked to provide the names and contact information of up to ten individuals identified as part of the suicide prevention coalition. Respondents will be sent a link to complete the survey online. The Coalition Survey measures an organization's involvement in grantees' suicide prevention coalition. On average, 426 respondents per year will complete the Coalition Survey. The Coalition Survey includes 29 questions and will take approximately 40 minutes to complete.

Early Identification, Referral and Follow-up Screening Form (EIRF–S)—Revised: State/Tribal grantees are also required to report screening information for all youth screened as part of their suicide prevention programs. These data are compiled from existing data sources. Grantees are responsible for compiling these data and submitting to the cross-site evaluation team using the Early Identification, Referral and Follow-up Screening Form. Grantees are required to submit information on a quarterly basis, and it is estimated that abstracting this information will take 60 minutes. The form has been modified to collect the geographical location of screening events.

Early Identification, Referral and Follow-up Analyses (EIRF)—Revised: State/Tribal grantees are required to share existing data with the cross-site evaluation team on the youth identified at risk as a result of early identification activities, the types of services these youth are referred for, and whether these youth receive services within 3 months of the referral. Grantees are required to submit information on a quarterly basis, and it is estimated that grantees spend 5 hours each quarter extracting this information. The form has been modified to collect the geographical location of the setting in which the youth was identified, and the setting in which the youth received services in an effort to track service availability and accessibility.

Data Collection Activities for Campuses

For Campus grantees, the Prevention Strategies Inventory-Campus Baseline and Follow-up (PSI–C) and the Training Exit Survey—Campus (TES–C), are revised versions of instruments that previously received OMB approval (OMB No. 0930–0286 with Expiration Date: August 2013) and are currently in use. The Training Activity Summary Page Campus (TASP–C) and the MIS Data Collection Activity utilize existing data sources. The Life skills Activity Follow-up Interview (LAI), the Short Message Service Survey (SMSS), the Student Awareness Intercept Survey (SAIS), and the Training Utilization and Preservation—Survey (TUP–S): Campus Version are proposed as new data collection instruments.

Prevention Strategies Inventory-Campus (PSI–C)—Revised: The Prevention Strategies Inventory will collect information on the suicide prevention strategies that grantees have developed and utilized. Prevention strategies include outreach and awareness, gatekeeper training, assessment and referral training for mental health professionals and hotline staff, life skills development activities, screening programs, hotlines and helplines, means restriction, policies and protocols for intervention and postvention, and coalitions and partnerships. The Campus grantees will first collect baseline data. Thereafter, they will collect follow-up data on a quarterly basis over the duration of their grant period. Baseline data will be collected on information on the types of prevention strategies grantees have developed and utilized, and the follow-up data collection asks the grantees to update the information they have provided on a quarterly basis over the period of the grant. On average, 60 Campus grantees will complete the PSI–C each year. One respondent from each site will be responsible for completing the survey. The survey will take approximately 45 minutes. However, the number of products, services and activities implemented under each strategy will determine the number of items to complete. The PSI has been revised to include response options that better capture subpopulations targeted for prevention strategies. Response options now include the following: American Indian/Alaska Native; Survivors of Suicide; Individuals who engage in nonsuicidal self-injury; Suicide attempters; Individuals with mental and/or substance abuse disorders; Lesbian, gay, bisexual, and transgender populations; Veterans, active military, or military families; Hispanic or Latino population. Additional guidance has also been provided for categorizing prevention strategies that fit in multiple categories. These changes enhance the utility and accuracy of the data collected. The survey primarily has multiple choice questions with several open-ended questions. Respondents for the Prevention Strategies Inventory will be project evaluators and/or program staff. Each of the 60 Campus grantees will be required to complete the inventory.

Training Exit Survey Campus Version (TES–C): The TES–C will be

administered to all participants in suicide prevention training activities immediately following their training experience in order to assess the content of the training, the participants' intended use of the skills and knowledge acquired, and satisfaction with the training experience. The survey will also contain modules with questions tailored to specific types of training. Respondents will include all individuals who participate in a training activity sponsored by the 60 Campus grantees. It is estimated that approximately 37,920 trainees per year will respond to the Training Exit Survey. This estimate is based on data previously collected which indicate that Campus sites train a mean of 632 participants per year. Because the respondents to the survey represent the entire trainee population in each grantee site, there is no need for calculation of precision of point estimates for survey responses. The number of respondents will be sufficient to conduct assessments of the psychometric properties of the scales developed for this study both within and across grantee sites. The questions on the TES–C are multiple-choice, Likert-scale, and open-ended. The survey includes about 33 items and will take approximately 10 minutes to complete.

Training Activity Summary Page Campus Version (TASP–C)—Revised: State and Tribal grantees are required to report aggregate training participant information for all training conducted as part of their suicide prevention programs. These data are aggregated from existing data sources, some of which are attendance sheets, management information systems, etc. Grantees are responsible for aggregating these data and submitting to the cross-site evaluation team using the TASP–C data elements. Grantees are responsible for aggregating these data and submitting to the cross-site evaluation team using the TASP–C on a quarterly basis. The TASP has been revised to collect information about the settings of trainings and the training goal, as well as the follow-up plans of grantees. It is estimated that abstracting this information will take 20 minutes.

Training Utilization and Preservation—Survey (TUP–S): Campus Version—New. The Training Utilization and Preservation—Survey (TUP–S): Campus Version collects information about the utilization and retention of participants' knowledge, skills and/or techniques learned through trainings conducted on campuses. It will be administered to a random sample of training participants 3 months following the training to students who participated in a GLS sponsored training (about 450 per grantee in FY 2012). All student (over the age of 18) participants of GLS sponsored trainings will be administered a consent-to-contact form by the training facilitator or grantee staff during a training event. The cross-site evaluation team will select a probabilistic sample of participants who consent to be contacted on an ongoing basis, as trainings are implemented and consents received, using systematic sampling. The sample fraction will be determined and updated yearly based on the projected number of consents so as to ensure the target sample sizes per year. Changes in the sample fraction will alter inclusion probabilities and must be taken into account in the analysis across years through the use of sampling weights.

The target sample size was determined so as to afford small standard errors for the estimates of the quantities of interest in a given year considering available resources. In addition, the sample size for the Campus version is roughly proportional to the size of the stratum they represent in FY 2012. Key survey estimates will take the form of the percentage or proportions, such as the proportion of trainees who identified a youth at risk for suicide during the 3 months after the training.

Instrument version	Target sample size	Maximum standard error (%)
Campus TUP–S (pilot)	100	5.0
Campus TUP–S	500	2.2

This version of the TUP–S will be piloted for 1 year. During the first pilot year, 100 respondents will participate. On average, in subsequent years, 500 respondents will participate in the TUP–S: Campus Version. This instrument includes 25 items and will take approximately 10 minutes to complete.

Life skills Activities Follow-up Interview (LAI)—New: The Life skills Activities Follow-up Interview (LAI) will be administered to randomly selected participants of selected Campus trainings. This qualitative interview will address how students apply the skills and information learned through campus life skills and wellness activities aimed at enhancing protective factors. The cross-site evaluation team, in consultation with local program staff, will select five particular training activities per year in which to administer the LAI. Trainees will be asked to complete consent-to-contact form indicating their willingness to be contacted to participate in the LAI and return the form to local program staff. Key informants for the LAI will be randomly selected from those individuals who consent to be contacted by the cross-site evaluation team. Local program staff will forward the consent-to-contact forms to the cross-site evaluation team. Up to seven respondents from each of the five selected trainings will be randomly selected from among the potential respondents based on consent-to-contact information, for a total of up to 35 respondents per year. Interviews will be conducted within 3 months of completion of the training activity. It is estimated that seven respondents per grantee will be sufficient to ensure saturation of themes in the content analysis of results from the qualitative interviews. The LAI will take approximately 30 minutes to complete.

This instrument will be administered to up to 7 trainees from up to 5 selected campus trainings per year, for a total of up to 35 respondents per year. The LAI will take approximately 30 minutes to complete.

Short Message Service Survey (SMSS)—New: The Short Message Service Survey (SMSS) will be administered to a random sample of students, once in the first year of the grant, and again in the third year. The four-question text message survey will assess student exposure to and participation in suicide prevention activities on campus, and will collect information on suicidal ideation. The target population is students enrolled in each Campus at years 1 and 3 of the grant funding. Each year, the list of mobile phone numbers for all students will be obtained from each campus. A random sample of mobile phone numbers will be selected. The target number of respondents will be 100 per campus. It is expected that 1,000 mobile phone numbers will be required to achieve 100 responses. The list of mobile phone numbers from year 3 will be compared to that of year 1 to identify a stratum of mobile phone numbers present both years and to determine its relative size. Respondents in year 1 will be contacted again in year 3 if their mobile phone number is still present in the year 3 list. Oversampling mobile phone numbers present in both years will result in a more precise estimate of change. On average, 5,200 students per year will participate in the SMSS, which takes approximately 5 minutes to complete.

Student Awareness Intercept Survey (SAIS)—New: Respondents for the SAIS will represent a sample of the student

population at up to four selected campuses. Campuses implementing targeted suicide prevention campaigns will be identified and selected by reviewing grant applications and through technical assistance activities. A sampling plan to obtain 400 student respondents at up to four participating campuses will be developed by the cross-site evaluation team in conjunction with the campus project team using geographical and temporal sampling frames of student activity. Working with the campus grantee, the evaluation team will recruit respondents utilizing a systematic process that randomly selects campus locations and times. For the follow-up administration, the same sample size will be targeted. However, that sample will result from a combination of follow-up interviews with students from the initial sample, in combination with students newly recruited through an intercept procedure similar to the procedure. The SAIS will collect information about: Exposure to suicide prevention outreach and awareness initiatives with targeted student populations; awareness of appropriate crisis interventions, supports, services, and resources for mental health seeking; knowledge of myths and facts related to suicide and suicide prevention; and attitudes toward mental health seeking, access, and utilization of mental health services on campus. A follow-up version of the survey will be administered 3 months after baseline. On average, 1,600 students per year will participate in the SAIS, which takes approximately 60 minutes to complete.

MIS Data Abstraction—Revised: For the cross-site evaluation of the Campus programs, existing program data related to student retention rates, student use of mental health services, and student use of emergency services will be requested from Campuses once a year. The form has been modified to allow grantees to capture data on the number of attempted or completed suicides among students who live on and off campus. It is estimated that abstracting this information will take 20 minutes.

Internet-based technology will continue to be used for collecting data via Web-based surveys, and for data entry and management. The average annual respondent burden is estimated below.

TABLE 1—ESTIMATES OF ANNUALIZED HOUR BURDEN

State/Tribal Cross-Site Evaluation Instruments

Type of respondent	Instrument	Number of respondents	Responses per respondent	Total number of responses	Burden per response (hours)	Annual burden (hours)	Hourly wage rate ($)	Total cost ($)
Project Evaluator	Prevention Strategies Inventory—State Tribal (PSI–ST).	61	4	244	0.75	183	37.82	6,922
Provider (Trainees)	Training Utilization and Preservation Survey (TUP–S).	2,000	1	2000	0.16	320	21.35	6,832
Adolescents (Trainees)	Training Utilization and Preservation Survey (TUP–S).	300	1	300	0.16	48	7.25	348
Provider (Trainees)	Training Utilization and Preservation Survey (TUP–S): 6-Month Follow-up.	467	1	1,467	0.16	75	21.35	1,602
Provider (Stakeholder)	Referral Network Survey (RNS).	1,426	1	1426	0.67	956	21.35	20,411
Project Evaluator	Coalition Profile (CP) ..	33	1	33	0.33	11	37.82	417
Provider (Stakeholder)	Coalition Survey (CS)	426	1	426	0.67	286	21.35	6,107
Project Evaluator	Early Identification, Referral and Follow-up Analysis (EIRF).	61	4	244	5	1,220	37.82	46,141
Project Evaluator	Early Identification, Referral and Follow-up Screening Form (EIRF–S).	27	4	108	1	108	37.82	4,085
Project Evaluator	Training Activity Summary Page (TASP–ST).	61	4	244	.33	81	37.82	3,064

The estimate reflects the average annual number of respondents, the average annual number of responses, the time it will take for each response, and the average annual burden. While the different cohorts of grantees finish their grants at different times, it is assumed that new cohorts will replace previous cohorts. Therefore, the number of grantees in each year is assumed to be constant.

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 2–1057, One Choke Cherry Road, Rockville, MD 20857 *or* email her a copy at *summer.king@samhsa.hhs.gov.* Written comments should be received by August 16, 2013.

Summer King,

Statistician.

[FR Doc. 2013–14216 Filed 6–14–13; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

[DHS Docket No. ICEB–2013–0001]

RIN 1653–ZA05

Extension of Employment Authorization for Syrian F–1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of Civil Unrest in Syria Since March 2011

AGENCY: U.S. Immigration and Customs Enforcement (ICE), DHS.

ACTION: Notice.

SUMMARY: This notice informs the public of the extension of an earlier notice, which suspended certain requirements for F–1 nonimmigrant students whose country of citizenship is Syria and who are experiencing severe economic hardship as a direct result of the civil unrest in Syria since March 2011. This notice extends the effective date of that notice.

DATES: This notice is effective June 17, 2013 and will remain in effect through March 31, 2015.

FOR FURTHER INFORMATION CONTACT: Louis Farrell, Director, Student and Exchange Visitor Program; MS 5600, U.S. Immigration and Customs Enforcement; 500 12th Street SW., Washington, DC 20536–5600; (703) 603–3400. This is not a toll-free number. Program information can be found at *http://www.ice.gov/sevis/.*

SUPPLEMENTARY INFORMATION:

What action is DHS taking under this notice?

The Secretary of Homeland Security is exercising her authority under 8 CFR 214.2(f)(9) to extend the temporary suspension of the applicability of certain requirements governing on-campus and off-campus employment for F–1 nonimmigrant students whose country of citizenship is Syria and who are experiencing severe economic hardship as a direct result of the civil unrest in Syria since March 2011. *See* 77 FR 20038 (Apr. 3, 2012). The original notice was effective from April 3, 2012 until October 3, 2013. Effective with this publication, suspension of the requirements is extended for 18 months from October 3, 2013 through March 31, 2015.

F–1 nonimmigrant students granted employment authorization through the notice will continue to be deemed to be engaged in a ''full course of study'' for the duration of their employment authorization, provided they satisfy the minimum course load requirement described in 77 FR 20038. *See* 8 CFR 214.2(f)(6)(i)(F).

Who is covered under this action?

This notice applies exclusively to F–1 nonimmigrant students whose country of citizenship is Syria and who were lawfully present in the United States in F–1 nonimmigrant status on April 3, 2012 under section 101(a)(15)(F)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1101(a)(15)(F)(i), and (1) are enrolled in an institution that is Student and Exchange Visitor Program (SEVP)-certified for enrollment of F–1 students, (2) are currently maintaining F–1 status, and (3) are experiencing severe economic hardship as a direct result of the civil unrest in Syria since March 2011.

This notice applies to both undergraduate and graduate students, as well as elementary school, middle school, and high school students. The notice, however, applies differently to elementary school, middle school, and high school students (see the discussion published at 77 FR 20040 in the question, ''Does this notice apply to elementary school, middle school, and high school students in F–1 status?'').

F–1 students covered by this notice who transfer to other academic institutions that are SEVP-certified for enrollment of F–1 students remain eligible for the relief provided by means of this notice.

Why is DHS taking this action?

The Department of Homeland Security (DHS) took action to provide temporary relief to F–1 nonimmigrant students whose country of citizenship is Syria and who were experiencing severe economic hardship as a result of the civil unrest in Syria since March 2011. *See* 77 FR 20038. It enabled these F–1 students to obtain employment authorization, work an increased number of hours while school was in session, and reduce their course load, while continuing to maintain their F–1 student status.

Syria continues to experience civil unrest, with many people still displaced as a result. Furthermore, economic sanctions imposed by the international community have negatively affected the whole of the Syrian economy. Given the current conditions in Syria, affected students whose primary means of financial support comes from Syria may need to be exempt from the normal student employment requirements to be able to continue their studies in the United States and meet basic living expenses.

The United States is committed to continuing to assist the people of Syria. DHS is therefore extending this employment authorization for F–1 nonimmigrant students whose country of citizenship is Syria and who are experiencing severe economic hardship as a result of the civil unrest since March 2011.

How do I apply for an employment authorization under the circumstances of this notice?

F–1 nonimmigrant students whose country of citizenship is Syria who were lawfully present in the United States on April 3, 2012 and are experiencing severe economic hardship as a result of the civil unrest may apply for employment authorization under the guidelines described in 77 FR 20038. This notice extends the time period during which such F–1 students may seek employment authorization due to the civil unrest. It does not impose any new or additional policies or procedures beyond those listed in the original notice. All interested F–1 students should follow the instructions listed in the original notice.

Janet Napolitano,

Secretary.

[FR Doc. 2013–14102 Filed 6–14–13; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2013–0286]

Availability of Application for the Proposal To Replace the Existing Movable I–5 Bridge Across the Columbia River With a Fixed Multi-Use Bridge Which Will Accommodate Vehicular, Light Rail, Pedestrian and Bicycle Traffic and Will Be Called the Columbia River Crossing; Correction

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability and request for comments; correction.

SUMMARY: The Coast Guard published a document in the **Federal Register** on May 6, 2013, concerning a request for comments on the availability of bridge permit application materials for the Columbia River Crossing. The document contained an incorrect phone number for the Columbia River Crossing Project Manager.

DATES: This correction is effective June 17, 2013. The comment period remains open through June 20, 2013.

ADDRESSES: You may submit comments identified by docket number USCG–2013–0286 using any one of the following methods:

(1) *Online: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *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'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice or the public meetings, call or email Mr. Gary Greene, CRC Project Officer, Thirteenth Coast Guard District, U.S. Coast Guard; telephone 206–220–7029, *Gary.f.greene@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to submit comments and related material on the proposed CRC Bridge. All comments received, including comments received at the public meetings, will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting comments: If you submit a comment, please include the docket number for this notice (USCG–2013–0286) 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. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* insert (USCG–2013–0286) in the Search box, look for this notice in the docket and click the Comment button next to it. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Viewing the comments: To view the comments go to *http://www.regulations.gov,* insert (USCG–2013–0286) in the Search box, then click on the ''Open Docket Folder'' option. If you do not have access to the internet, you may view the docket by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Copies of all written communications from the public meetings will be available for review by interested persons after the meeting on the online docket, USCG–2013–0286 via *http://www.regulations.gov.*

Transcripts of the meetings will be available for public review approximately 30 days after the meetings. All comments will be made part of the public docket.

Privacy Act: Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act, system of records notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Correction

In the May 6, 2013, edition of the **Federal Register**, the Coast Guard published a notice titled, ''Availability of Application for the proposal to replace the existing movable I–5 bridge across the Columbia River with a fixed multi-use bridge which will accommodate vehicular, light rail, pedestrian and bicycle traffic and will be called the Columbia River Crossing.'' (78 FR 26380). Mistakenly, the phone number for the person listed in the **FOR FURTHER INFORMATION CONTACT** section was incorrect. The correct phone number for Gary Greene, Columbia River Crossing Project Manager, is 206–220–7029.

This notice is issued under authority of 33 U.S.C. 525 and 401(1), 33 CFR 115.60, and DHS Delegation 0170.1(67).

Dated: June 11, 2013.

Brian L. Dunn,

Administrator, Office of Bridge Programs U.S. Coast Guard.

[FR Doc. 2013–14245 Filed 6–14–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1323]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for

the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before September 16, 2013.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1323, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

I. Non-watershed-based studies:

Community	Community map repository address
Prince George's County, Maryland, and Incorporated Areas	
Maps Available for Inspection Online at: *www.rampp-team.com/md.htm*	
City of Laurel	Municipal Center, 8103 Sandy Spring Road, Laurel, MD 20707.
Unincorporated Areas of Prince George's County	Prince George's County Department of Environmental Resources, 9400 Peppercorn Place, Suite 610, Largo, MD 20774.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 3, 2013.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–14286 Filed 6–14–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1329]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and

where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before September 16, 2013.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1329, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Community	Community map repository address
Harvey County, Kansas, and Incorporated Areas	
Maps Available for Inspection Online at: *www.fema.gov/preliminaryfloodhazarddata*	
City of Halstead	City Hall, 303 Main Street, Halstead, KS 67056.
City of Sedgwick	City Hall, 511 North Commercial Avenue, Sedgwick, KS 67135.
Unincorporated Areas of Harvey County	County Courthouse, 800 North Main Street, Newton, KS 67114.
Monroe County, Michigan (All Jurisdictions)	
Maps Available for Inspection Online at: *http://www.starr-team.com/starr/RegionalWorkspaces/RegionV/MonroeCountyMI/SitePages/Home.aspx*	
Charter Township of Berlin	8000 Swan View Road, Newport, MI 48166.
Charter Township of Frenchtown	2744 Vivian Road, Monroe, MI 48162.
Charter Township of Monroe	4925 East Dunbar Road, Monroe, MI 48161.
City of Luna Pier	4357 Buckeye Street, Luna Pier, MI 48157.
City of Monroe	120 East First Street, Monroe, MI 48161.
City of Petersburg	24 East Center Street, Petersburg, MI 49270.
Township of Ash	1677 Ready Road, Carleton, MI 48117.
Township of Bedford	8100 Jackman Road, Temperance, MI 48182.
Township of Dundee	179 Main Street, Dundee, MI 48131.
Township of Erie	2065 Erie Road, Erie, MI 48133.
Township of Ida	3016 Lewis Avenue, Ida, MI 48140.
Township of Lasalle	4111 LaPlaisance Road, LaSalle, MI 48145.
Township of London	13613 Tuttlehill Road, Milan, MI 48160.
Township of Milan	16444 Cone Road, Milan, MI 48160.
Township of Raisinville	96 Ida-Maybee Road, Monroe, MI 48161.
Township of Summerfield	26 Saline Street, Petersburg, MI 49270.
Township of Whiteford	8000 Yankee Road, Suite 100, Ottawa Lake, MI 49267.

Community	Community map repository address
Village of Dundee	350 West Monroe Street, Dundee, MI 48131.
Village of Estral Beach	7194 Lakeview Boulevard, Newport, MI 48166.
Village of South Rockwood	5676 Carleton-Rockwood Road, South Rockwood, MI 48179.
Olmsted County, Minnesota, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.starr-team.com/starr/RegionalWorkspaces/RegionV/OlmstedCoMN/SitePages/Home.aspx*	
City of Chatfield	Municipal Offices, 21 Southeast 2nd Street, Chatfield, MN 55923.
City of Dover	City Hall, 218 North Chatfield Street, Dover, MN 55929.
City of Rochester	City Hall, 201 4th Street Southeast, Rochester, MN 55904.
City of Stewartville	City Hall, 105 East 1st Street, Stewartville, MN 55976.
Unincorporated Areas of Olmsted County	Olmsted County Government Center, 151 4th Street Southeast, Rochester, MN 55904.
Upper Rock Watershed Columbia County, Wisconsin, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.starr-team.com/starr/RegionalWorkspaces/RegionV/ColumbiaRockRiverWI*	
City of Columbus	City Hall, 105 North Dickason Boulevard, Columbus, WI 53925.
Unincorporated Areas of Columbia County	Carl C. Frederick Administration Building, 400 DeWitt Street, Portage, WI 53901.
Village of Doylestown	Village Hall, W3005 Railroad Street, Doylestown, WI 53928.
Village of Fall River	Village Hall, 641 South Main Street, Fall River, WI 53932.
Walworth County, Wisconsin, and Incorporated Areas	
Maps Available for Inspection Online at: *www.starr-team.com/starr/RegionalWorkspaces/RegionV/WalworthWIPMR*	
City of Whitewater	City Hall, 312 West Whitewater Street, Whitewater, WI 53190.
Unincorporated Areas of Walworth County	Office of Emergency Management, 1770 County Road NN, Elkhorn, WI 53121.
Village of Darien	Village Hall, 20 North Wisconsin Avenue, Darien, WI 53114.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 3, 2013.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–14265 Filed 6–14–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1321]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before September 16, 2013.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1321, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be

construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Community	Community map repository address
Cloud County, Kansas, and Incorporated Areas	
Maps Available for Inspection Online at: *www.fema.gov/preliminaryfloodhazarddata*	
City of Clyde	City Hall, 412 Washington Street, Clyde, KS 66938.
City of Concordia	City Hall, 701 Washington Street, Concordia, KS 66901.
City of Glasco	City Hall, 206 East Main Street, Glasco, KS 67445.
City of Jamestown	City Hall, 300 Walnut Street, Jamestown, KS 66948.
City of Miltonvale	City Hall, 107 Starr Avenue, Miltonvale, KS 67466.
Unincorporated Areas of Cloud County	Cloud County Courthouse, 811 Washington Street, Concordia, KS 66901.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 3, 2013.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–14267 Filed 6–14–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The effective date of November 6, 2013 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Adminstrator for Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

Community	Community map repository address
DeSoto County, Florida, and Incorporated Areas Docket No.: FEMA–B–1258	
City of Arcadia	City Hall, 23 North Polk Avenue, Arcadia, FL 34266.C
Unincorporated Areas of DeSoto County	DeSoto County Planning Department, 201 East Oak Street, Arcadia, FL 34266.
Hardee County, Florida, and Incorporated Areas Docket No.: FEMA–B–1255	
City of Bowling Green	City Hall, 107 West Main Street, Bowling Green, FL 33834.
City of Wauchula	City Hall, 225 East Main Street, Wauchula, FL 33873.
Town of Zolfo Springs	Town Hall, 3210 U.S. Route 17 South, Zolfo Springs, FL 33890.
Unincorporated Areas of Hardee County	Hardee County Courthouse Annex, 412 West Orange Street, Room 103, Wauchula, FL 33873.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 3, 2013.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–14270 Filed 6–14–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1325]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before September 16, 2013.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1325, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of

the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Community	Community map repository address
Upper Alabama Watershed	
Autauaga County, Alabama, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.adeca.alabama.gov/Divisions/owr/floodplain/Pages/County-Status.aspx*	
City of Millbrook	City Hall, 3390 Main Street, Millbrook, AL 36054.
City of Prattville	Planning Department, 102 West Main Street, Prattville, AL 36067.
Town of Autaugaville	Autauga County Emergency Management Agency, 826 Gillespie Street, Prattville, AL 36067.
Town of Billingsley	Autauga County Emergency Management Agency, 826 Gillespie Street, Prattville, AL 36067.
Unincorporated Areas of Autauga County	Autauga County Emergency Management Agency, 826 Gillespie Street, Prattville, AL 36067.
Dallas County, Alabama, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.adeca.alabama.gov/Divisions/owr/floodplain/Pages/County-Status.aspx*	
City of Selma	City Hall, 222 Broad Street, Selma, AL 36701.
City of Valley Grande	City Hall, 348 County Road 240, Valley Grande, AL 36703.
Unincorporated Areas of Dallas County	Dallas County Courthouse, 105 Lauderdale Street, Selma, AL 36701.
Elmore County, Alabama, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.adeca.alabama.gov/Divisions/owr/floodplain/Pages/County-Status.aspx*	
City of Millbrook	City Hall, 3390 Main Street, Millbrook, AL 36054.
City of Prattville	Planning Department, 102 West Main Street, Prattville, AL 36067.
City of Wetumpka	City Hall, 212 South Main Street, Wetumpka, AL 36092.
Town of Coosada	Town Hall, 5800 Coosada Road, Coosada, AL 36020.
Town of Deatsville	City Hall, 212 South Main Street, Wetumpka, AL 36092.
Town of Elmore	Town Hall, 485 Jackson Street, Elmore, AL 36025.
Unincorporated Areas of Elmore County	Elmore County Highway Department, 155 County Shop Road, Wetumpka, AL 36092.
Lowndes County, Alabama, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.adeca.alabama.gov/Divisions/owr/floodplain/Pages/County-Status.aspx*	
Town of Benton	Town Hall, 379 Washington Street, Benton, AL 36785.
Town of White Hall	Town Hall, 989 Freedom Road, Lowndesboro, AL 36752.
Unincorporated Areas of Lowndes County	Lowndes County Courthouse, 1 South Washington Street, Hayneville, AL 36040.
Houston County, Alabama, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.adeca.alabama.gov/Divisions/owr/floodplain/Pages/County-Status.aspx*	
City of Ashford	City Hall, 525 North Broadway Street, Ashford, AL 36312.
City of Dothan	City Hall, 126 North Saint Andrews Street, Dothan, AL 36303.
Town of Avon	Avon Town Hall, 732 Broadway Avenue, Ashford, AL 36312.
Town of Columbia	Town Hall, 203 South Washington Street, Columbia, AL 36319.
Town of Cottonwood	Town Hall, 1414 Metcalf Street, Cottonwood, AL 36320.
Town of Cowarts	Town Hall, 800 Jester Street, Cowarts, AL 36321.
Town of Gordon	Town Hall, 692 Tifton Road, Gordon, AL 36343.
Town of Kinsey	Town Hall, 6947 Walden Drive, Kinsey, AL 36303.
Town of Madrid	Town Hall, 764 Decatur Road, Madrid, AL 36320.
Town of Rehobeth	Town Hall, 5449 County Road 203, Rehobeth, AL 36301.
Town of Taylor	Town Hall, 1469 South County Road 59, Taylor, AL 36301.
Unincorporated Areas of Houston County	Houston County Engineer's Office, 2400 Columbia Highway, Dothan, AL 36303.

Community	Community map repository address
Dixie County, Florida, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Town of Cross City	Town Hall, 99 North East 210th Avenue, Cross City, FL 32628.
Unincorporated Areas of Dixie County	Dixie County Building and Zoning Department, 405 South East 22nd Avenue, Cross City, FL 32628.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 3, 2013.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–14264 Filed 6–14–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The effective date of November 6, 2013 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Adminstrator for Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

I. Non-watershed-based studies:

Community	Community map repository address
Unincorporated Areas of Howard County, Maryland	
Docket No.: FEMA–B–1236	
Unincorporated Areas of Howard County	Howard County Department of Public Works, Bureau of Environmental Services, 6751 Columbia Gateway Drive, Suite 514, Columbia, MD 21046.
Wood County, West Virginia, and Incorporated Areas	
Docket No.: FEMA–B–1270	
City of Parkersburg	City Hall, 1 Government Square, Parkersburg, WV 26101.
City of Vienna	City Hall, 609 29th Street, Vienna, WV 26105.
City of Williamstown	City Hall, 100 West 5th Street, Williamstown, WV 26187.
Town of North Hills	North Hills Town Hall, 100 Tanglewood Place, Parkersburg, WV 26104.
Unincorporated Areas of Wood County	Wood County Courthouse, 1 Court Square, Parkersburg, WV 26101.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 3, 2013.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–14297 Filed 6–14–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The effective date of October 16, 2013 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Adminstrator for Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

Community	Community Map Repository Address
Lee County, Mississippi, and Incorporated Areas Docket No.: FEMA–B–1263	
City of Tupelo	City Hall, Planning Department, 71 East Troy Street, Tupelo, MS 38804.
City of Saltillo	142 Front Avenue, Saltillo, MS 38866.
Town of Verona	City Hall, 194 Main Street, Verona, MS 38879.
Unincorporated Areas of Lee County	Lee County Courthouse, 201 West Jefferson Street, Suite A, Tupelo, MS 38801.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 3, 2013.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–14284 Filed 6–14–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1322]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect

in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before September 16, 2013.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1322, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

I. Non-watershed-based studies:

Community	Community map repository address
Calvert County, Maryland, and Incorporated Areas	
Maps Available for Inspection Online at: *www.rampp-team.com/md.htm*	
City of North Beach	City Hall, 8916 Chesapeake Avenue, North Beach, MD 20714.
Town of Chesapeake Beach	Town Hall, 8200 Bayside Road, Chesapeake Beach, MD 20732.
Unincorporated Areas of Calvert County	Calvert County Planning Department, 150 Main Street, Suite 300, Prince Frederick, MD 20678.
St. Mary's County, Maryland, and Incorporated Areas	
Maps Available for Inspection Online at: *www.rampp-team.com/md.htm*	
Town of Leonardtown	Town Hall, 41660 Courthouse Drive, Leonardtown, MD 20650.
Unincorporated Areas of St. Mary's County	St. Mary's County Planning Department, 23150 Leonard Hall Drive, Leonardtown, MD 20650.
Jefferson County, Texas, and Incorporated Areas	
Maps Available for Inspection Online at: *www.riskmap6.com/Community.aspx?cid=372&sid=5*	
City of Beaumont	Community Development Department, 801 Main Street, Suite 201, Beaumont, TX 77701.
City of Bevil Oaks	Bevil Oaks City Hall, 7525 Sweetgum Road, Beaumont, TX 77713.
City of Groves	Public Works Building, 4925 McKinley, Groves, TX 77619.
City of Nederland	Inspections Department, 1903 Atlanta Avenue, Nederland, TX 77627.
City of Nome	City Hall, 1586 2nd Street, Nome, TX 77629.
City of Port Arthur	Planning and Zoning Department, 444 4th Street, 3rd Floor, Port Arthur, TX 77640.
City of Port Neches	Public Works Department, 1005 Merriman Street, Port Neches, TX 77651.

Community	Community map repository address
City of Taylor Landing	Taylor Landing Building Permits Department, 324 North Memorial Freeway, Nederland, TX 77627.
Unincorporated Areas of Jefferson County	Jefferson County Courthouse, 1149 Pearl Street, 5th Floor, Beaumont, TX 77701.
Orange County, Texas, and Incorporated Areas	
Maps Available for Inspection Online at: *www.riskmap6.com/Community.aspx?cid=430&sid=5*	
City of Bridge City	City Hall, 260 Rachal Avenue, Bridge City, TX 77611.
City of Orange	Planning and Community Development Department, 303 8th Street, Orange, TX 77630.
City of Pine Forest	Pine Forest City Hall, 305 Nagel Drive, Vidor, TX 77662.
City of Pinehurst	Pinehurst City Hall, 2497 Martin Luther King Jr. Drive, Orange, TX 77630.
City of Rose City	Secretary's Office, 370 South Rose City Drive, Rose City, TX 77662.
City of Vidor	Public Works Department, 1395 North Main Street, Vidor, TX 77662.
City of West Orange	City Hall, 2700 Western Avenue, West Orange, TX 77630.
Unincorporated Areas of Orange County	Orange County Environmental Health and Code Compliance Department, 123 South 6th Street, Orange, TX 77630.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 3, 2013.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–14285 Filed 6–14–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1326]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before September 16, 2013.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1326, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and

technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Community	Community map repository address
Barnstable County, Massachusetts All Jurisdictions	
Maps Available for Inspection Online at: *www.fema.gov/preliminaryfloodhazarddata*	
Town of Barnstable	Barnstable Town Hall, 367 Main Street, Hyannis, MA 02601.
Town of Bourne	Bourne Town Hall, 24 Perry Avenue, Buzzards Bay, MA 02532.
Town of Brewster	Town Office, 2198 Main Street, Brewster, MA 02631.
Town of Chatham	Town Hall, 549 Main Street, Chatham, MA 02633.
Town of Dennis	Dennis Town Hall, Conservation Department, 485 Main Street, South Dennis, MA 02660.
Town of Eastham	Town Hall, 2500 State Highway, Eastham, MA 02642.
Town of Falmouth	Town Hall, 59 Town Hall Square, Falmouth, MA 02540.
Town of Harwich	Town Hall, 732 Main Street, Harwich, MA 02645.
Town of Mashpee	Town Hall, 16 Great Neck Road North, Mashpee, MA 02649.
Town of Orleans	Town Hall, 19 School Road, Orleans, MA 02653.
Town of Provincetown	Town Hall, 260 Commercial Street, Provincetown, MA 02657.
Town of Sandwich	Town Hall, 130 Main Street, Sandwich, MA 02563.
Town of Truro	Town Hall, 24 Town Hall Road, Truro, MA 02666.
Town of Wellfleet	Town Hall, 300 Main Street, Wellfleet, MA 02667.
Town of Yarmouth	Yarmouth Town Hall, 1146 Route 28, South Yarmouth, MA 02664.
Plymouth County, Massachusetts All Jurisdictions	
Maps Available for Inspection Online at: *www.fema.gov/preliminaryfloodhazarddata*	
Town of Duxbury	Town Hall, 878 Tremont Street, Duxbury, MA 02332.
Town of Kingston	Town Hall, 26 Evergreen Street, Kingston, MA 02364.
Town of Marshfield	Town Hall, 870 Moraine Street, Marshfield, MA 02050.
Town of Norwell	Town Hall, 345 Main Street, Norwell, MA 02061.
Town of Plymouth	Town Hall, 11 Lincoln Street, Plymouth, MA 02360.
Town of Scituate	Town Hall, 600 Chief Justice Cushing Highway, Scituate, MA 02066.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 3, 2013.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–14288 Filed 6–14–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2535–13; DHS Docket No. USCIS–2013–0001]

RIN 1615–ZB22

Extension and Redesignation of Syria for Temporary Protected Status

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Through this Notice, the Department of Homeland Security (DHS) announces that the Secretary of Homeland Security (Secretary) is extending the existing designation of Syria for Temporary Protected Status (TPS) for 18 months, from October 1, 2013 through March 31, 2015, and redesignating Syria for TPS for 18 months, effective October 1, 2013 through March 31, 2015.

The extension allows currently eligible TPS beneficiaries to retain TPS through March 31, 2015 so long as they otherwise continue to meet the terms and conditions of TPS status. The redesignation of Syria allows additional individuals who have been continuously residing in the United States since June 17, 2013 to obtain TPS, if otherwise eligible. The Secretary has determined that an extension and redesignation are warranted because the extraordinary and temporary conditions in Syria that prompted the 2012 TPS designation have not only persisted, but have deteriorated, and because there is now an on-going armed conflict in Syria that would pose a serious threat to the personal safety of Syrian nationals if they were required to return to their country.

Through this Notice, DHS also sets forth procedures necessary for nationals of Syria (or aliens having no nationality who last habitually resided in Syria) either to: (1) Re-register under the extension if they already have TPS and to apply for renewal of their Employment Authorization Documents (EADs) with U.S. Citizenship and Immigration Services (USCIS); or (2) submit an initial registration application under the redesignation and apply for an EAD.

For individuals who have already been granted TPS under the original Syria designation, the 60-day re-registration period runs from June 17, 2013 through August 16, 2013. USCIS will issue new EADs with a March 31, 2015 expiration date to eligible Syrian TPS beneficiaries who timely re-register

and apply for EADs under this extension.

Under the redesignation, individuals who currently do not have TPS (or an initial TPS application pending) may submit an initial application during the 180-day initial registration period that runs from June 17, 2013 through December 16, 2013. In addition to demonstrating continuous residence in the United States since June 17, 2013 and meeting other eligibility criteria, initial applicants for TPS under this redesignation must demonstrate that they have been continuously physically present in the United States since October 1, 2013, the effective date of the redesignation of Syria, before USCIS can finally grant them TPS.

TPS applications that were filed during the original Syria designation that opened on March 29, 2012, and remain pending on June 17, 2013 will be treated as initial applications under the redesignation. Therefore, individuals who have a pending TPS application will not need to file a new Application for Temporary Protected Status (Form I–821). DHS provides additional instructions in this Notice for individuals whose TPS applications remain pending and who would like to obtain an EAD valid through March 31, 2015.

DATES: *Extension of Designation of Syria for TPS:* The 18-month extension of the TPS designation of Syria is effective October 1, 2013, and will remain in effect through March 31, 2015. The 60-day re-registration period runs from June 17, 2013 through August 16, 2013.

Redesignation of Syria for TPS: The redesignation of Syria for TPS is effective October 1, 2013, and will remain in effect through March 31, 2015, a period of 18 months. The 180-day initial registration period for new applicants under the Syria TPS redesignation runs from June 17, 2013 through December 16, 2013.

Further Information

- For further information on TPS, including guidance on the application process and additional information on eligibility, please visit the USCIS TPS Web page at *http://www.uscis.gov/tps.* You can find specific information about this extension and redesignation of Syria for TPS by selecting ''TPS Designated Country: Syria'' from the menu on the left of the TPS Web page.
- You can also contact the TPS Operations Program Manager at the Family and Status Branch, Service Center Operations Directorate, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue NW., Washington, DC 20529–2060; or by phone at (202) 272–1533 (this is not a toll-free number). **Note:** The phone number provided here is solely for questions regarding this TPS Notice. It is not for individual case status inquiries.
- Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833). Service is available in English and Spanish.
- Further information will also be available at local USCIS offices upon publication of this Notice.

SUPPLEMENTARY INFORMATION:

Table of Abbreviations

BIA—Board of Immigration Appeals
DHS—Department of Homeland Security
DOS—Department of State
EAD—Employment Authorization Document
FSA—Free Syrian Army
Government—U.S. Government
IDP—Internally Displaced Persons
IJ—Immigration Judge
INA—Immigration and Nationality Act
OSC—U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices
SARG—Syrian Arab Republic Government
SAVE—USCIS Systematic Alien Verification for Entitlements Program
Secretary—Secretary of Homeland Security
Syria—Syrian Arab Republic
TPS—Temporary Protected Status
UN—United Nations
UNHCR—Office of the UN High Commissioner for Refugees
USCIS—U.S. Citizenship and Immigration Services

What is Temporary Protected Status (TPS)?

- TPS is a temporary immigration status granted to eligible nationals of a country designated for TPS under the Immigration and Nationality Act (INA), or to eligible persons without nationality who last habitually resided in the designated country.
- During the TPS designation period, TPS beneficiaries are eligible to remain in the United States and may obtain work authorization, so long as they continue to meet the requirements of TPS status.
- TPS beneficiaries may also be granted travel authorization as a matter of discretion.
- The granting of TPS does not lead to permanent resident status.
- When the Secretary terminates a country's TPS designation, beneficiaries return to the same immigration status they maintained before TPS, if any (unless that status has since expired or been terminated), or to any other lawfully obtained immigration status they received while registered for TPS.

When was Syria designated for TPS?

On March 29, 2012, the Secretary designated Syria for TPS based on extraordinary and temporary conditions within that country that prevent Syrian nationals from returning to Syria in safety. *See Designation of Syrian Arab Republic for Temporary Protected Status,* 77 FR 19026 (Mar. 29, 2012), and correction at 77 FR 20046 (Apr. 3, 2012); *see also* section 244(b)(1)(C) of the INA, 8 U.S.C. 1254a(b)(1)(C). This announcement is the first extension and the first redesignation of TPS for Syria.

What authority does the Secretary have to extend the designation of Syria for TPS?

Section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1), authorizes the Secretary, after consultation with appropriate Government agencies, to designate a foreign state (or part thereof) for TPS.[1] The Secretary may then grant TPS to eligible nationals of that foreign state (or aliens having no nationality who last habitually resided in that state). *See* section 244(a)(1)(A) of the INA, 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of a country's TPS designation or extension, the Secretary, after consultation with appropriate Government agencies, must review the conditions in a foreign state designated for TPS to determine whether the conditions for the TPS designation continue to be met. *See* section 244(b)(3)(A) of the INA, 8 U.S.C. 1254a(b)(3)(A). If the Secretary determines that a foreign state continues to meet the conditions for TPS designation, the designation is extended for an additional 6 months (or, in the Secretary's discretion, for 12 or 18 months). *See* section 244(b)(3)(C) of the INA, 8 U.S.C. 1254a(b)(3)(C). If the Secretary determines that the foreign state no longer meets the conditions for TPS designation, the Secretary must terminate the designation. *See* section 244(b)(3)(B) of the INA, 8 U.S.C. 1254a(b)(3)(B).

[1] As of March 1, 2003, in accordance with section 1517 of title XV of the Homeland Security Act of 2002 (HSA), Public Law 107–296, 116 Stat. 2135, any reference to the Attorney General in a provision of the INA describing functions transferred from the Department of Justice to the Department of Homeland Security ''shall be deemed to refer to the Secretary'' of Homeland Security. *See* 6 U.S.C. 557 (codifying HSA, tit. XV, sec. 1517).

What is the Secretary's authority to redesignate Syria for TPS?

In addition to extending an existing TPS designation, the Secretary, after consultation with appropriate Government agencies, may redesignate a country (or part thereof) for TPS. *See* section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1); *see also* section 244(c)(1)(A)(i) of the INA, 8 U.S.C. 1254a(c)(1)(A)(i) (requiring that ''the alien has been continuously physically present since the effective date of *the most recent designation of the state*'') (emphasis added). This is one of several instances in which the Secretary, and, prior to the establishment of DHS, the Attorney General, have simultaneously extended a country's TPS designation and redesignated the country for TPS. *See, e.g., Extension and Redesignation of South Sudan for Temporary Protected Status,* 78 FR 1866 (Jan. 9, 2013); *Extension and Redesignation of Sudan for Temporary Protected Status,* 78 FR 1872 (Jan. 9, 2013); *Extension and Redesignation of Haiti for Temporary Protected Status,* 76 FR 29000 (May 19, 2011); *Extension of Designation and Redesignation of Liberia Under Temporary Protected Status,* 62 FR 16608 (Apr. 7, 1997) (discussing legal authority for redesignation of a country for TPS).

When the Secretary designates or redesignates a country for TPS, she also has the discretion to establish the date from which TPS applicants must demonstrate that they have been ''continuously resid[ing]'' in the United States. *See* section 244(c)(1)(A)(ii) of the INA, 8 U.S.C.S 1254a(c)(1)(A)(ii). This discretion permits the Secretary to tailor the ''continuous residence'' date to offer TPS to the group of eligible individuals that the Secretary deems appropriate.

The Secretary has determined that the ''continuous residence'' date for applicants for TPS under the redesignation of Syria shall be June 17, 2013. Initial applicants for TPS under this redesignation must also show they have been ''continuously physically present'' in the United States since October 1, 2013, which is the effective date of the Secretary's redesignation of Syria. *See* section 244(c)(1)(A)(i) of the INA, 8 U.S.C. 1254a(c)(1)(A)(i). For each initial TPS application filed under the redesignation, the final determination whether the applicant has met the ''continuous physical presence'' requirement cannot be made until October 1, 2013. USCIS, however, will issue EADs, as appropriate, during the registration period in accordance with 8 CFR 244.5(b).

Why is the Secretary extending the TPS designation for Syria and simultaneously redesignating Syria for TPS through March 31, 2015?

Over the past year, DHS and the Department of State (DOS) have continued to review conditions in Syria. Based on this review and after consulting with DOS, the Secretary has determined that an 18-month extension is warranted because the extraordinary and temporary conditions preventing the safe return of Syrian nationals that prompted the March 29, 2012 designation continue to be met. In fact, those conditions have worsened significantly. The Secretary has also decided to redesignate Syria for TPS based not only on the continuing extraordinary and temporary conditions, but also on the ongoing armed conflict in Syria. Furthermore, the Secretary has decided the conditions warrant changing the ''continuous residence'' date so as to provide TPS protection to eligible Syrian nationals who arrived between March 29, 2012 and June 17, 2013. The ''continuous physical presence'' date must be the effective date of the redesignation, which the Secretary has established as October 1, 2013 so that individuals granted TPS under the redesignation will have TPS for the same 18-month period through March 31, 2015 as TPS beneficiaries re-registering under the extension. *See* section 244(c)(1)(A)(i) of the INA; 8 U.S.C. 1254a(c)(1)(A)(i).

Conditions in Syria are unstable, volatile and dangerous, and have worsened significantly since the prior designation took effect on March 29, 2012. Acts of violence and human rights abuses have been reported in most major urban centers and have significantly increased over the last year, and access to humanitarian assistance for victims of the ongoing strife continues to be a serious challenge. By mid-July 2012, the International Committee of the Red Cross labeled the Syrian conflict a civil war. Economic sanctions continued to cripple the country, making basic goods like medicine difficult to obtain for civilians.

President Bashar al-Assad and the Syrian Arab Republic Government (SARG) have continued to use indiscriminate and deadly force, including military assaults on cities and residential areas throughout the country. The military continues to fight the opposition, responding with air strikes and heavy artillery to kill and capture combatants, and harming tens of thousands of civilians in the process. With an unrelenting armed opposition, including jihadist elements, and a military-backed government fighting to remain in power, the number of people displaced by violence has continued to rise.

Government-rebel clashes are ongoing throughout the country and, in addition to the ongoing attacks perpetrated by the Syrian government, rebel faction extremists, foreign fighters, and unidentified assailants have killed and abducted civilians, humanitarian workers, and United Nations (UN) personnel. International funding and support for the armed opposition continues to build, enhancing their communications, weaponry, and paramilitary capabilities.

Indigenous and international jihadist groups have emerged among the armed opposition in the fight against the SARG, increasingly employing tactics, including suicide bombings, which have often resulted in civilian casualties. In addition to the Free Syrian Army (FSA) and Syrian National Army, reports published in 2012 indicate that ''a radical Islamist dynamic has emerged within the opposition.'' The armed opposition has reportedly also been reinforced by foreign fighters.

As of November 2012, the rebels reportedly controlled large areas around Aleppo, Idlib, Haffeh, Muhradeh, Rastan, al Qusayr, Tal Abyad, and Deir ez-Zor. The rebels also carried out sophisticated attacks and takeovers. Clashes between rebels and government forces frequently resulted in civilian deaths.

As of April 2013, based on reports cited by U.N. officials, the estimated Syrian death toll for the duration of the conflict is 70,000, with approximately 15,000 of those deaths occurring in the early months of 2013. Civilians accounted for the majority of those killed. The provinces of Homs, Damascus, Idlib, Hama, Deraa, and Aleppo were reported to have suffered the most casualties. According to Amnesty International, the main cause of civilian deaths has been the armed forces' indiscriminate aerial bombardment and artillery shelling in heavily populated areas. The U.N. Human Rights Council, through the Independent International Commission of Inquiry, stated that scores of civilians have also been killed in explosions caused by suicide bombers and improvised explosive devices.

Among the civilian casualties, 108 people, mostly women and children, died in the Houla massacre in May 2012. The Independent International Commission of Inquiry blamed the SARG for the killings; other sources reported that most were killed by

regime-affiliated death squads. Other notable massacres occurred, including an incident in Daraya where more than 500 people were killed in late August 2012. There were also reports that women have been subject to sexual and gender-based violence by SARG forces or pro-government militias at road checkpoints and during house searches.

Observers note that children have been placed at risk as well. In August 2012, the Independent International Commission of Inquiry reported that 125 children died in military offensives, sniper fire, attacks on protests, and massacres. Children have reportedly been used as human shields and placed at risk when combatants take posts at schools.

The UN reports there are approximately 4.25 million internally displaced persons (IDPs) in Syria. As the SARG military is expected to continue to fight the armed opposition as well as the jihadist groups to retain power of the country, the number of people displaced by violence is only expected to rise. According to an Office of the UN High Commissioner for Refugees (UNHCR) report from December 2012, at least 900,000 persons were displaced in 2012 due to fighting throughout the country.

According to UNHCR estimates, the flow of refugees into Syria's four neighboring states has increased dramatically since May 2012, with approximately 576,000 Syrian refugees registered in neighboring states by the end of 2012 and 1.1 million by early March 2013. In April 2013, an additional 230,000 refugees fled to neighboring countries. UNHCR predicts these numbers could increase to four million refugees and eight million IDPs by the end of 2013.

Based upon this review and after consultation with appropriate Government agencies, the Secretary finds that:

- The conditions that prompted the March 29, 2012 designation of Syria for TPS continue to be met. *See* sections 244(b)(3)(A) and (C) of the INA, 8 U.S.C. 1254a(b)(3)(A) and (C).
- There continue to be extraordinary and temporary conditions in Syria that continue to prevent the safe return of Syrian nationals. *See* section 244(b)(1)(C) of the INA, 8 U.S.C. 1254a(b)(1)(C).
- It is not contrary to the national interest of the United States to permit Syrian nationals (and persons who have no nationality who last habitually resided in Syria) who meet the eligibility requirements of TPS to remain in the United States temporarily. *See* section 244(b)(1)(C) of the INA, 8 U.S.C. 1254a(b)(1)(C).
- There is an armed conflict in Syria and, due to such conflict, requiring the return of Syrian nationals to Syria would pose a serious threat to their personal safety. *See* section 244(b)(1)(A) of the INA, 8 U.S.C. 1254a(b)(1)(A).
- The designation of Syria for TPS should be extended for an additional 18-month period from October 1, 2013 through March 31, 2015. *See* section 244(b)(3)(C) of the INA, 8 U.S.C. 1254a(b)(3)(C).
- Based on current country conditions, Syria should be simultaneously redesignated for TPS effective October 1, 2013 through March 31, 2015. *See* sections 244(b)(1)(A), (b)(1)(C), and (b)(2) of the INA; 8 U.S.C. 1254a(b)(1)(A), (b)(1)(C), and (b)(2).
- TPS applicants must demonstrate that they have continuously resided in the United States since June 17, 2013.
- The date by which TPS applicants must demonstrate that they have been continuously physically present in the United States is October 1, 2013, the effective date of the redesignation of Syria for TPS.
- There are approximately 2,600 current Syrian TPS beneficiaries who are expected to be eligible to re-register for TPS under the extension.
- It is estimated that 9,000 additional individuals may be eligible for TPS under the redesignation of Syria.

Notice of Extension of the TPS Designation of Syria and Redesignation of Syria for TPS

By the authority vested in me as Secretary under section 244 of the INA, 8 U.S.C. 1254a, I have determined, after consultation with the appropriate Government agencies, that the conditions that prompted the designation of Syria for TPS on March 29, 2012, continue to be met. *See* section 244(b)(3)(A) of the INA, 8 U.S.C. 1254a(b)(3)(A). In fact, those conditions have deteriorated further. In addition, there is now an on-going armed conflict in Syria that poses a serious threat to the personal safety of nationals of Syria if they were to be required to return to Syria. On the basis of these determinations, I am simultaneously extending the existing TPS designation of Syria for 18 months from October 1, 2013 through March 31, 2015, and redesignating Syria for TPS for 18 months from October 1, 2013 through March 31, 2015. *See* sections 244(b)(1)(A), (b)(1)(C), and (b)(2) of the INA; 8 U.S.C. 1254a(b)(1)(A), (b)(1)(C), and (b)(2). I have also determined that eligible individuals must demonstrate that they have continuously resided in the United States since June 17, 2013. *See* section 244(c)(1)(A)(ii) of the INA, 8 U.S.C. 1254a(c)(1)(A)(ii).

Janet Napolitano,
Secretary.

I am currently a Syrian TPS beneficiary. What should I do?

If you filed a TPS application during the original Syria TPS registration period that ran from March 29, 2012 through September 25, 2012, and that application was approved prior to June 17, 2013, then you need to file a re-registration application under the extension if you wish to maintain TPS benefits through March 31, 2015. You must also use the Application for Temporary Protected Status (Form I–821) to re-register for TPS. The 60-day open re-registration period will run from June 17, 2013 through August 16, 2013.

I have a pending TPS application filed during the original Syria TPS registration period that ran from March 29, 2012 through September 25, 2012. What should I do?

If your TPS application is still pending on June 17, 2013, then you do *not* need to file a new Application for Temporary Protected Status (Form I–821). Pending TPS applications will be treated as initial applications under the re-designation. Therefore, if your TPS application is approved, you will be granted TPS through March 31, 2015. If you have a pending TPS application *and* you wish to have an EAD valid through March 31, 2015, please refer to Table 1 to determine whether you should file a new Application for Employment Authorization (Form I–765).

TABLE 1—FORM AND EAD INFORMATION FOR PENDING TPS APPLICATIONS

If . . .	And . . .	Then . . .
You requested an EAD during the original registration period for Syria TPS.	You received an EAD with Category C19 or A12.	You must file a new Application for Employment Authorization (Form I–765) with fee (or fee waiver request) if you wish to have a new EAD valid through March 31, 2015.
	You did not receive an EAD with Category C19 or A12.	You do not need to file a new Application for Employment Authorization (Form I–765). If your TPS application is approved, your Form I–765 will be approved through March 31, 2015.
You did not request an EAD during the original registration period for Syria TPS.	You wish to have an EAD valid through March 31, 2015.	You must file a new Application for Employment Authorization (Form I–765) with fee (or fee waiver request).
	You do not wish to have an EAD valid through March 31, 2015.	You do not need to file a new Application for Employment Authorization (Form I–765).

I am not a TPS beneficiary, and I do not have a TPS application pending. What are the procedures for initial registration for TPS under the Syria redesignation?

If you are not a Syrian TPS beneficiary or have a pending application for Syria TPS, you may submit your TPS application during the 180-day initial registration period that will run from June 17, 2013 through December 16, 2013.

Required Application Forms and Application Fees To Register or Re-Register for TPS

To register or re-register for TPS for Syria, an applicant must submit each of the following two applications:

1. Application for Temporary Protected Status (Form I–821).

• If you are filing an initial application, you must pay the fee for the Application for Temporary Protected Status (Form I–821). *See* 8 CFR 244.2(f)(1) and 244.6 and information on initial filing on the USCIS TPS Web page at *http://www.uscis.gov/tps.*

• If you are filing for TPS re-registration, you do not need to pay the fee for the Application for Temporary Protected Status (Form I–821). *See* 8 CFR 244.17.

and

2. Application for Employment Authorization (Form I–765).

• If you are applying for initial registration and want an EAD, you must pay the fee for the Application for Employment Authorization (Form I–765) only if you are age 14 through 65. No fee for the Application for Employment Authorization (Form I–765) is required if you are under the age of 14 or are 66 and older and applying for initial registration.

• If you are applying for re-registration (or have a pending initial TPS application filed during the original designation and you received a previous TPS-related EAD), you must pay the fee for the Application for Employment Authorization (Form I–765) only if you want an EAD.

• You do not pay the fee for the Application for Employment Authorization (Form I–765) if you are not requesting an EAD, regardless of whether you are applying for initial registration or re-registration.

You must submit both completed application forms together. If you are unable to pay for the application and/or biometrics fee, you may apply for a fee waiver by completing a Request for Fee Waiver (Form I–912) or submitting a personal letter requesting a fee waiver, and by providing satisfactory supporting documentation. For more information on the application forms and fees for TPS, please visit the USCIS TPS Web page at *http://www.uscis.gov/tps.* Fees for the Application for Temporary Protected Status (Form I–821), the Application for Employment Authorization (Form I–765), and biometric services are also described in 8 CFR 103.7(b)(1)(i).

Biometric Services Fee

Biometrics (such as fingerprints) are required for all applicants 14 years of age or older. Those applicants must submit a biometric services fee. As previously stated, if you are unable to pay for the biometric services fee, you may apply for a fee waiver by completing a Request for Fee Waiver (Form I–912) or by submitting a personal letter requesting a fee waiver, and providing satisfactory supporting documentation. For more information on the biometric services fee, please visit the USCIS Web site at *http://www.uscis.gov.* If necessary, you may be required to visit an Application Support Center to have your biometrics captured.

Refiling an *Initial* TPS Application After Receiving a Denial of a Fee Waiver Request

If you request a fee waiver when filing your initial TPS application package and your request is denied, you may re-file your application packet before the initial filing deadline of December 16, 2013. If you submit your application with a fee waiver request before that deadline, but you receive a fee waiver denial and there are fewer than 45 days before the filing deadline (or the deadline has passed), you may still re-file your application within the 45-day period after the date on the USCIS fee waiver denial notice. Your application will not be rejected even if the filing deadline has passed, provided it is mailed within those 45 days and all other required information for the application is included. **Note:** If you wish, you may also wait to request an EAD and pay the Application for Employment Authorization (Form I–765) fee after USCIS grants you TPS, if you are found eligible. If you choose to do this, you would file the Application for Temporary Protected Status (Form I–821) with the fee and the Application for Employment Authorization (Form I–756) without fee and without requesting an EAD.

Refiling a *Re-Registration* TPS Application After Receiving a Denial of a Fee Waiver Request

USCIS urges all re-registering applicants to file as soon as possible within the 60-day re-registration period so that USCIS can process the applications and issue EADs promptly. Filing early will also allow those applicants who may receive denials of their fee waiver requests to have time to re-file their applications *before* the re-registration deadline. If, however, an applicant receives a denial of his or her fee waiver request and is unable to re-

file by the re-registration deadline, the applicant may still re-file his or her application. This situation will be reviewed under good cause for late re-registration. However, applicants are urged to re-file within 45 days of the date on their USCIS fee waiver denial notice, if at all possible. *See* section 244(c)(3)(C) of the INA; 8 U.S.C. 1254a(c)(3)(C); 8 CFR 244.17(c). For more information on good cause for late re-registration, visit the USCIS TPS Web page at *http://www.uscis.gov/tps.* **Note:** As previously stated, although a re-registering TPS beneficiary age 14 and older must pay the biometric services fee (but not the initial TPS application fee) when filing a TPS re-registration application, the applicant may decide to wait to request an EAD, and therefore not pay the Application for Employment Authorization (Form I–765) fee, until after USCIS has approved the individual's TPS re-registration, if he or she is eligible.

Mailing Information

Mail your application for TPS to the proper address in Table 2.

TABLE 2—MAILING ADDRESSES

If . . .	Mail to . . .
You are applying through the U.S. Postal Service	U.S. Citizenship and Immigration Services, Attn: TPS Syria, P.O. Box 6943, Chicago, IL 60680–6943.
You are using a non-U.S. Postal Service delivery service	U.S. Citizenship and Immigration Services Attn: TPS Syria, 131 S. Dearborn 3rd Floor, Chicago, IL 60603–5517.

If you were granted TPS by an Immigration Judge (IJ) or the Board of Immigration Appeals (BIA), and you wish to request an EAD or are re-registering for the first time following a grant of TPS by the IJ or BIA, please mail your application to the appropriate address in Table 2. Upon receiving a Notice of Action (Form I–797) from USCIS, please send an email to *TPSijgrant.vsc@uscis.dhs.gov* with the receipt number and state that you submitted a re-registration and/or request for an EAD based on an IJ/BIA grant of TPS. You can find detailed information on what further information you need to email and the email addresses on the USCIS TPS Web page at *http://www.uscis.gov/tps.*

E-Filing

You cannot electronically file your application when re-registering or applying for initial registration for Syria TPS. Please mail your application to the mailing address listed in Table 2.

Employment Authorization Document (EAD)

May I request an interim EAD at my local USCIS office?

No. USCIS will not issue interim EADs to TPS applicants and re-registrants at local offices.

Will my current EAD, which is set to expire on September 30, 2013, be automatically extended for 6 months?

No. This Notice does not automatically extend previously issued EADs. DHS has announced the extension of the TPS designation of Syria and established the re-registration period at an early date to allow sufficient time for USCIS to process EAD requests prior to the September 30, 2013 expiration date. You must apply during the 60-day re-registration period. Failure to file your TPS application during the re-registration period without good cause may result in gaps in work authorization. DHS strongly encourages you to apply as early as possible within the re-registration period.

When hired, what documentation may I show to my employer as proof of employment authorization and identity when completing Employment Eligibility Verification (Form I–9)?

You can find a list of acceptable document choices on the ''Lists of Acceptable Documents'' for Employment Eligibility Verification (Form I–9). You can find additional detailed information on the USCIS I–9 Central Web page at *http://www.uscis.gov/I–9Central.* Employers are required to verify the identity and employment authorization of all new employees by using Employment Eligibility Verification (Form I–9). Within 3 days of hire, an employee must present proof of identity and employment authorization to his or her employer.

You may present any document from List A (reflecting both your identity and employment authorization), or one document from List B (reflecting identity) together with one document from List C (reflecting employment authorization). An EAD is an acceptable document under ''List A.'' Employers may not reject a document based upon a future expiration date.

What documentation may I show my employer if I am already employed but my current TPS-related EAD is set to expire?

You must present any document from List A or any document from List C on Employment Eligibility Verification (Form I–9) to reverify employment authorization. Your employer is required to reverify on Employment Eligibility Verification (Form I–9) the employment authorization of current employees upon the expiration of a TPS-related EAD. Your employer should use either Section 3 of the Employment Eligibility Verification (Form I–9) originally completed for the employee or, if this section has already been completed or if the version of Employment Eligibility Verification (Form I–9) is no longer valid, in Section 3 of a new Employment Eligibility Verification (Form I–9) using the most current version. Note that your employer may not specify which List A or List C document employees must present.

USCIS anticipates that it will be able to process and issue new EADs for existing TPS Syria beneficiaries before their current EADs expire on September 30, 2013. However, re-registering beneficiaries are encouraged to file as early as possible within the 60-day re-registration period to help ensure that they receive their EADs promptly.

Can my employer require that I produce any other documentation to prove my status, such as proof of my Syrian citizenship?

No. When completing Employment Eligibility Verification (Form I–9), including reverifying employment authorization, employers must accept any documentation that appears on the ''Lists of Acceptable Documents'' for Employment Eligibility Verification (Form I–9) and that reasonably appears to be genuine and that relates to you. Employers may not request documentation that does not appear on the ''Lists of Acceptable Documents.'' Therefore, employers may not request proof of Syrian citizenship when completing Employment Eligibility Verification (Form I–9) for new hires or

reverifying the employment authorization of current employees. If presented with an EAD that is unexpired on its face, employers should accept such EAD as a valid List A document so long as the EAD reasonably appears to be genuine and to relate to the employee. Refer to the Note to Employees section for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you based on your citizenship or immigration status, or your national origin.

Note to All Employers

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This Notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth reverification requirements. For general questions about the employment eligibility verification process, employers may call USCIS at 888–464–4218 (TTY 877–875–6028) or email USCIS at *I-9Central@dhs.gov.* Calls and emails are accepted in English and many other languages including Arabic. For questions about avoiding discrimination during the employment eligibility verification process, employers may also call the U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) Employer Hotline at 800–255–8155 (TTY for the hearing impaired is at 800–237–2515), which offers language interpretation in numerous languages, or email OSC at *osccrt@usdoj.gov.*

Note to All Employees

For general questions about the employment eligibility verification process, employees may call USCIS at 888–897–7781 (TTY 877–875–6028) or email USCIS at *I-9Central@dhs.gov.* Calls and emails are accepted in English, Spanish and many other languages including Arabic. Employees or applicants may also call the OSC Worker Information Hotline at 800–255–7688 (TTY for the hearing impaired is at 800–237–2515) for information regarding employment discrimination based upon citizenship, immigration status, or national origin, or for information regarding discrimination related to Employment Eligibility Verification (Form I–9) and E-Verify. The OSC Worker Information Hotline provides language interpretation in numerous languages.

To comply with the law, employers must accept any document or combination of documents from the List of Acceptable Documents if the documentation reasonably appears to be genuine and to relate to the employee. Employers may not require extra or additional documentation beyond what is required for Employment Eligibility Verification (Form I–9) completion. Further, employers participating in E-Verify that receive an E-Verify initial case result of ''Tentative Nonconfirmation (TNC)'' must promptly inform employees of the TNC and give such employees an opportunity to contest the TNC. A TNC case result means that the information entered into E-Verify from Form I–9 differs from Social Security Administration, DHS, or DOS records. Employers may not terminate, suspend, delay training, withhold pay, lower pay or take any other adverse action against an employee based on the employee's decision to contest a TNC or because the case is still pending with E-Verify. A Final Nonconfirmation (FNC) case result is received when E-Verify cannot verify an employee's employment eligibility. An employer may terminate employment based on a case result of FNC. Work-authorized employees who receive an FNC may call USCIS for assistance at 888–897–7781 (TTY 877–875–6028). Additional information about proper nondiscriminatory I–9 and E-Verify procedures is available on the OSC Web site at *http://www.justice.gov/crt/about/osc* and the USCIS Web site at *http://www.dhs.gov/E-verify.*

Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)

While Federal government agencies must follow the guidelines laid out by the Federal government, state and local government agencies establish their own rules and guidelines when granting certain benefits. Each state may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a Federal, state, or local government benefit, you may need to provide the government agency with documents that show you are a TPS beneficiary and/or show you are authorized to work based on TPS. Examples are:

(1) Your unexpired EAD card;

(2) A copy of your Application for Temporary Protected Status Notice of Action (Form I–797) for this re-registration; and/or

(3) A copy of your past or current Application for Temporary Protected Status Notice of Action (Form I–797), if you received one from USCIS.

Check with the government agency regarding which document(s) the agency will accept. You may also provide the agency with a copy of this Notice.

Some benefit-granting agencies use the USCIS Systematic Alien Verification for Entitlements Program (SAVE) to verify the current immigration status of applicants for public benefits. If such an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted upon or will act upon a SAVE verification and you do not believe the response is correct, you may make an InfoPass appointment for an in-person interview at a local USCIS office. Detailed information on how to make corrections, make an appointment, or submit a written request can be found at the SAVE Web site at *http://www.uscis.gov/save,* then by choosing ''How to Correct Your Records'' from the menu on the right.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5687–N–28]

60-Day Notice of Proposed Information Collection: Mortgage Insurance Termination, Application for Premium Refund or Distributive Share

AGENCY: Single Family Insurance Operations Division, Office of the FHA Comptroller, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* August 16, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing

and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–5564 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Mortgage Insurance Termination, Application for Premium Refund or Distributive Share.

OMB Approval Number: 2502–0414.

Type of Request: Extension of a currently approved collection.

Form Number: HUD–27050–B.

Description of the need for the information and proposed use: Mortgage Insurance Termination is used by servicing mortgagees to comply with HUD requirements for reporting termination of FHA mortgage insurance. This information is used whenever FHA mortgage insurance is terminated and no claim for insurance benefits will be filed. This information is submitted on via the internet or EDI and is used to directly pay eligible homeowners. This condition occurs when the form passes the criteria of certain system edits. As the result the system generates a disbursement to the eligible homeowner for the refund consisting of the unused portion of the paid premium. The billing of mortgage insurance premiums is discontinued as a result of the transaction. Without this information the premium collection/monitoring function would be severely impeded and program data would be unreliable. Under streamline III when the form is processed and but does not pass the series of edits the system generates in these cases the Application for Premium Refund or Distributive Share Payment to the homeowner to be completed and returned to HUD for father processing for the refund. In general a Premium Refund is the difference between the amount of prepaid premium and the amount of the premium that has been earned by HUD up to the time the mortgage is terminated.

Respondents (i.e. affected public): Individuals or Households.

Estimated Number of Respondents: 56,000.

Estimated Number of Responses: 725,000.

Frequency of Response: On occasion.

Average Hours per Response: 5 minutes per response.

Total Estimated Burdens: 66,500.

Note: Preparer of this notice may substitute the chart for everything beginning with estimated number of respondents above:

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Mortgage Insurance Termination.	6,000	Varies	675,000	.08	54,000	$20.00	$1,080,000
HUD–27050–B	50,000	1	50,000	.25	12,500	35.00	437,500
Total	56,000		725,000		66,500		1,517,500

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: June 11, 2013.

Laura M. Marin,

Acting General Deputy Assistant Secretary for Housing—Acting General Deputy Federal Housing Commissioner.

[FR Doc. 2013–14341 Filed 6–14–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5687–N–26]

60-Day Notice of Proposed Information Collection: FHA-Insured Mortgage Loan Servicing of Payments, Prepayments, Terminations, Assumptions and Transfers

AGENCY: Office of Single Family Asset Management, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* August 16, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-

free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Ivery W. Himes, Director, Office of Single Family Asset Management, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Ivery Himes at *Ivery.W. Himes@hud.gov* or telephone 202–402–1672. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Himes.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: FHA-Insured Mortgage Loan Servicing of Payments, Prepayments, Terminations, Assumptions and Transfers.

OMB Approval Number: 2502–0595.

Type of Request: Extension of currently approved collection.

Form Number: HUD–27050–A, Mortgage Insurance Termination, HUD–92210.1, Approval of Purchaser and Release of Seller, HUD–92080, Mortgage Record Change.

Description of the need for the information and proposed use: FHA insurance is an important source of mortgage credit for low and moderate-income borrowers. It is essential that the Federal Housing Administration (FHA) maintain a healthy mortgage insurance fund through premiums charged to the borrower by FHA. Providing policy and guidance to the single family housing mortgage industry regarding changes in FHA's program is essential to protect the fund. The information requests referred to in this PRA submission is to provide information to support HUD's policy and guidance.

Respondents (i.e. affected public): Servicers of FHA-insured mortgages.

Estimated Number of Respondents: 223.

Estimated Number of Responses: 51,681,867.

Frequency of Response: On occasion.

Average Hours per Response: 15 minutes to 3 hours depending on the activity.

Total Estimated Burdens: 981,067 hours.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: June 10, 2013.

Laura M. Marin,

Acting General Deputy Assistant Secretary for Housing-Acting General Deputy Federal Housing Commissioner.

[FR Doc. 2013–14340 Filed 6–14–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5687–N–27]

60-Day Notice of Proposed Information Collection: FHA—Disclosure of Adjustable Rate Mortgages (ARMs) Rates

AGENCY: Office of Single Family Program Development, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* August 16, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Joanne Kuzma, Director, Office of Single Family Program Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Joanne Kuzma at *Joanne.B.Kuzma@hud.gov* or telephone 202–402–2121. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Kuzma.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: FHA-Insured Mortgage Loan Servicing of Payments, Prepayments, Terminations, Assumptions and Transfers.

OMB Approval Number: 2502–0322.

Type of Request: Extension of a currently approved collection.

Form Number: None.

Description of the Need for the Information and Proposed Use: Mortgagees must make available to the mortgagor, at the time of loan application, a written explanation of the features of an adjustable-rate mortgage ARM consistent with the disclosure requirements applicable to variable rate mortgages secured by a principal dwelling under TILA. Regulation Z,'' at 15 U.S.C. 1601, 12 CFR 22618.

Respondents (i.e. affected public): FHA Approved Lenders.

Estimated Number of Respondents: 3,231.

Estimated Number of Responses: 215,306.

Frequency of Response: Occasion.

Average Hours per Response: .05.

Total Estimated Burdens: 10,765.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: June 10, 2013.

Laura M. Marin,

Acting General Deputy Assistant Secretary for Housing-Acting General Deputy Federal Housing Commissioner.

[FR Doc. 2013–14339 Filed 6–14–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5600–FA–21]

Announcement of Funding Awards; Service Coordinators in Multifamily Housing Program, Fiscal Year (FY) 2012

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Fiscal Year (FY) 2010 Notice of Funding Availability (NOFA) for the Service Coordinators in Multifamily Housing Programs. This announcement contains the names of the awardees and the amounts of the awards made available by HUD.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, 451 Seventh Street SW., Room 6138, Washington, DC 20410; telephone number 202–708–3000. (This is not a toll-free number). Hearing- and speech-impaired persons may access this number via TTY by calling the Federal Relay Service toll-free at 1–800–877–8339. For general information on this and other HUD programs, visit the HUD Web site at *http://www.hud.gov.*

SUPPLEMENTARY INFORMATION: The Service Coordinators in Multifamily Housing Programs is authorized by Section 808 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101–625, approved November 28, 1990), as amended by Sections 671, 674, 676, and 677 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992), and Section 851 of the American Homeownership and Economic Opportunity Act of 2000 (Pub. L. 106–569, approved December 27, 2000). The Service Coordinators in Multifamily Housing Programs allows multifamily housing owners to assist elderly individuals and nonelderly people with disabilities living in HUD-assisted housing and in the surrounding area to obtain needed supportive services from the community, to enable them to continue living as independently as possible in their homes.

The FY 2012 awards announced in this notice identify applicants that were selected for funding based on a competition announced by a NOFA published on *www.Grants.gov* on March 13, 2012. Applications were reviewed and selected for funding on the basis of selection criteria contained in that NOFA. The funding awarded to the recipients under this NOFA was appropriated by *The Consolidated and Further Continuing Appropriation Act of 2012* (Pub. L. 112–55, November 18, 2011). The Catalog of Federal Domestic Assistance number for this program is 14.191.

A total of $31,908,107 was awarded to 140 owners, serving 144 projects with 14,673 units nationwide. In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987. 42 U.S.C. 3545), the Department is publishing the grantees and amounts of the awards in Appendix A of this document.

Dated: May 29, 2013.

Laura M. Marin,

Acting General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

Appendix A

State	Recipient name	Project name	Address	City	Number of units	Grant amount
AL	Vaughn Tower LLC	Vaughn Towers	342 S. Saint Andrews St	Dothan	120	$192,843
AR	Buffington II, L.P	Buffington Tower	224 E 7Th St	Little Rock	109	217,813
CA	Pacific Park Executive Plaza LP.	Ceres Christian Terrace	1859 Richard Way	Ceres	67	251,233
CA	Cloverdale Senior Housing, Inc.	Kings Valley Apts	100 Kings Circle	Cloverdale	99	239,585
CA	Clara Park Village Apartments Limited Partnership.	Clara Park Village	4805 Clara St	Cudahy	50	108,429
CA	Gardena South Park Senior Project, Inc.	Gardena South Park Sr. Citizens.	17100 S Park Ln	Gardena	126	262,935
CA	Our Saviour's Lutheran Development Corp.	Lutheran Towers	2340 4Th St	Long Beach	93	297,550
CA	Maywood Manor Senior Housing, Inc.	Maywood Manor Coop	4646 Slauson Ave	Maywood	55	144,505
CA	North Hollywood Sr. Citizens Towers.	North Hollywood Sr. Citizens.	11035 Magnolia Blvd	North Hollywood	200	524,799
CA	Crescent Manor Partners, LP.	Crescent Manor	467 Turk St	San Francisco	94	356,754
CA	The Lesley Foundation	Park Towers	700 Laurel Ave	San Mateo	200	237,219
CA	Camino Mercado Partners, LP.	Fickett Towers	14801 Sherman Way	Van Nuys	198	489,740

State	Recipient name	Project name	Address	City	Number of units	Grant amount
CO	Downtown Denver Housing Partners LLLP.	Argonaut Apts	1505 Grant St	Denver	109	626,600
CO	Colorado Affordable Senior Housing, LLC.	Independence Village	225 N Coulson	Fruita	75	216,553
CO	St. Mary's Housing Committee, Inc.	Immaculata Plaza	530 10Th Avenue	Greeley	25	103,572
CT	Bridgeport Towers, LLC	Bridgeport Towers	199 Yacht St	Bridgeport	252	184,835
CT	Grant Street Senior Apartments, LLC.	Grant Street Senior Apartments.	430 Grant Street	Bridgeport	92	151,919
CT	Stratfield Apartments LLC	Stratfield Apartments I & II.	1241 Main St	Bridgeport	91	568,732
CT	Chase Manor Associates	Chase Manor	55–75 Norman Road	Norwich	50	245,565
CT	Southern Development Management Company.	Eastgate II	84 Maybury Cir	Waterbury	44	291,078
DC	Second New St. Paul Housing Inc.	The Green Valley Apts	2412 Franklin St Ne	Washington	100	124,177
FL	Mar Plaza Apartments LLC.	Mar Plaza Apartments	4817 E Temple Heights Rd.	Tampa	82	203,964
FL	Mary Walker, LLC	Mary Walker Apartments	4912 E Linebaugh Ave	Tampa	85	221,411
GA	Friendship Tower, Inc	Friendship Towers	35 Northside Dr SW	Atlanta	102	210,251
GA	Hellenic Tower LLC	The Hellenic Tower	8450 Roswell Rd NW	Atlanta	125	195,970
GA	Christian City Estates, Inc	Cc Estates/Miller Manor	7601 Lester Rd	Union City	76	263,037
GA	Christian City Retirement Homes, Inc.	Cc/Garden Terrace	7505 Lester Rd	Union City	20	348,191
GA	John Sparks Manor, Inc	Cc/Sparks Manor	7290 Lester Rd	Union City	85	166,721
ID	Northwest Mill Creek LLC	Millcreek Apartments	419 Miller St	Lewiston	40	160,461
IL	Whiting Hall Partners, LP	Whiting Hall (Ihda)	19 E Tompkins St	Galesburg	60	215,599
IL	Inwood Park Tower, LLC	The Tower	247 Caterpillar Dr	Joliet	134	215,592
IL	Cedar Village Limited Partnership/Daniel Plotnick.	Cedar Village	310 N. Milwaukee Avenue	Lake Villa	80	267,611
IL	Terrace Senior Apartments.	The Terrace	2321 Halsted Rd	Rockford	128	204,908
IN	Cambridge Square Of Greenwood.	Cambridge Square Greenwood.	1160 Southbridge Dr	Greenwood	186	269,991
IN	Burnett Manor Apartments LP.	Burnett Manor	315 Stark St	Rockville	60	124,431
IN	Retired Tigers Senior Apts, LLC.	Retired Tigers Senior Apartments.	320 W Main St	Warsaw	82	211,197
KS	A.S.C. Development Company Dba Windsor Court.	Windsor Court	305 E Windsor Rd	Arkansas City	79	176,836
KS	Stitzel-Allen Partnership Dba Poplar Court.	Poplar Court	519 E Poplar St	Olathe	67	158,008
KS	Shadybrook Senior Apartments, LLC.	Shadybrook Estates	4925 Shadybrook St	Wichita	78	209,485
KY	Hathaway Court LLC	Hathaway Court Apartments.	1200 Highway Ave	Covington	159	262,449
KY	Ballard Place, LLC	Ballard Place Apartments	635 Ballard St	Lexington	132	230,417
KY	West Louisville Housing, Inc.	Community Towers	2526 W Madison St	Louisville	61	249,723
KY	Housing Now—Flaget, Inc	Flaget Apts	4410 River Park Dr	Louisville	73	249,723
KY	Yorktown Senior House, Inc.	Yorktown Senior Housing	7200 National Tpke	Louisville	50	119,134
KY	Schiff Holdings, LLC	Mayfield Plaza Apartments.	405 Babb Drive	Mayfield	92	208,395
KY	Sisson Manor, A Limited Partnership.	Sisson Manor Apts	2900 Dixiana Ct	Owensboro	48	251,346
LA	Sharlo Ii Terrace Apartments, LP.	Sharlo Terrace Ii	1808 Brightside Dr	Baton Rouge	90	237,090
MA	Quincy Tower Associates	Quincy Tower	5 Oak St W	Boston	162	311,434
MA	Hrca Brookline Housing,112–120 Centre Court, Inc.	Centre Court 120	120 Centre Ct	Brookline	125	190,311
MA	Revere Elderly Housing Inc.	Friendly Garden Coop Apts.	235 Revere St	Revere	107	104,606
MA	Taunton Green Associates.	Taunton Green	31 School St	Taunton	75	237,008
MA	Worcester Episcopal Housing Company.	Canterbury Tower	6 Wachusett St	Worcester	156	249,580
MI	Fountainhead Investments, LLC.	Caro Senior Commons	1601 W. Gilford Rd	Caro	100	238,003

State	Recipient name	Project name	Address	City	Number of units	Grant amount
MI	Medical Center Senior L.D.H.A.	Medical Center Senior Village.	4701 Chrysler Dr	Detroit	190	175,169
MI	Metropolitan Baptist Church Nphc/Dba Alaine Locke Manor.	Morton Manor	20000 Dequindre St	Detroit	151	176,629
MI	Fc Plymouth Square Village, LLC.	Plymouth Square Village Apts.	20201 Plymouth Rd	Detroit	280	254,014
MI	Village Center Associates LDHA.	Village Center	901 Pallister St	Detroit	254	251,014
MI	Masso Limited Dividend Housing Association, LLC.	East Glen Apartments	1801 N Hagadorn	East Lansing	100	225,351
MI	Royal Oak Tower/Mht LDHA.	Royal Oak Towers	20800 Wyoming St	Ferndale	200	214,903
MI	Jackson Apartments LLC	Elaine Apartments	101 E Michigan Ave	Jackson	33	136,022
MI	New Baltimore Senior Preservation LP.	New Baltimore Place	51140 Hooker St	New Baltimore	101	267,567
MI	Romulus Non-Profit Housing Corporation.	Whispering Willows	11100 Wayne Rd	Romulus	65	159,643
MI	Royal Oak (Csi) Non-Profit Housing Corporation.	Royal Oak Cooperative Apartments.	606 Williams	Royal Oak	240	399,226
MI	Sault Reality LLC	Bridge Village	591 Myrtle	Sault Sainte Marie	100	119,835
MI	Southgate Non-Profit Apartments, Inc.	Southgate Cooperative Apartments.	11255 Allen Rd	Southgate	227	517,742
MI	Bishop CSI Non-Profit Corporation.	Bishop Cooperative Apartments.	2651 Biddle Ave	Wyandotte	196	264,461
MN	Northfield Manor	Northfield Manor	901 Cannon Valley Drive	Northfield	64	146,114
MO	Booth Manor, Inc	Booth Manor	6111 E 129Th St	Grandview	80	165,608
MO	Lawndale Heights, LP	Lawndale Heights Apts	1400 Topping Ave	Kansas City	123	225,635
MS	Ucr Of Clarksdale, Ms, Inc.	Meadowview Village Apts	501 Washington Avenue	Clarksdale	40	119,906
MS	Episcopal Hsg Dev (Dba/All Saints House).	All Saints House	480 S Main St	Grenada	41	134,322
MS	United Church Residences Of Hollysprings, Ms Inc.	Hollyview Place	731 Highway 78 W	Holly Springs	21	105,309
MS	Jackson Manor Apartments, Inc.	Jackson Manor Apartments.	332 Josanna St	Jackson	60	235,919
MS	Lucky Star Housing Associates LP.	Madonna Manor	550 Houston Avenue	Jackson	149	152,046
MS	Deville Manor Apartments, Ltd.	Deville Manor Apartments	1914 11Th St	Meridian	103	212,559
MS	Magnolia Manor Apartments, Ltd.	Magnolia Manor Apts	3515 Manor Dr	Vicksburg	80	214,495
MS	H.A. Scott Riverside Apartments, Inc.	H A Scott Riverside Apts	725–A River Rd	Yazoo City	30	138,854
NC	Burlington Housing Authority.	Burlington Homes	507 Everett St	Burlington	100	184,130
ND	Peaceful Pioneer Partners, LP.	Pioneer Haven	1043 Enterprise Ave	Dickinson	24	201,085
NJ	Best Of Life Park	Best Of Life Park	129 143 S Virginia Ave	Atlantic City	208	186,976
NJ	St. Mary's Villa Associates.	St Mary's Villa	425 Sanford Ave	Newark	360	222,013
NM	Yes Deming Mountain View Apartments Limited Partnership LLLP.	Mountain View Estates Apts.	1101 South Shelly Drive	Deming	48	233,141
NM	Wildewood Apartments Limited Partnership.	Wildewood Apartments	201 Sherrill Ln	Roswell	60	233,791
NY	East One Thirty Eighth Hdfc, Inc.	Borinquen Court Site 603	285 E 138 St	Bronx	145	271,669
NY	Kenton Presbyterian Village, Inc.	Ken-Ton Presbyterian	3735 Delaware Ave	Buffalo	151	141,951
NY	Lakeview Arms Senior Housing, LP.	Lakeview Arms Sr. Citz. Apartments.	2 Creek Rd	Poughkeepsie	72	264,185
NY	Municipal Housing Authority Of The City Of Utica.	Chancellor Apts	417 Bleecker St	Utica	93	197,208
OH	National Church Residences Of Baltimore, Oh.	Walnut Creek Village	1051 S Main St	Baltimore	41	104,621
OH	Pwa Emeritus, LLC	Emeritus House	4450 Cedar Ave	Cleveland	56	118,256

State	Recipient name	Project name	Address	City	Number of units	Grant amount
OH	New Clifton Plaza Associates, LLC.	The New Clifton Plaza	11430 Clifton Blvd	Cleveland	108	210,814
OH	Conneaut Apartments	Conneaut Apartments	232 Harbor St	Conneaut	53	161,314
OH	Biltmore Apartments, Ltd	Biltmore Towers, The	210 N Main St	Dayton	230	448,421
OH	Mad Investors LLC	Mad River Manor	5580 Burkhardt Rd	Dayton	74	262,226
OH	Harding Investors LLC	Harding House	425 Mission Ln	Franklin	60	262,229
OH	Shaker Place VOA Affordable Housing, LP.	Shaker Place Apartments	3600 Northfield Rd	Highland Hills	81	214,477
OH	Marion Rotary Towers Ltd	Marion Towers	400 Delaware Avenue	Marion	153	214,477
OH	Trinity Manor Senior Housing Limited Partnership.	Trinity Manor Senior Housing Limited Partnership.	301 Clark St	Middletown	91	126,978
OH	New Pleasant View, Ltd	New Pleasant View, Ltd	114 Academy St	Pleasantville	30	76,556
OH	Viewpoint Senior Housing Limited Partnership.	Viewpoint	215 E Shoreline Dr	Sandusky	147	207,245
OK	Kingfisher VOA Elderly Housing, Inc.	Autumn Trace	2301 Mitchell Dr	Kingfisher	31	124,867
OR	Northwest Riverside Manor I LLC.	Riverside Manor I	1575 Hawthorne Ave	Reedsport	16	166,793
PA	Bloomsburg Towers LLC	Bloomsburg Elderly Housing.	330 W Third St	Bloomsburg	76	215,755
PA	Pennsylvania Associates LP.	Norristown Elderly Housing.	300 Walnut St	Norristown	175	238,832
PA	Opportunities For The Aging Housing Corp.	Opportunities For Aging	1717 W Hunting Park Ave	Philadelphia	151	183,787
PA	University Plaza Associates.	University Square Plaza	3901 Market St	Philadelphia	442	505,980
PA	Geneva House, Inc	Geneva House	323 Adams Ave	Scranton	64	226,298
PA	Shamokin Housing Association.	Lincoln Towers	201 W Mulberry St	Shamokin	100	225,247
PA	Vincent Heights Senior Housing, LLC.	Vincent Heights	333 Vincent Heights Cir	Spring City	90	226,032
SC	Episcopal Housing Corp	Finlay House	2100 Blossom St	Columbia	204	691,036
SD	Tower Of David Senior Housing Limited Partnership.	Tower Of David Apartments.	320 S 3Rd Ave	Sioux Falls	80	203,254
TN	Cleveland Senior Housing Corporation.	Cleveland Summit	44 Inman St Se	Cleveland	78	204,150
TN	Horizon House I, Inc	Horizon House I	1903 Piney Grove Church Rd.	Knoxville	9	80,055
TN	Independent Apartments, Inc.	Independent Apartments	875 Linden	Memphis	24	91,936
TN	United Housing Partners-Wesley Camilla, A Tennessee General Partnership.	Linden Camilla Towers	256 South Camilla Street	Memphis	430	721,064
TN	First Baptist Church Capitol Hi Ll Homes, Inc.	Kelly Miller Smith Towers	2136 Cliff Dr	Nashville	108	269,615
TX	Rural Economic Assistance League, Inc.	Casa Real	1300 Wyoming St	Alice	68	235,264
TX	Independence Amarillo Senior Housing, LP.	Independence Village	4700 S Virginia St	Amarillo	150	223,962
TX	Nueces County Housing Assistance, Inc.	Palacio Residencial & El Paraiso Apts.	1757 Gollihar	Corpus Christi	95	323,533
TX	Sea Gulf Villa Ltd Partnership.	Sea Gulf Villa	416 N Chaparral St	Corpus Christi	111	254,446
TX	Housing Authority Of The City Of El Paso.	Henderson Heights	9401 Stonewall	El Paso	144	271,873
TX	Fort Worth VOA Elderly Housing, Inc.	Park Meadows Apts	2716 Yeager St	Fort Worth	80	120,460
TX	Manor Crest Senior Apartments, LP.	Manor Crest Apartments	1401 San Andres Dr	Odessa	106	219,949
TX	Pam Affordable Senior Housing, LLC.	Pam Apartments	1200 N Wells St	Pampa	96	218,488
TX	Hereford Apartments	Lasker O. Hereford Apts	8911 Timberwilde St	San Antonio	40	145,021
TX	Villa O'Keefe Apartments	Villa O'Keefe Apts	2130 SW White Rd	San Antonio	50	246,302
VA	Holiday Village Apartments, LLC.	Holiday Village	222 Courtland St	Danville	133	226,579
WA	Chewelah Manor Village	Chewelah Manor	501 East Main & Fifth Street.	Chewelah	25	89,278
WA	Stevens County Housing Coalition.	Columbia Apartments	506 S Oak St	Colville	12	37,024

State	Recipient name	Project name	Address	City	Number of units	Grant amount
WA	Lakewood Group Homes Inc.	Tahoma House	4202 S 64Th St	Lakewood	6	44,797
WA	Sno-Ridge Apartments LLC.	Sno Ridge Apartments	401 Stow Avenue South	North Bend	40	169,170
WA	Canal View Association	Golden Sunset Apartments.	3256 NW 54Th St	Seattle	92	288,529
WA	Loyal Heights Manor	Loyal Heights Manor	7547 24Th Ave NW	Seattle	54	288,529
WA	Weller Association	Weller Apartments	1632 S Weller Street	Seattle	50	288,529
WA	Pines Affordable Housing, LLC.	Pines Terra/Pines Manor Apartments.	528 North Pines	Spokane Valley	102	222,389
WA	Ponderosa Affordable Senior Housing, LP.	Ponderosa Apartments	9314 E Montgomery Ave	Spokane Valley	129	225,768
WA	Kincaid Housing	Kincaid Court Apartments	6210 Parker Road East	Sumner	40	199,965
WA	Blue Mountain Action Council.	Whitman Court	305 Ash St	Walla Walla	49	158,616
WI	3311 W. College, LLC	The Woods Of Cedar Village.	3311 W College Ave	Franklin	112	267,611
WV	Highlawn Senior Apartments, LP.	Highlawn Place	1130 3Rd Ave	Huntington	133	197,819
WV	Pleasantview Towers, Limited.	Pleasantview Towers	1205 9Th St	Vienna	117	214,080

[FR Doc. 2013–14338 Filed 6–14–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–LE–2013–N134; FF09L00200–FX–LE12200900000]

Proposed Information Collection; Federal Fish and Wildlife Permit Applications and Reports—Law Enforcement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on November 30, 2013. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: To ensure that we are able to consider your comments on this IC, we must receive them by August 16, 2013.

ADDRESSES: Send your comments on the IC to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042—PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); or *hope_grey@fws.gov* (email). Please include ''1018—0092'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey at *hope_grey@fws.gov* (email) or 703–358–2482 (telephone).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Endangered Species Act (ESA) (16 U.S.C. 1531 et seq.) makes it unlawful to import or export fish, wildlife, or plants without obtaining prior permission as deemed necessary for enforcing the ESA or upholding the Convention on International Trade in Endangered Species (CITES) (see 16 U.S.C. 1538(e)). This information collection includes the following permit/license application forms:

(1) FWS Form 3–200–2 (Designated Port Exception Permit). Under 50 CFR 14.11, it is unlawful to import or export wildlife or wildlife products at ports other than those designated in 50 CFR 14.12 unless you qualify for an exception. These exceptions allow qualified individuals, businesses, or scientific organizations to import or export wildlife or wildlife products at a nondesignated port:

(a) When the wildlife or wildlife products will be used as scientific specimens.

(b) To minimize deterioration or loss.

(c) To relieve economic hardship.

To request an import or export of wildlife or wildlife products at nondesignated ports, applicants must complete FWS Form 3–200–2. Designated port exception permits are valid for 2 years. We may require a permittee to file a report on activities conducted under authority of the permit.

(2) FWS Form 3–200–3 (Import/Export License). It is unlawful to import or export wildlife or wildlife products for commercial purposes without first obtaining an import/export license (50 CFR 14.91). Applicants must complete FWS Form 3–200–3 to request this license. We use the information that we collect on the application as an enforcement tool and management aid to: (a) Monitor the international wildlife market and (b) detect trends and changes in the commercial trade of wildlife and wildlife products. Import/export licenses are valid for 1 year. We may require a licensee to file a report on activities conducted under authority of the import/export license.

Permittees and licensees must maintain records that accurately describe each importation or exportation of wildlife or wildlife products made under the license, and any additional sale or transfer of the wildlife or wildlife products. In addition, licensees must make these records and the corresponding inventory of wildlife or wildlife products available for our inspection at reasonable times, subject to applicable limitations of law. We believe the burden associated with these recordkeeping requirements is minimal because the records already exist. Importers and exporters must complete FWS Form 3–177 (Declaration for Importation or Exportation of Fish or Wildlife) for all imports or exports of wildlife or wildlife products. This form provides an accurate description of the imports and exports. OMB has approved

the information collection for FWS Form 3–177 and assigned OMB Control Number 1018–0012. Normal business practices should produce records (e.g., invoices or bills of sale) needed to document additional sales or transfers of the wildlife or wildlife products.

II. Data

OMB Control Number: 1018–0092.

Title: Federal Fish and Wildlife Permit Applications and Reports—Law Enforcement, 36 CFR 13 and 14.

Service Form Number: 3–200–2 and 3–200–3.

Type of Request: Extension of a currently approved collection.

Description of Respondents: Individuals, businesses, scientific institutions, and State, local, or tribal governments.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Activity	Number of respondents	Number of responses	Completion time per response	Total annual burden hours *
3–200–2–application and recordkeeping	1,350	1,350	1.25 hours	1,688
3–200–2–report	5	5	1 hour	5
3–200–3–application and recordkeeping	7,843	7,843	1.25 hours	9,804
3–200–3–report	5	5	1 hour	5
Totals	9,203	9,203		11,502

* rounded

Estimated Annual Nonhour Burden Cost: None.

III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: June 12, 2013.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2013–14268 Filed 6–14–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–ES–2013–N133; FF09E00000–134–FXES11130900000]

Proposed Information Collection; Federal Fish and Wildlife Permit Applications and Reports—Native Endangered and Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on December 31, 2013. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: To ensure that we are able to consider your comments on this IC, we must receive them by August 16, 2013.

ADDRESSES: Send your comments on the IC to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); or *hope_grey@fws.gov* (email). Please include ''1018–0094'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey at *hope_grey@fws.gov* (email) or 703–358–2482 (telephone).

SUPPLEMENTARY INFORMATION:

I. Abstract

We use the information that we collect on permit applications to determine the eligibility of applicants for permits requested in accordance with various Federal wildlife conservation laws, including:

- Endangered Species Act (16 U.S.C. 1531 et seq.).
- Migratory Bird Treaty Act (16 U.S.C. 703 et seq.).
- Lacey Act (16 U.S.C. 3371 et seq.).
- Bald and Golden Eagle Protection Act (16 U.S.C. 668).
- Marine Mammal Protection Act (16 U.S.C. 1374).

Service regulations implementing these statutes and treaties are in chapter I, subchapter B of title 50 of the Code of Federal Regulations (CFR). These regulations stipulate general and specific requirements that when met allow us to issue permits to authorize activities that are otherwise prohibited. This IC includes the following permit application forms and the reporting requirements for each permit:

- FWS Form 3–200–54 (Enhancement of Survival Permits Associated with Safe Harbor Agreements and Candidate Conservation Agreements with Assurances).
- FWS Form 200–55 (Permits for Scientific Purposes, Enhancement of Propagation or Survival (i.e., Recovery) and Interstate Commerce).
- FWS Form 3–200–56 (Incidental Take Permits Associated with a Habitat Conservation Plan).

II. Data

OMB Control Number: 1018–0094.

Title: Federal Fish and Wildlife Permit Applications and Reports—Native Endangered and Threatened Species, 50 CFR 13 and 17.

Service Form Number(s): 3–200–54, 3–200–55, and 3–200–56.

Type of Request: Extension of a currently approved collection.

Affected Public: Individuals/households, businesses, State and local agencies, private organizations, and scientific and research institutions.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion for application forms and notifications; annually for reports.

Activity	Number of respondents	Number of responses	Completion time per response (hours)	Total annual burden hours
3–200–54 permit application	11	11	3	33
3–200–54 annual report	64	64	8	512
3–200–54 notifications (incidental take and change in landowner)	2	2	1	2
2–200–55 permit application	579	579	4	2,316
3–200–55 annual report	1,034	1,034	8	8,272
3–200–55 notification (escape of living wildlife)	1	1	1	1
3–200–56 permit application	60	60	3	180
3–200–56 annual report	748	748	10	7,480
Totals	2,499	2,499		18,796

Estimated Annual Nonhour Burden: $55,000 for fees associated with permit applications.

III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: June 12, 2013.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2013–14269 Filed 6–14–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY–957400–13–L16100000–BJ0000]

Filing of Plats of Survey, Wyoming and Nebraska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) has filed the plats of survey of the lands described below in the BLM Wyoming State Office, Cheyenne, Wyoming, on the dates indicated.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003.

SUPPLEMENTARY INFORMATION: These surveys, supplementals and remonumentations were executed at the request of the Bureau of Land Management and the U.S. Forest Service, and are necessary for the management of resources. The lands surveyed are:

The plat and field notes representing the dependent resurvey of portions of Lot No. 38 and Lot No. 39, a portion of the Eleventh Auxiliary Meridian West, through Township 52 North, between Ranges 92 and 93 West, and a portion of the subdivisional lines, and the survey of the subdivision of section 1, Township 52 North, Range 93 West, Sixth Principal Meridian, Wyoming, Group No. 825, was accepted January 16, 2013.

The plat and field notes representing the dependent resurvey of portions of the north boundary and subdivisional lines, Township 17 North, Range 102 West, Sixth Principal Meridian, Wyoming, Group No. 840, was accepted January 16, 2013.

The plat and field notes representing the dependent resurvey of a portion of the east boundary and a portion of the subdivisional lines, and the survey of the subdivision of sections 13 and 24, Township 29 North, Range 76 West, Sixth Principal Meridian, Wyoming, Group No. 628, was accepted April 10, 2013.

The plat and field notes representing the dependent resurvey of portions of Tract No. 44 and Tract No. 54, and a portion of the subdivisional lines, and the survey of the subdivision of sections 22 and 23, Township 21 North, Range 116 West, Sixth Principal Meridian, Wyoming, Group No. 854, was accepted April 10, 2013.

The plat and field notes representing the dependent resurvey of portions of the south and west boundary, a portion of the subdivisional lines, and a portion of the subdivision of section 28, and the survey of the subdivision of sections 28, 30, 31 and 32, Township 27 North, Range 71 West, Sixth Principal Meridian, Wyoming, Group No. 863, was accepted April 10, 2013.

The plat and field notes representing the dependent resurvey of a portion of the subdivisional lines, and the survey of the subdivision of sections 4, 8, 9 and 17, Township 26 North, Range 72 West, Sixth Principal Meridian, Wyoming, Group No. 865, was accepted April 10, 2013.

The supplemental plat correcting the distance along the Eighth Standard Parallel North, through R. 4 W., from the standard ¼ section corner of section 33 to the east 1/16 section corner of section 4 is based upon the dependent resurvey plat accepted March 24, 2006,

Township 32 North, Range 4 West, Sixth Principal Meridian, Nebraska, Group No. 178, was accepted May 31, 2013.

The supplemental plat showing the corrected lot numbering along the north boundaries of sections 2 and 4 is based upon the dependent resurvey plat accepted January 15, 2009, Township 22 North, Range 94 West, Sixth Principal Meridian, Wyoming, Group No. 878, was accepted May 31, 2013.

The supplemental plat showing the corrected lotting of section 6 is based upon the duplicate original and triplicate original plats approved November 24, 1871, Township 16 North, Range 77 West, Sixth Principal Meridian, Wyoming, Group No. 879, was accepted May 31, 2013.

The supplemental plat correcting the parenthetical distances of the North half of the east boundary of section 4 is based upon the dependent resurvey plat accepted November 3, 2011, Township 19 North, Range 75 West, Sixth Principal Meridian, Wyoming, Group No. 885, was accepted May 31, 2013.

The field notes representing the remonumentation of the standard ¼ section corner of section 36, the ¼ section corner of sections 31 and 36, T. 13 N., Rs. 83 and 84 W., and the ¼ section corner of sections 25 and 36, Township 13 North, Range 84 West, Sixth Principal Meridian, Wyoming, Group No. 624, was accepted May 31, 2013.

Copies of the preceding described plats and field notes are available to the public at a cost of $1.10 per page.

Dated: June 10, 2013.

John P. Lee,

Chief Cadastral Surveyor, Division of Support Services.

[FR Doc. 2013–14261 Filed 6–14–13; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–13191; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Wayne State University Gordon L. Grosscup Museum of Anthropology, Detroit, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Wayne State University Gordon L. Grosscup Museum of Anthropology (hereafter WSU 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 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 and associated funerary objects should submit a written request to the WSU Museum. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects 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 WSU Museum at the address in this notice by July 17, 2013.

ADDRESSES: Thomas Killion, Department of Anthropology, Wayne State University Gordon L. Grosscup Museum of Anthropology, 3056 F/AB, Detroit, MI 48202, telephone (313) 577–2935.

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 WSU Museum, Detroit, MI. The human remains and associated funerary objects were removed from the following counties in the state of Michigan: Delta, Macomb, Mecosta, Monroe, Oakland, Saginaw, St. Clair, and Wayne.

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 WSU Museum professional staff in consultation with representatives of 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, 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 Potawatomi Indians, Michigan (previously listed as the Huron Potawatomi, Inc.); Pokagon Band of Potawatomi Indians, Michigan and Indiana; Saginaw Chippewa Indian Tribe of Michigan; and the Sault Ste. Marie Tribe of Chippewa Indians of Michigan (hereafter referred to as ''The Tribes'').

History and Description of the Remains

In April 1958, human remains representing, at minimum, one individual (9W011–9W012) were uncovered by the property owner, Kermit Day, while turning over his garden in Melvindale, Wayne County, MI. The human remains and associated artifacts were released to the state police for identification. The Wayne County Medical Examiner identified the human remains as being those of a Native American (''Mongoloid'') female. The human remains were likely not removed from their primary context due to the partial nature of the burial. The human remains were transferred to the WSU Museum from the Wayne County Medical Examiner's Office in December 1958. No known individuals were identified. The objects removed with the human remains reportedly included a pair of scissors, a hand blown bottle, a scalpel, six silver bracelets, and several hand-hammered chain links. These objects went with the human remains to the Medical Examiner's Office, but they were never accessioned by the WSU Museum. Therefore, no associated funerary objects are present.

In November 1958, human remains representing, at minimum, two individuals (9W016) were recovered by the owner of the Falker Gravel Pit (site 20MB58), in Romeo, Macomb County, MI. The human remains were turned over to the state police for identification. The human remains were transferred to the WSU Museum in December 1958. The human remains consist of 18 long bone fragments, pertaining to two separate individuals. No known individuals were identified. No associated funerary objects are present.

In December 1958, human remains representing, at minimum, one individual (9W009), consisting of an isolated mandible, were transferred to the WSU Museum on permanent loan from the University of Michigan. No

known individuals were identified. No associated funerary objects are present.

In April 1959, human remains representing, at minimum, one individual (9W014–9W015) were collected from the surface of Caspar Hillock Property, in New Baltimore, Macomb County, MI. The human remains, consisting of two small cranial fragments, were reportedly recovered near the edge of the lakeshore in Anchor Bay, and the site received the designation of 20–MB–02. The remains were accessioned by the WSU Museum in April 1959. No known individuals were identified. No associated funerary objects are present.

Between 1940 and 1959, several boxes of archaeological materials were collected by Jerome DeVisscher at the Riviere au Vase Site (20–MB–03), ''behind Green School,'' in Mt. Clemens, Macomb County, MI. These materials were accessioned by the WSU Museum in December 1959. Included in the boxes was a human molar and fragments of human bone representing, at minimum, two individuals. There is no information available on the context of these human remains and no reported associated funerary objects. The human remains consist of a single second molar (9W019) and the poorly preserved partial skeletons of two separate individuals (9W850 and 9W851). No known individuals were identified. No associated funerary objects are present.

In 1960, human remains representing, at minimum, one individual (9W013, 9W020–9W028, 9W030–9W031, 9W051–9W094, 9W151–9W155) were recovered by the Wayne State Archaeological Field School from the Hillock Site (20–MB–29) in Chesterfield Township, Macomb County, MI. The human remains were excavated from part of the site referred to in records as ''Roger's Property.'' A borrow pit had been created on the site due to the removal of sand during the previous winter. The burial was found on either side of this borrow pit. No known individuals were identified. No associated funerary objects are present.

In July 1960, human remains representing, at minimum, one individual (9W029) were collected on the surface by Dr. Arnold Pilling and a student at site Trinity's #31 (20–MB–110) located near the intersection of Hall and Sugarbush Roads, in Chesterfield Township, Macomb County, MI. The human remains were accessioned by the WSU Museum in February 1963. No known individuals were identified. No associated funerary objects are present.

In 1958, human remains representing, at minimum, one individual (9W032) was recovered by workman during construction of an addition to the Wayne State University Medical School, in Wayne County, MI. The human remains were catalogued by the WSU Museum in February 1963. No known individuals were identified. No associated funerary objects are present.

In 1961, human remains representing, at minimum, one individual (9W620–9W639) were donated to the WSU Museum by Basil Williams. The human remains were reportedly recovered from the Tessamer Site (20–OK–3), located on the south side of School Road midway between Dequindre and John R Roads, in Avon Township, Oakland County, MI. The Tessamer Site was reportedly a Native American burial ground dating to the Woodland period. Excavations had previously been conducted at the site by Cranbrook Institute, the University of Michigan, and private collectors. The site report states that ossuaries as well as individual burials were found at the site. The site is reported to have been almost completely destroyed by 1959. No known individuals were identified. No associated funerary objects are present.

In 1965, human remains representing, at minimum, one individual (9W651) were discovered by James Lake in his backyard in Romulus, Wayne County, MI. The human remains were sent to the Wayne County Medical Examiner's Office for identification. They were subsequently accessioned by the WSU Museum in June 1965. No known individuals were identified. The objects removed with the human remains reportedly included a total of 59 white seed beads and four fragments of a metal finger ring. Although these items were accessioned by the WSU Museum, they could not be physically located during the inventory process and are no longer present in the collection. Therefore, no associated funerary objects are present.

In 1970, human remains representing, at minimum, 30 individuals were accessioned by the WSU Museum (Acc. #838). The remains were donated by Al Weir on behalf of a Dr. Haggey. The human remains were removed from the Tyra Site (20–SA–09) in the Saginaw Valley, Saginaw County, MI, by the Saginaw Chapter of the Michigan Archaeological Society in 1968. No known individuals were identified. The three associated funerary objects consist of a shell bead and two pottery fragments.

In June 1970, human remains representing, at minimum, two individuals (9W616–9W617, 9W728–9W729) were accessioned by the WSU Museum. The human remains had been removed from Stoney Island, located in Lake Huron, Wayne County, MI, and donated to the WSU Museum by Evet Zias. No known individuals were identified. No associated funerary objects are present.

In February 1977, human remains representing, at minimum, one individual (9W878) were donated to the WSU Museum by A. Spooner and K. Parchert. The human remains were reportedly removed from Gibraltar, Wayne County, MI, from ''Site No. 2.'' They were recovered in what was described as a refuse pit with several pieces of animal bone. No known individuals were identified. No associated funerary objects are present.

In November 1977, human remains representing, at minimum, one individual (9W882) were donated to the WSU Museum by Norris Blackledge of Rockwood, MI. There is no information on the location from which the human remains were removed, but presumably, they were removed from a location in southeastern Michigan. No known individuals were identified. No associated funerary objects are present.

In April 1981, human remains representing, at minimum, one individual (9W889) were donated to the WSU Museum by A.L. Spooner as part of a lot of prehistoric materials. The human remains were likely removed from a location in southeast Michigan between 1940 and 1959, likely from Monroe County, MI. No known individuals were identified. No associated funerary objects are present.

In November 1985, human remains representing, at minimum, one individual (9W892) were donated to the WSU Museum by A.L. Spooner as part of a lot of prehistoric materials. The human remains were reportedly recovered ''across from the Chris Craft plant'' in Algonac, St. Clair County, MI. No known individuals were identified. The object removed with the human remains reportedly included a ceramic vessel, but this object was never accessioned by the WSU Museum. Therefore, no associated funerary objects are present.

In November 1985, human remains representing, at minimum, one individual (9W893) were donated to the WSU Museum by A.L. Spooner as part of a lot of prehistoric materials. The human remains were reportedly recovered from the Kronberg Farm on Dearborn Road, probably in Wayne County, MI. No known individuals were identified. No associated funerary objects are present.

In November 1985, human remains representing, at minimum, one individual (9W894) were donated to the WSU Museum by A.L. Spooner as part

of a lot of prehistoric materials. There is no provenience information associated with these human remains. The human remains consist of a single skull that exhibits intentional occipital flattening. No known individuals were identified. No associated funerary objects are present.

In November 1985, human remains representing, at minimum, one individual (9W895) were donated to the WSU Museum by A.L. Spooner as part of a lot of prehistoric materials (Acc No. 2353). The remains were reportedly recovered from the ''Barryton Village Dump'' in Mecosta County, MI. No known individuals were identified. No associated funerary objects are present.

In 1984, human remains representing, at minimum, five individuals were accessioned by the WSU Museum (Acc. #2156). The human remains were accidentaly encountered during excavations for swimming pool on the property of Mr. and Mrs. Bill Saliba in Clinton Township, Macomb County, MI. The location corresponds fairly closely with a known historic cemetery associated with the Moravian Mission village (20MB62) of Christianized Indians established there in 1782. No known individuals were identified. No associated funerary objects are present.

In 2005, human remains representing, at minimum, one individual were accessioned by the WSU Museum (Acc. #5231). The human remains were donated by Burton Barnard in 1970. They were removed from near a historic settlement on Summer Island, Delta County, MI, in July 1969, by the University of Michigan's Summer Island science field camp. No known individuals were identified. No associated funerary objects are present.

Determinations Made By the WSU Museum

Officials of the WSU Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on museum records, the reported presence of funerary objects in some instances, the dentition in some instances, and/or the manner of burial in some instances.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of a minimum of 57 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the three 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 were removed is the aboriginal land of The Tribes.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to The Tribes.

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 and associated funerary objects should submit a written request with information in support of the request to Thomas Killion, Department of Anthropology, Wayne State University, Detroit, MI 48202, telephone (313) 577–2935, by July 17, 2013. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The WSU Museum is responsible for notifying The Tribes that this notice has been published.

Dated: May 28, 2013.

Melanie O'Brien,

Acting Manager, National NAGPRA Program.

[FR Doc. 2013–14357 Filed 6–14–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–13089; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Oregon Museum of Natural and Cultural History, Eugene, OR

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Oregon Museum of Natural and Cultural History 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 University of Oregon Museum of Natural and Cultural History. 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 University of Oregon Museum of Natural and Cultural History at the address in this notice by July 17, 2013.

ADDRESSES: Dr. Pamela Endzweig, Director of Collections, Museum of Natural and Cultural History, 1224 University of Oregon, Eugene, OR 97403–1224, telephone (541) 346–5120.

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 University of Oregon Museum of Natural and Cultural History, Eugene, OR. The human remains and associated funerary objects were removed from Gilliam, Sherman, Wasco, and Wheeler Counties, OR.

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 University of Oregon Museum of Natural and Cultural History professional staff in consultation with representatives of the Confederated Tribes of the Warm Springs Reservation of Oregon.

History and Description of the Remains

In 1938, human remains representing, at minimum, one individual were

removed from Pine Hollow Cave #1, along a tributary of the John Day River, in Sherman County, OR, during legally authorized excavations by archeologists from the University of Oregon. No known individual was identified. No associated funerary objects are present.

In 1938, human remains representing, at minimum, four individuals were removed from Courthouse Rock, near Antelope, in Wasco County, OR, during legally authorized excavations by archeologists from the University of Oregon. No known individuals were identified. The 26 associated funerary objects are 13 points, 9 scrapers, 1 blade, 1 bone awl, 1 pumice block, and 1 lot of pigment samples.

In 1946, human remains representing, at minimum, one individual were removed from Butte Creek Cave (site 35WH1), in Wheeler County, OR, during legally authorized excavations by archeologists from the University of Oregon. Objects removed from the site during a previous excavation in 1938 were subsequently found to be associated with this individual. No known individual was identified. The 25 associated funerary objects are 1 basket, 5 basket fragments, 7 scrapers, 1 piece of wolverine fur, 1 fragmentary cape or blanket of twined rabbit skin strips, 1 dog skeleton, 2 pieces of matting, 5 pieces of cordage, 1 piece of felt, and 1 slag.

In 1946, human remains representing, at minimum, one individual were removed from a cremation in the vicinity of Hoover Creek, near Fossil, in Wheeler County, OR, during legally authorized excavations by archeologists from the University of Oregon. No known individual was identified. The 12 associated funerary objects are 1 scraper fragment, 1 copper pendant, 1 pipe in fragments, 2 worked tuff, 1 worked bone, 1 dentalium shell, 1 bird bone, 1 pestle, 1 worked chert, and 2 bone fragments.

In 1951, human remains representing, at minimum, one individual were removed from the Condon Lumber Company mill, near Lonerock, in Gilliam County, OR, by the Gilliam County coroner and transferred to the University of Oregon Museum of Natural and Cultural History. No known individual was identified. No associated funerary objects are present.

Based on archeological context, the individuals described above are determined to be Native American. Based on provenience, the Native American human remains are reasonably believed to be affiliated with the Tenino people. Historical documents, ethnographic sources, and oral history indicate that Tenino people have occupied north-central Oregon since pre-contact times. The Tenino people are one of the tribes that compose the Confederated Tribes of the Warm Springs Reservation of Oregon.

Determinations Made by the University of Oregon Museum of Natural and Cultural History

Officials of the University of Oregon Museum of Natural and Cultural History have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of eight individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 63 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 Confederated Tribes of the Warm Springs Reservation of Oregon.

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 Dr. Pamela Endzweig, Director of Collections, University of Oregon Museum of Natural and Cultural History 1224 University of Oregon, Eugene, OR 97403–1224, telephone (541) 346–5120, by July 17, 2013. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Confederated Tribes of the Warm Springs Reservation of Oregon may proceed.

The University of Oregon Museum of Natural and Cultural History is responsible for notifying the Confederated Tribes of the Warm Springs Reservation of Oregon that this notice has been published.

Dated: May 10, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–14330 Filed 6–14–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–13114; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: New York State Museum, Albany, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The New York State 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 unassociated funerary 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 New York State 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 New York State Museum at the address in this notice by July 17, 2013.

ADDRESSES: Lisa Anderson, NAGPRA Coordinator, New York State Museum, 3122 Cultural Education Center, Albany, NY 12230, telephone (518) 486–2020.

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 New York State Museum that meet the definition of unassociated funerary 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 items

In the late 19th century, 76 cultural items were removed from the property

of the former Christian Science Church located in Lansingburg, Rensselaer County, NY, by Reverend O.C. Auringer of Troy, NY. Museum records indicate that the cultural items were found in association with human burials, but the human remains are not present in the collections. The unassociated funerary objects from this site are 65 tubular and round glass beads, 4 discoidal shell beads, 1 tubular bone bead, 1 stone bead, 1 perforated brass child's thimble, 1 small crescent-shaped shell bead, 1 small lead bird figure, and 2 perforated triangular brass projectile points.

In the late 19th and early 20th centuries, 93 cultural items were removed from sites in Albany, Rensselaer, and Saratoga Counties, NY, by Mr. Dwinel F. Thompson of Troy, NY. Museum records indicate that the cultural items were found in association with human burials, but the human remains are not present in the collections. From the former Laureate Grounds in Troy, Rensselaer County, NY, the 90 unassociated funerary objects are 6 perforated elk teeth, 2 iron objects (possibly awls), 3 copper spiral ornaments, 74 glass beads, 1 kaolin ''EB'' smoking pipe, 1 copper tinkling cone, 1 bone comb, and 2 perforated triangular brass projectile points. From Green Island in Albany County, NY, the 1 unassociated funerary object is 1 iron trade adze. From the vicinity of Schaghticok in Saratoga County, NY, the 2 unassociated funerary objects are 2 small discoidal shell beads.

The Lansingburg and Troy sites are burial grounds that may have been associated with Unawat's Castle, a Mahican village recorded on a 1632 map of Rensselaerswyck. The exact location of Unawat's Castle has not been established, but deed records indicate that the area where the sites are located was in the possession of the Mahican people until 1678 when it was sold by the Mahican leader, Amenhamit, to Robert Sanders. Prior to that, Mahican Indians allowed Sanders to use the property for his cattle as early as 1668. The objects from the Lansingburg burial sites date to circa A.D. 1650–1670. The objects from the Troy burial sites date to the early 17th century and the middle 17th century. Based on the archaeological and historical evidence, the unassociated funerary objects from the Lansingburg and Troy sites are likely to be culturally affiliated with the Stockbridge Munsee Community, Wisconsin.

Green Island is an island in the Hudson River of eastern New York where archaeological evidence indicates recurrent Native American occupation over several thousand years. Museum records indicate the cultural item was washed out of an Indian grave at the upper end of the island in 1904. The cultural item dates to the 17th century. Early deed records indicates that Green Island was in the possession of the Mahican people until 1665, when it was sold by Mahican leaders, Amanhanit, Aepjen, and Wanapet, to Jeremias Van Rensselaer. Based on the archaeological and historical evidence, the unassociated funerary object from Green Island is likely to be culturally affiliated with the Stockbridge Munsee Community, Wisconsin.

Museum records indicate two cultural items were found in an ''Indian grave near Schuylerville,'' which is located on the west side of the upper Hudson River in Saratoga County, NY. No specific site information is available, but extensive evidence of Native American occupation has been documented in the area of Fish Creek near Schuylerville. The cultural items date to the 16th century. Archaeological evidence suggests the Schuylerville area was occupied by Mahican people in the centuries just prior to European contact. Based on the archaeological evidence, the unassociated funerary object from the vicinity of Schuylerville is likely to be culturally affiliated with the Stockbridge Munsee Community, Wisconsin.

Determinations Made by the New York State Museum

Officials of the New York State Museum have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the 169 cultural items described above 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 and are 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 unassociated funerary objects and the Stockbridge Munsee Community, Wisconsin.

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 Lisa Anderson, NAGPRA Coordinator, New York State Museum, 3122 Cultural Education Center, Albany, NY 12230, telephone (518) 486–2020, by July 17, 2013. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to the Stockbridge Munsee Community, Wisconsin, may proceed.

The New York State Museum is responsible for notifying the Stockbridge Munsee Community, Wisconsin, that this notice has been published.

Dated: May 16, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–14362 Filed 6–14–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–13090; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: University of Oregon Museum of Natural and Cultural History, Eugene, OR

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Oregon Museum of Natural and Cultural History, 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 unassociated funerary 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 University of Oregon Museum of Natural and Cultural History. 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 University of Oregon Museum of Natural and Cultural History, at the address in this notice by July 17, 2013.

ADDRESSES: Dr. Pamela Endzweig, Director of Collections, University of Oregon Museum of Natural and Cultural History, 1224 University of Oregon, Eugene, OR 97403–1224, telephone (541) 346–5120.

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 University of Oregon Museum of Natural and Cultural History, Eugene, OR, that meet the definition of unassociated funerary 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 1938, seven cultural items were removed from Courthouse Rock, near Antelope, in Wasco County, OR, during legally authorized excavations by archeologists from the University of Oregon. The cultural items were found in direct association with a burial pit exhibiting signs of cremation. Two burial pits were excavated, but human remains were only removed from Pit #2. The human remains and associated funerary objects from Pit #2 are the subject of a separate Notice of Inventory Completion published in the **Federal Register.** The seven unassociated funerary objects from Pit #1 are two points, four scrapers, and one yellow pigment sample.

Based on archeological context, the cultural items described above are determined to be Native American. Based on provenience, the cultural items are reasonably believed to be affiliated with the Tenino people. Historical documents, ethnographic sources, and oral history indicate that Tenino people have occupied north-central Oregon since pre-contact times. The Tenino people are one of the tribes that compose the Confederated Tribes of the Warm Springs Reservation of Oregon.

Determinations Made by the University of Oregon Museum of Natural and Cultural History

Officials of the University of Oregon Museum of Natural and Cultural History have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the seven cultural items described above 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 and are 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 unassociated funerary objects and the Confederated Tribes of the Warm Springs Reservation of Oregon.

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 Dr. Pamela Endzweig, Director of Collections, University of Oregon Museum of Natural and Cultural History, 1224 University of Oregon, Eugene, OR 97403–1224, telephone (541) 346–5120, by July 17, 2013. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to the Confederated Tribes of the Warm Springs Reservation of Oregon may proceed.

The University of Oregon Museum of Natural and Cultural History is responsible for notifying the Confederated Tribes of the Warm Springs Reservation of Oregon that this notice has been published.

Dated: May 10, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–14343 Filed 6–14–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[OMB Control Number 1010–0114; MMAA104000]

Information Collection; Proposed Collection for OMB Review; Comment Request: General Oil and Gas and Sulphur and Production Requirements in the Outer Continental Shelf

ACTION: 60-day notice.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Ocean Energy Management (BOEM) is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns the paperwork requirements in the regulations under 30 CFR part 550, subparts A and K, General and Production Requirements.

DATES: Submit written comments by August 16, 2013.

ADDRESSES: Please send your comments on this ICR to the BOEM Information Collection Clearance Officer, Arlene Bajusz, Bureau of Ocean Energy Management, 381 Elden Street, HM–3127, Herndon, Virginia 20170 (mail); or *arlene.bajusz@boem.gov* (email); or 703–787–1209 (fax). Please reference ICR 1010–0114 in your comment and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Arlene Bajusz, Office of Policy, Regulations, and Analysis at (703) 787–1025 for a copy of the ICR or the forms.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1010–0114.

Title: 30 CFR 550, Subpart A, General, and Subpart K, Oil and Gas Production Requirements.

Forms: BOEM–0127, BOEM–0140, BOEM–1123, BOEM–1832.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior to prescribe rules and regulations to administer leasing of the OCS. Such rules and regulations will apply to all operations conducted under a lease. Operations in the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition. Section 1332(6) states that ''operations in the [O]uter Continental Shelf should be conducted in a safe manner by well trained personnel using technology, precautions, and techniques sufficient to prevent or minimize . . . loss of well control . . . physical obstructions to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property or endanger life or health.''

The Independent Offices Appropriations Act (31 U.S.C. 9701), the Omnibus Appropriations Bill (Pub. L. 104–133, 110 Stat. 1321, April 26, 1996), and Office of Management and Budget (OMB) Circular A–25 authorize Federal agencies to recover the full cost of services that confer special benefits. Under the Department of the Interior's (DOI) implementing policy, the Bureau of Ocean Energy Management (BOEM) is required to charge fees for services that provide special benefits or privileges to

an identifiable non-Federal recipient above and beyond those that accrue to the public.

This ICR covers 30 CFR part 550, subpart A, General, and subpart K, Oil and Gas Production Requirements, which deal with regulatory requirements of oil, gas, and sulphur operations on the OCS. This request also covers the related Notices to Lessees and Operators (NTLs) that BOEM issues to clarify and provide guidance on some aspects of our regulations.

The BOEM uses the information collected under the Subparts A and K regulations to ensure that operations in the OCS are carried out in a safe and environmentally sound manner, do not interfere with the rights of other users in the OCS, and balance the protection and development of OCS resources. Specifically, we use the information collected to:

- Determine the capability of a well to produce oil or gas in paying quantities or to determine the possible need for additional wells resulting in minimum royalty status on a lease.
- Provide lessees/operators greater flexibility to comply with regulatory requirements through approval of alternative equipment or procedures and departures if they demonstrate equal or better compliance with the appropriate performance standards.
- Ensure that subsurface storage of natural gas does not unduly interfere with development and production operations under existing leases.
- Record the designation of an operator authorized to act on behalf of the lessee/operating rights owner and to fulfill their obligations under the OCS Lands Act and implementing regulations, or to record the local agent empowered to receive notices and comply with regulatory orders issued (Form BOEM–1123, Designation of Operator). This form requires the respondent to submit general information such as lease number, name, address, company number of designated operator, and signature of the authorized lessee. With this renewal, BOEM is adding a line for the signator's name and title and clarifying explanations and terminology. We are also introducing instructions on how to fill out the form specific to the Gulf of Mexico Region to better facilitate the processing of the form, given the volume of form submissions and inquiries that the Gulf Region receives. We estimate the instructions will increase the time from 15 to 30 minutes to read and fill out the form; however, we believe the instructions will reduce the number of basic questions and result in faster processing time for respondents.
- Determine if an application for right-of-use and easement complies with the OCS Lands Act, other applicable laws, and BOEM regulations; and does not unreasonably interfere with the operations of any other lessee.
- Provide for orderly development or disqualification of leases to determine the appropriateness of lessee/operator performance.
- Approve requests to cancel leases and ascertain if/when the Secretary may cancel leases.
- Ensure the protection of any discovered archaeological resources.
- Form BOEM–0127, Sensitive Reservoir Information Report, is used to regulate production rates from sensitive reservoirs. BOEM engineers and geologists use the information for rate control and reservoir studies. The form requests general information about the reservoir and the company, volumetric data, and fluid analysis and production data. To assist respondents in filling out the form, BOEM is introducing instructions to clarify data entries. We expect the instructions to reduce or eliminate the number of form revisions in the future, although it could initially add 30 minutes to the form burden to read them.
- Form BOEM–0140, Bottomhole Pressure Survey Report, is used to manage reservoirs in our efforts to conserve natural resources, prevent waste, and protect correlative rights, including the Government's royalty interest. Specifically, BOEM uses the information in reservoir evaluations to determine maximum production and efficient rates and to review applications for downhole commingling to ensure that action does not harm ultimate recovery or undervalued royalties. The form requests information about the well and operator; test data information such as shut-in time, bottomhole temperature, kelly bushing elevation; and bottomhole pressure points that consist of measured depth(s), true vertical depth(s), pressure(s), and pressure gradient(s). With this renewal, BOEM is adding a line to record the distance between the kelly bushing and tubing-head flange and is modifying some wording for clarification. We expect no change to the hour burden as a result.
- Determine that respondents have corrected any Incidents of Non-Compliance (INCs), Form BOEM–1832, identified during compliance reviews. The BOEM issues this form to the operator and the operator then corrects the INC(s), signs and returns the form to the BOEM Regional Supervisor. To accommodate the split of regulatory responsibilities from the former Bureau of Ocean Energy Management, Regulation, and Enforcement, BOEM will be revising this form to reflect BOEM's compliance authority and will obtain OMB approval under a separate submission.

We will protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552), its implementing regulations (43 CFR part 2), 30 CFR part 252, and 30 CFR 550.197, ''Data and information to be made available to the public or for limited inspection.'' Proprietary information concerning geological and geophysical data will be protected according to 43 U.S.C. 1352. No items of a sensitive nature are collected. Responses are mandatory.

Frequency: Primarily on occasion; monthly.

Description of Respondents: Federal and State oil and gas and sulphur lessees/operators.

Estimated Reporting and Recordkeeping Hour Burden: The currently approved annual burden for this collection is 67,251 hours. We expect the burden estimate for the renewal will be reduced because we are removing the requirements and burdens that were transferred to the responsibility of BSEE under Secretarial Order No. 3299, May 19, 2010. The following table details the individual BOEM components and respective hour burden estimates.

BURDEN BREAKDOWN

Citation 30 CFR 550 Subpart A and related forms/NTLs	Reporting or recordkeeping requirement	Hour burden / Non-hour cost burden
Authority and Definition of Terms		
104; 181; Form BOEM–1832	Appeal orders or decisions; appeal INCs; request hearing due to cancellation of lease.	Exempt under 5 CFR 1320.4(a)(2), (c).
Performance Standards		
115; 116	Request determination of well producibility; make available or submit data and information; notify BOEM of test.	5.
119	Apply for subsurface storage of gas; sign storage agreement.	10.
Cost Recovery Fees		
125; 126; 140	Cost Recovery Fees; confirmation receipt etc; verbal approvals and written request to follow. Includes request for refunds.	Cost Recovery Fees and related items are covered individually throughout this subpart.
Designation of Operator		
143	Report change of address	Not considered information collection under 5 CFR 1320.3(h)(1).
143(a–c); 144; 145; Form BOEM–1123.	Submit designation of operator (Form BOEM–1123—form takes 30 minutes); report change of address; notice of termination; submit designation of agent. Request exception. NO FEE.	1.
143(a–d); 144; 145; Form BOEM–1123.	Change designation of operator (Form BOEM–1123—form takes 30 minutes); report change of address; notice of termination; submit designation of agent; include pay.gov confirmation receipt. Request exception. SERVICE FEE.	1. $175 fee.
186(a)(3); NTL	Apply for user account in TIMS (electronic/digital form submittals).	Not considered information collection under 5 CFR 1320.3(h)(1).
Compliance		
101; 135; 136; Form BOEM–1832.	Submit response and required information for INC, probation, or revocation of operating status. Notify when violations corrected.	2.
	Request waiver of 14-day response time or reconsideration.	1.
135; 136	Request reimbursement for services provided to BOEM representatives during reviews; comment.	1.5.
Special Types of Approval		
125(c); 140	Request various oral approvals not specifically covered elsewhere in regulatory requirements.	1.
141; 101–199	Request approval to use new or alternative procedures; submit required information.	20.
142; 101–199	Request approval of departure from operating requirements not specifically covered elsewhere in regulatory requirements; submit required information.	2.5
Right-of-use and Easement		
160; 161; 123	OCS lessees: Apply for new or modified right-of-use and easement to construct and maintain off-lease platforms, artificial islands, and installations and other devices; include notifications and submitting required information.	9.
160(c)	Establish a Company File for qualification; submit updated information, submit qualifications for lessee/bidder, request exception.	Burden covered under 30 CFR 556 (1010–0006).
160; 165; 123	State lessees: Apply for new or modified right-of-use and easement to construct and maintain off-lease platforms, artificial islands, and installations and other devices; include pay.gov confirmation and notifications.	5. $2,742.
166	State lessees: Furnish surety bond; additional security if required.	Burden covered under 30 CFR 256 (1010–0006).
Primary Lease Requirements, Lease Term Extensions, and Lease Cancellations		
181(d); 182(b), 183(a)(b)	Request termination of suspension, cancellation of lease, lesser lease term (no requests in recent years for termination/cancellation of a lease; minimal burden).	20.
182; 183, 185; 194	Various references to submitting new, revised, or modified exploration plan, development/production plan, or development operations coordination document, and related surveys/reports.	Burden covered under 30 CFR 550, Subpart B (1010–0151).

BURDEN BREAKDOWN—Continued

Citation 30 CFR 550 Subpart A and related forms/NTLs	Reporting or recordkeeping requirement	Hour burden / Non-hour cost burden
184	Request compensation for lease cancellation mandated by the OCS Lands Act (no qualified lease cancellations in many years; minimal burden compared to benefit).	50.
Information and Reporting Requirements		
186; NTL	Submit information, reports, and copies as BOEM requires.	10.
135; 136	Report apparent violations or non-compliance.	1.5.
194; NTL	Report archaeological discoveries. Submit archaeological and follow-up reports and additional information.	2.
194; NTL	Request departures from conducting archaeological resources surveys and/or submitting reports.	1.
194	Submit ancillary surveys/investigations reports, as required.	Burden covered under 30 CFR 550 Subpart B (1010–0151).
196	Submit data/information for G&G activity and request reimbursement.	Burden covered under 30 CFR 251 (1010–0048).
197(b)(2)	Demonstrate release of G&G data would unduly damage competitive position.	1.
197(c)	Submit confidentiality agreement.	1.
Recordkeeping		
135; 136	During reviews, make records available as requested by inspectors.	2.
Citation 30 CFR 550 Subpart K and related forms	Well surveys and classifying reservoirs	Hour burden
1153	Conduct static bottomhole pressure survey; submit Form BOEM–0140 (Bottomhole Pressure Survey Report) (within 60 days after survey).	14.
1153(d)	Submit justification, information, and Form BOEM–0140, to request a departure from requirement to run a static bottomhole survey.	1.
1154; 1167	Submit request and supporting information to reclassify reservoir.	6.
Citation 30 CFR 550 Subpart A and related forms/NTLs	Reporting or recordkeeping requirement	Hour burden / Non-hour cost burden
1155; 1165(b); 1166; 1167	Submit Form BOEM–0127 (Sensitive Reservoir Information Report) and supporting information/revisions (within 45 days after certain events or at least annually). AK Region: Submit BOEM–0127 and request maximum efficiency rates.	3.
1153–1167	Request general departure or alternative compliance requests not specifically covered elsewhere in regulatory requirements.	1.
1165	Submit proposed plan for enhanced recovery operations to BSEE.	Burden covered under BSEE 30 CFR 250 (1014–0019).

Estimated Reporting and Recordkeeping Non-Hour Cost Burden: We have identified two non-hour cost burdens. Section 550.143 requires a fee for a change in designation of operator ($175). Section 550.165 requires a State lessee applying for a right-of use and easement in the OCS to pay a cost recovery application fee ($2,742). These fees reflect the recent adjustment for inflation that became effective February 2, 2013 (78 FR 5836, 1/28/13).

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency ''. . . to provide notice . . . and otherwise consult with members of the public and affected agencies concerning each proposed collection of information . . .''. Agencies must specifically solicit comments on: (a) Whether or not the collection of information is necessary, including whether or not the information will have practical utility; (b) the accuracy of our burden estimates; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden on respondents.

Agencies must also estimate the non-hour cost burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup costs and annual operation, maintenance, and purchase of service costs. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information, monitoring, and record storage facilities. You should not include estimates for equipment or services purchased: (a) Before October 1, 1995; (b) to comply with requirements

not associated with the information collection; (c) for reasons other than to provide information or keep records for the Government; or (d) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Availability of Comments: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: June 6, 2013.

Deanna Meyer-Pietruszka,

Chief, Office of Policy, Regulations, and Analysis.

[FR Doc. 2013–14093 Filed 6–14–13; 8:45 am]

BILLING CODE 4810–MR–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–13–014]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: June 20, 2013 at 2:00 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None
2. Minutes
3. Ratification List
4. Vote in Inv. Nos. 731–TA–1202 and 1203 (Final)(Xanthan Gum from Austria and China). The Commission is currently scheduled to transmit its determinations and Commissioners' opinions to the Secretary of Commerce on or before July 2, 2013.
5. Outstanding action jackets: none

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: June 12, 2013.

By order of the Commission.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2013–14432 Filed 6–13–13; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Appendix B Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under United States Code by Attorneys in Larger Chapter 11 Cases

AGENCY: Executive Office for United States Trustees, Justice.

ACTION: Notice of internal procedural guidelines.

SUMMARY: In 1996, in accordance with Congress's mandate in 28 U.S.C. 586(a)(3)(A), the United States Trustee Program (''USTP'') established Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses filed under 11 U.S.C. 330. *See* 28 CFR Part 58, Appendix A (''Appendix A guidelines''). The USTP has drafted additional guidelines for reviewing applications for compensation and reimbursement of expenses filed by attorneys in larger chapter 11 cases with $50 million or more in assets and $50 million or more in liabilities, aggregated for jointly administered cases. Single asset real estate cases, as defined in 11 U.S.C. 101(51B), filed under chapter 11 are excluded from these guidelines.

These guidelines that apply to the USTP's review of applications for compensation filed by attorneys in larger chapter 11 cases will be published in the **Federal Register** and entitled Appendix B—Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. 330 by Attorneys in Larger Chapter 11 Cases (''Appendix B guidelines''). Until the USTP adopts other superseding guidelines, the Appendix A guidelines will continue in effect for the USTP's review of applications filed under section 330 in: (1) Larger chapter 11 cases by those professionals seeking compensation who are not attorneys; (2) all chapter 11 cases with less than $50 million in assets and $50 million in liabilities, aggregated for jointly administered cases; (3) all chapter 11 single asset real estate cases; and (4) all cases under other chapters of the Bankruptcy Code.

The USTP will continue to review and update these guidelines, as appropriate.

DATES: *Effective Date:* November 1, 2013.

FOR FURTHER INFORMATION CONTACT: Nan Roberts Eitel, Associate General Counsel for Chapter 11 Practice, Executive Office for United States Trustees, 441 G St. NW., Suite 6150, Washington, DC 20530.

SUPPLEMENTARY INFORMATION: The authority for these guidelines is 28 U.S.C. 586(a)(3)(A), which provides that United States Trustees may review ''in accordance with procedural guidelines adopted by the Executive Office of the United States Trustee (which guidelines shall be applied uniformly by the United States Trustee except when circumstances warrant different treatment) applications filed for compensation and reimbursement under section 330 of title 11 . . . .'' *Id.* The guidelines are to be applied by the USTP; however, they are not exclusive and do not limit the United States Trustee's discretion to object to or comment on a particular application.

Because the Appendix B guidelines, like the Appendix A guidelines, constitute procedural guidelines that apply to the USTP's review of fee applications, they are not subject to the Administrative Procedure Act's formal notice and comment provisions. Nonetheless, to engage the bankruptcy community, the USTP followed an extensive notice and comment-like process by reaching out to various bankruptcy judges and the National Bankruptcy Conference before drafting the Appendix B guidelines, posting a draft of the Appendix B guidelines to its public Web site for public comment, holding a public meeting, and posting a revised draft of the Appendix B guidelines responding to the comments to its public Web site for further public comment before finalizing.

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Appendix B—Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. 330 by Attorneys in Larger Chapter 11 Cases

A. General Information

1. United States Trustees may review ''in accordance with procedural guidelines adopted by the Executive Office of the United States Trustee (which guidelines shall be applied uniformly by the United States trustee except when circumstances warrant different treatment), applications filed for compensation and reimbursement under section 330 of title 11 . . . .'' 28 U.S.C. 586(a)(3)(A)(i). United States Trustees may also file ''with the court comments with respect to such application and, if the United States Trustee considers it to be appropriate, objections to such application.'' *Id.* The Executive Office for United States Trustees (''Executive Office'') adopted procedural guidelines, which apply to all cases commenced on or after October 22, 1994. *See* 28 CFR Part 58, Appendix A.

2. Because the circumstances in larger chapter 11 cases warrant different treatment, the Executive Office adopted these Appendix B guidelines (''Guidelines'') to apply only when United States Trustees review applications for compensation filed by attorneys employed under sections 327 or 1103 of the United States Bankruptcy Code, 11 U.S.C. 101, *et seq.* (''Code''), in chapter 11 cases where the debtor's petition lists $50 million or more in assets and $50 million or more in liabilities, aggregated for jointly administered cases and excluding single asset real estate cases as defined in 11 U.S.C. 101(51B) (''threshold'').

3. The United States Trustees will use these Guidelines to review applications for compensation filed by attorneys employed under sections 327 or 1103 of the Code in all chapter 11 cases that meet the threshold and that are filed on or after October 1, 2013. The Guidelines generally will not apply to counsel retained as an ordinary course professional pursuant to appropriate court order or local rule (''ordinary course professional''), unless the professional is required to file a fee application under such court order or local rule.

4. The Guidelines express the USTP's policy positions, and the USTP will use these Guidelines in the absence of controlling law or rules in the jurisdiction. Thus, the Guidelines do not supersede local rules, court orders, or other controlling authority. However, these Guidelines do not limit the USTP's ability to seek changes in controlling laws or rules through litigation, appeals, and other actions.

5. Only the court has authority to award compensation and reimbursement under section 330 of the Code. The Guidelines focus on the disclosure of information relevant to the court's award of compensation and reimbursement of expenses under section 330 of the Code. The Guidelines reflect standards and procedures in section 330 of the Code and Bankruptcy Rule 2016. Applications containing the information requested in these Guidelines will assist review by the court, the parties, and the United States Trustee.

6. Because the review of fee applications under section 330 of the Code is inextricably intertwined with the terms and conditions of employment approved by the court when the applicant is retained, these Guidelines also address disclosure of certain information in applications for retention filed under sections 327 and 1103 of the Code.

7. Nothing in the Guidelines should be construed:

a. To limit the United States Trustee's discretion to request additional information necessary for the review of a particular fee application or to refer any information provided to the United States Trustee to any law enforcement authority of the United States or a state.

b. To limit the United States Trustee's discretion to determine whether to file comments or objections to fee applications.

c. To create any private right of action on the part of any person enforceable against the United States Trustee or the United States.

B. United States Trustee's Goals and Considerations In Reviewing and Commenting On Fee Applications

1. *Goals:* In determining whether to object to or comment on fee applications, the United States Trustee will be guided by the following goals. These goals, however, are not exclusive and in no way limit the discretion of the United States Trustee to object or comment. In applying the Guidelines, the United States Trustee seeks:

a. To ensure that bankruptcy professionals are subject to the same client-driven market forces, scrutiny, and accountability as professionals in non-bankruptcy engagements.

b. To ensure adherence to the requirements of section 330 of the Code so that all professional compensation is reasonable and necessary, particularly as compared to the market measured both by the applicant's own billing practices for bankruptcy and non-bankruptcy engagements and by those of other comparable professionals.

c. To increase disclosure and transparency in the billing practices of professionals seeking compensation from the estate.

d. To increase client and constituent accountability for overseeing the fees and billing practices of their own professionals who are being paid by the estate.

e. To encourage the adoption of budgets and staffing plans developed between the client and the applicant to bring discipline, predictability, and client involvement and accountability to the compensation process.

f. To decrease the administrative burden and increase the efficiency of review of fee applications.

g. To assure that, even in the absence of an objection, the burden of proof to establish that fees and expenses are reasonable and necessary remains on the applicant seeking compensation and reimbursement.

h. To increase public confidence in the integrity and soundness of the bankruptcy compensation process.

2. *Considerations on fees:* The Guidelines are intended to elicit information that will aid the United States Trustee, the parties, and the court in determining whether the fees and expenses sought in a fee application are reasonable and necessary as required by section 330 of the Code. In applying section 330 to the review of fee applications, the United States Trustee will consider the following:

a. *Section 330 factors:* The factors expressly set forth in section 330 of the Code, including:

i. The time spent.

ii. The rates charged.

iii. Whether the services were necessary to the administration of, or beneficial towards the completion of, the case at the time they were rendered.

iv. Whether services were performed within a reasonable time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed.

v. The demonstrated skill and experience in bankruptcy of the applicant's professionals.

vi. Whether compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under title 11.

The United States Trustee may object to the extent that the applicant fails to provide sufficient information to satisfy its burden under section 330.

b. *Comparable services standard:* Whether the applicant provided

sufficient information in the application to establish that the compensation sought is reasonable as compared to the market measured by the billing practices of the applicant and its peers for bankruptcy and non-bankruptcy engagements. The United States Trustee will ordinarily object to fees that are above the market rate for comparable services. Exhibit A is a model form that may be useful in providing this information.[1]

c. *Staffing inefficiencies:* Whether there was duplication of effort or services, or whether the seniority or skill level of the applicant's professional was commensurate with the complexity, importance, and nature of the issue or task. The United States Trustee may object if any duplication is unjustified or unjustifiable, including if multiple professionals unnecessarily attend hearings or meetings. The United States Trustee may also object if the skill level of the professional rendering a particular service is not commensurate with the task. The United States Trustee encourages applicants to consider how to assign and staff more routine and ''commoditized'' work, such as avoidance actions and claims objections, and to consider whether lower cost co-counsel should be retained for discrete types of work, while being careful to avoid duplication, overlap, and inefficiencies. Factors the USTP will consider in determining whether to object to the retention or compensation of co-counsel are described more specifically in ¶ F. Nothing in the Guidelines should be construed as precluding the retention and payment of ''ordinary course professionals,'' subject to appropriate motions and orders in a particular case. Nothing in the guidelines should be construed as precluding the retention of special counsel under section 327(e) or local counsel under section 327(a).

d. *Rate increases:*[2] Whether the application contains rates higher than those disclosed and approved on the application for retention or any supplemental application for retention or agreed to with the client. Exhibit B is a model form that may be useful in providing this information. The United States Trustee may object if the applicant fails to justify any rate increases as reasonable. Boilerplate language in the retention application filed under section 327 of the Code is insufficient.

e. *Transitory professionals:* Whether any of the applicant's professionals billed only a few hours to the matter with insufficient evidence of benefit to the estate. The United States Trustee may object if the applicant fails to justify the necessity or benefit of these professionals' services.

f. *Routine billing activities:* Whether an applicant billed for routine billing activities that typically are not compensable outside of bankruptcy. Most are not compensable because professionals do not charge a client for preparing invoices, even if detailed. *Reasonable* charges for preparing interim and final fee applications, however, are compensable, because the preparation of a fee application is not required for lawyers practicing in areas other than bankruptcy as a condition to getting paid. Activities that the United States Trustee may object to as non-compensable include but are not limited to:

i. Excessive redaction of bills or invoices for privileged or confidential information. Professionals and paraprofessionals whose compensation will be paid by the bankruptcy estate know at the inception that their billing records must be publicly filed and should draft time entries and prepare invoices to both minimize redactions and avoid vague descriptions. The time spent for redactions should be reasonably proportional to the overall fees sought.

ii. Reviewing or revising time records.

iii. Preparing, reviewing, or revising invoices.

iv. Preparing, reviewing, or revising monthly fee statements, notices or other informal interim compensation requests to the extent duplicative of the preparation of the related interim or final fee application filed with the court under section 330 of the Code (or vice versa).

v. Preparing the final fee application to the extent duplicative of the preparation of interim fee applications.

g. *Contesting or litigating fee objections:* Whether the fee application seeks compensation for time spent explaining or defending monthly invoices or fee applications that would normally not be compensable outside of bankruptcy. Most are not compensable because professionals typically do not charge clients for time spent explaining or defending a bill. The USTP's position is that awarding compensation for matters related to a fee application after its initial preparation is generally inappropriate, unless those activities fall within a judicial exception applicable within the district (such as litigating an objection to the application where the applicant substantially prevails). Thus, the United States Trustee may object to time spent explaining the fees, negotiating objections, and litigating contested fee matters that are properly characterized as work that is for the benefit of the professional and not the estate.

h. *Block billing or lumping:* Whether the entries in the application are recorded in increments of .1 of an hour and whether discrete tasks are recorded separately. The United States Trustee will object to block billing or lumping. Each timekeeper, however, may record one daily entry that combines tasks for a particular project that total a de minimis amount of time if those tasks do not exceed .5 hours on that day.

i. *Vague or repetitive entries:* Whether the application contains sufficient information to identify the purpose of the work or the benefit to the estate. The United States Trustee may object to vague or repetitive entries that are otherwise unjustified. Phrases like ''attention to'' or ''review file,'' without greater specificity or more detail, are generally insufficient.

j. *Overhead:* Whether the application includes activities that should be considered part of the applicant's overhead and not billed to the estate. Tasks that the United States Trustee may object to as overhead include clerical tasks and word processing. The United States Trustee may also object to fees for summer clerks or summer associates, which are more properly the firm's overhead for recruiting and training.

k. *Non-working travel:* Whether the application includes time billed for non-working travel at the full rate. The United States Trustee may object if the applicant seeks compensation at a professional's full rate for time spent traveling without actively working on the bankruptcy case or while working on other unrelated matters.

l. *Geographic variations in rates:* Whether the applicant increased the hourly rates of its professionals and paraprofessionals based solely on the geographic location of the bankruptcy case. The United States Trustee will not object to ''non-forum'' rates of professionals when the ''non-forum'' rates are based on the reasonable rates where the professionals maintain their primary office, even if the locally

[1] The model forms included as exhibits to the Guidelines are templates offered as guidance to facilitate preparation and review of requested information.

[2] ''Rate increases'' as used in the Guidelines exclude annual ''step increases'' historically awarded by the firm in the ordinary course to attorneys throughout the firm due to advancing seniority and promotion. Applicants should not characterize actual rate increases that are unrelated to an attorney's advancing seniority and promotion as ''step increases'' in an effort to thwart meaningful disclosure or billing discipline. If a firm does not distinguish between ''step increases'' and other types of rate increases, it should disclose and explain all rate increases as requested.

prevailing rates where the case is pending are lower (*i.e.,* a professional may bill the same reasonable rate in any forum). Conversely, the United States Trustee will object if professionals increase their rates based on the forum where the case is pending when they bill lower rates where they maintain their primary offices.

m. *Budgets and staffing plans:* Whether the fee application sufficiently explains: (i) Any substantial increase (e.g., 10% or more) in the amount requested in the fee application as compared to any client-approved budget; and (ii) any increase in the number of professionals and paraprofessionals billing to the matter during the application period as compared to any client-approved staffing plan. The United States Trustee ordinarily will seek the use of fee and expense budgets and staffing plans, either with the consent of the parties or by court order as soon as feasible after the commencement of the case, as described more specifically in ¶ E. In reviewing the fee application, the United States Trustee will consider any budget and staffing plan filed retrospectively with the application. Exhibit C is a model budget (Exhibit C–1) and staffing plan (Exhibit C–2), and Exhibit D–1 is a model form that may be useful in reporting fees sought in comparison to client-approved budgets.

n. *Verified and other statements:* Whether the client has provided a verified statement with the applicant's retention application regarding its budgeting, review, and approval process for fees and expenses, and whether the applicant has made similar representations and disclosures in the retention application and fee application.

3. *Considerations on expenses:* In applying section 330 to the review of applications for reimbursement of reasonable, actual, and necessary expenses, the United States Trustee will consider the following:

a. *Proration:* Whether the applicant has prorated shared expenses where appropriate between the estate and other cases and has adequately explained the basis for any such proration. For example, applicants should prorate travel expenses that are applicable to more than one case.

b. *Reasonable:* Whether the expense is reasonable and necessary. For example, travel should be in coach class. First class and other above standard travel or accommodations will normally be objectionable.

c. *Customary:* Whether the requested expenses are customarily charged to the applicant's non-bankruptcy clients and by other comparable professionals. The United States Trustee will ordinarily object to expenses that are not customary, absent a specific and adequate justification.

d. *Actual:* Whether the expenses incurred or paid by the applicant reflect the actual cost of such expenses to the applicant and whether any mark-up is justified. Mark-ups will ordinarily be objectionable.

e. *Overhead:* Whether the expenses are or should be non-reimbursable overhead costs incident to the operation of the applicant's office and not particularly attributable to an individual client or case. Without limitation, the United States Trustee will ordinarily consider the following expenses to be overhead: Word processing, proofreading, secretarial and other clerical services, rent, utilities, office equipment and furnishings, insurance, taxes, telephone charges (other than actual charges for multi-party conference calls incurred by counsel in connection with the case), and library and publication charges.

f. *Local rule or order:* Whether the applicant has adhered to allowable rates or charges for expenses as may be fixed by any local rule or order of the court. Expenses that are not allowable will normally be objectionable.

g. *Unusual:* Whether unusual expenses are supported by detailed explanations and allocated, where practicable, to specific projects. The United States Trustee may object if unusual expenses are unsupported or unjustified.

h. Receipts: Whether receipts for larger or unusual expenses are available for review upon request.

C. Contents and Format of Applications for Compensation and Reimbursement Of Expenses

1. *General:* All applications should include sufficient detail to demonstrate compliance with the standards of 11 U.S.C. 330. The fee application should also contain sufficient information about the case and the applicant so that the court, the parties, and the United States Trustee can review it without searching for relevant information in other documents. The information sought below will facilitate review of the application and should be provided in every fee application.

2. *Information to be provided about the applicant and the scope of the application:*

a. Name of applicant.

b. Name of client.

c. Petition date.

d. Retention date.

e. Date of order approving employment.

f. Time period covered by application.

g. Terms and conditions of employment and compensation, including source of compensation, existence of and terms controlling any retainer, and any budgetary or other limitations on fees.

h. Whether the application is interim under section 331 or final under section 330.

i. The date and terms of any order allowing filing of interim applications more frequently than every 120 days, if applicable.

j. Whether the applicant seeks compensation under a provision of the Code other than section 330.

k. For each professional and paraprofessional who billed on the matter during the application period:

i. Name.

ii. Title or position.

iii. Primary department, group, or section.

iv. Date of first admission to the bar, if applicable.

v. Total fees billed included in application.

vi. Total hours billed included in application.

vii. Current hourly rate contained in this application.

viii. Hourly rate contained in the first interim application.

ix. The number of rate increases since the inception of the case.

Exhibit B is a model form that may be useful in providing the information requested in ¶ C.2.k.

l. If the applicant has increased rates during the case, the application should disclose the effect of the rate increases. For comparison purposes, the applicant should calculate and disclose the total compensation sought in the fee application using the rates originally disclosed in the retention application. Exhibit E is a model form that may be useful in providing the requested calculation.

3. *Information to be provided about customary and comparable compensation:*

a. The blended hourly rate either billed or collected during the preceding year for the applicant's timekeepers.

i. The application should disclose the blended hourly rate for the aggregate of either:

(a) All of the applicant's domestic timekeepers; or

(b) All timekeepers in each of the applicant's domestic offices in which timekeepers collectively billed at least 10% of the hours to the bankruptcy case during the application period.

ii. The application should also segregate the timekeepers in ¶ C.3.a.i. by the various categories of professionals and paraprofessionals maintained by the applicant (e.g., partner, counsel, sr. counsel, associate, etc.), and disclose the blended hourly rate for each category of timekeeper.

iii. To calculate the blended hourly rate billed, divide the dollar value of hours billed by the number of hours billed (regardless of when the work was performed) for the relevant timekeepers during the applicable time period. To calculate the blended hourly rate collected, divide the revenue collected by the number of hours billed for the relevant timekeepers during the applicable time period.

iv. In calculating the blended hourly rate:

(a) Full service law firms should generally exclude all bankruptcy engagements or all data from timekeepers practicing primarily in a bankruptcy group or section.

(b) Law firms that practice exclusively or primarily in bankruptcy should exclude all estate-billed bankruptcy engagements.

(c) The applicant may exclude:

(1) Pro bono engagements.

(2) Other engagements for clients who are employees or charitable organizations that are billed at materially discounted rates.

(d) The applicant should include discounted or alternative fee arrangements, other than those engagements in ¶ C.3.a.iv.(c). For any fee arrangements not billed by the hour to the client but for which the applicant tracks hours and revenue by hours worked, the applicant should include this information in the calculation. If the applicant's calculation includes any fee arrangements not billed by the hour, the applicant should concisely explain the methodology it used to calculate the blended hourly rates.

v. The ''preceding year'' can be either the applicant's prior completed fiscal year or a rolling 12 month year.

b. The blended hourly rate billed to the bankruptcy case during the application period for all of the applicant's timekeepers.

i. The application should disclose the blended hourly rate billed in the aggregate for all timekeepers who billed to the matter.

ii. The application should also segregate the timekeepers by the various categories of professionals and paraprofessionals maintained by the applicant (e.g., partner, counsel, sr. counsel, associate, etc.), and disclose the blended hourly rate billed for each category of timekeeper.

iii. To calculate the blended hourly rate billed, divide the dollar value of hours billed by the number of hours billed (regardless of when the work was performed) for the relevant timekeepers during the application period.

Exhibit A is a model form that may be useful in providing this information.

c. Applicants can propose detailed and specific disclosures, other than those requested at ¶ C.3.a.–b., that are tailored to the applicant's circumstances and ability to gather and organize internal information, but the United States Trustee may object to the adequacy of the disclosure if it is insufficient to enable the United States Trustee to evaluate whether the requested compensation is comparable and customary.

4. *''Safe harbor'':* An applicant's disclosure of blended hourly rates in accordance with ¶ C.3.a.–b. will provide a limited ''safe harbor'' from additional requests from the United States Trustee for information about customary and comparable compensation under section 330(a)(3)(F) of the Code. This ''safe harbor'' is without prejudice to the United States Trustee's ability to seek additional information based upon the particular facts and circumstances of the case, to file an objection, or to offer evidence on comparable compensation from other sources.

5. *Statement from the applicant:* The applicant should answer the questions below in the fee application. Many questions require only a yes or no answer. The applicant, however, is free to provide additional information if it chooses to explain or clarify its answers.

a. Did you agree to any variations from, or alternatives to, your standard or customary billing rates, fees or terms for services pertaining to this engagement that were provided during the application period? If so, please explain.

b. If the fees sought in this fee application as compared to the fees budgeted for the time period covered by this fee application are higher by 10% or more, did you discuss the reasons for the variation with the client?

c. Have any of the professionals included in this fee application varied their hourly rate based on the geographic location of the bankruptcy case?

d. Does the fee application include time or fees related to reviewing or revising time records or preparing, reviewing, or revising invoices? (This is limited to work involved in preparing and editing billing records that would not be compensable outside of bankruptcy and does not include reasonable fees for preparing a fee application.). If so, please quantify by hours and fees.

e. Does this fee application include time or fees for reviewing time records to redact any privileged or other confidential information? If so, please quantify by hours and fees.

f. If the fee application includes any rate increases since retention:

i. Did your client review and approve those rate increases in advance?

ii. Did your client agree when retaining the law firm to accept all future rate increases? If not, did you inform your client that they need not agree to modified rates or terms in order to have you continue the representation, consistent with ABA Formal Ethics Opinion 11–458?

6. *Information about budget and staffing plans:* If the applicant consents to, or the court directs, the use of budgets and staffing plans, as described more generally in ¶ E, the applicant should attach the client-approved budget and client-approved staffing plan to the fee application for the time period covered by the fee application. Both original and any amended budgets and staffing plans should be included.

a. The budget and staffing plan for the fee application period should be filed when the fee application is filed, not when the client and the applicant agree on the budget and staffing plan. For example, the budget disclosed with each interim fee application should relate to work already performed and reflected in that application. Thus, if the client approved four, 30-day budgets that collectively covered a 120-day interim application period, then these four budgets should be attached.

b. Budgets may be redacted as necessary to protect privileged and confidential information, and such redactions may be compensable if the disclosure of the privileged or confidential information cannot otherwise be avoided through careful drafting. But the time spent for redactions should be reasonably proportional to the overall fees sought. Redactions may be unnecessary if the applicant uses the model budget in Exhibit C–1, which budgets total hours and fees by project category, *see* ¶ C.8., and without descriptive entries.

c. The fee application should also include a summary of fees and hours budgeted compared to fees and hours billed for each project category. Exhibit D–1 is a model form that may be useful in reporting fees sought in comparison to the budget.

d. The applicant should provide an explanation if the fees sought in the fee application exceed the budget during the application period by 10% or more.

e. The applicants should provide an explanation if fees are sought in the fee application for a greater number of professionals than identified in the staffing plan.

7. *Information about prior interim applications:*

a. With respect to each prior interim application, counsel should provide the following information:

i. Date(s) filed and period covered.

ii. Fees and expenses requested.

iii. Fees and expenses approved.

iv. Approved fees and expenses paid.

v. Approved fees and expenses remaining unpaid.

vi. Date(s) of previous order(s) on interim compensation or reimbursement of expenses.

b. Counsel should provide the following information on a cumulative basis since case inception:

i. Fees and expenses requested.

ii. Fees and expenses approved.

iii. Approved fees and expenses paid.

iv. Approved fees and expenses remaining unpaid.

v. Fees and expenses disallowed or withdrawn.

8. *Project categories for billing records:* To facilitate effective review of the application, all time and service entries should be arranged by project categories.

a. Only one category should be used for a given activity. Professionals should make their best effort to be consistent in their use of categories, whether within a particular firm or by different firms working on the same case. It would be appropriate for all professionals to discuss the categories in advance and agree generally on how activities will be categorized.

b. The project categories set forth below should be used to the extent applicable. The following list of project categories is not exclusive, and applicants are encouraged to consult with the United States Trustee regarding the need to formulate case-specific project billing with respect to a particular case.

i. Asset Analysis and Recovery: Identification and review of potential assets including causes of action and non-litigation recoveries.

ii. Asset Disposition: Sales, leases (section 365 matters), abandonment and related transaction work related to asset disposition.

iii. Assumption and Rejection of Leases and Contracts: Analysis of leases and executory contracts and preparation of motions specifically to assume or reject.

iv. Avoidance Action Analysis: Review of potential avoiding actions under Sections 544–549 of the Code to determine whether adversary proceedings are warranted.

v. Budgeting (Case): Preparation, negotiation, and amendment to budgets for applicant.

vi. Business Operations: Issues related to debtor-in-possession operating in chapter 11 such as employee, vendor, tenant issues and other similar problems.

vii. Case Administration: Coordination and compliance activities not specifically covered by another category.

viii. Claims Administration and Objections: Specific claim inquiries; bar date motions; analyses, objections and allowances of claims.

ix. Corporate Governance and Board Matters: Preparation for and attendance at Board of Directors meetings; analysis and advice regarding corporate governance issues, including trustee, examiner, and CRO issues; review and preparation of corporate documents (e.g., articles and bylaws, etc.).

x. Employee Benefits and Pensions: Review and preparation related to employee and retiree benefit issues, including compensation, bonuses, severance, insurance benefits, and 401K, pensions, or other retirement plans.

xi. Employment and Fee Applications: Preparation of employment and fee applications for self or others; motions to establish interim procedures.

xii. Employment and Fee Application Objections: Review of and objections to the employment and fee applications of others.

xiii. Financing and Cash Collateral: Matters under sections 361, 363 and 364 including cash collateral and secured claims; loan document analysis.

xiv. Litigation: Contested Matters and Adversary Proceedings (not otherwise within a specific project category), each identified separately by caption and adversary number, or title of motion or application and docket number, and using the Uniform Task Based Management System (''UTBMS'') Litigation Task Code Set.[3]

xv. Meetings and Communications with Creditors: Preparation for and attendance at section 341(a) meeting and any other meetings with creditors and creditors' committees.

xvi. Non-Working Travel: Non-working travel where the court reimburses at less than full hourly rates.

xvii. Plan and Disclosure Statement: Formulation, presentation and confirmation; compliance with the plan confirmation order, related orders and rules; disbursement and case closing activities, except those related to the allowance and objections to allowance of claims.

xviii. Real Estate: Review and analysis of real estate-related matters, including purchase agreements and lease provisions (e.g., common area maintenance clauses).

xix. Relief from Stay and Adequate Protection: Matters relating to termination or continuation of automatic stay under 11 U.S.C. 362 and motions for adequate protection under 11 U.S.C. 361.

xx. Reporting: Statement of financial affairs, schedules, monthly operating reports, and any other accounting or reporting activities; contacts with the United States Trustee not included in other categories.

xxi. Tax: Analysis of tax issues and preparation of federal and state tax returns.

xxii. Valuation: Appraise or review appraisals of assets.

c. The applicant should provide a brief narrative summary of the following information for each project category:

i. A description of the project, its necessity and benefit to the estate, and its status, including all pending litigation for which compensation and reimbursement are requested.

ii. The identity of each person providing services on the project.

iii. A statement of the number of hours spent and the amount of compensation requested for each professional and paraprofessional on the project.

9. *Time and service entries within each project category:*

a. Time and service entries should be reported in chronological order within each project category.

b. Each time or service entry should include:

i. The timekeeper's name.

ii. Time spent on task.

iii. Hourly rate.

iv. Fees sought for each entry.

v. Description of task or service.

c. Time should be recorded contemporaneously in increments of no more than one tenth (.1) of an hour. A disproportionate number of entries billed in half- or whole-hour increments may indicate that actions are being lumped or not accurately billed.

d. Services should be described in detail and not combined or ''lumped'' together, with each service showing a separate time entry. Each timekeeper, however, may record one daily entry that combines tasks for a particular project that total a de minimis amount of time if those tasks do not exceed .5 hours on that day.

[3] See UTBMS.com for information on uniform task codes commonly used in legal billing.

e. Entries should give sufficient detail about the work, identifying the subject matter of the communication, hearing, or task and any recipients or participants.

f. If more than one professional attends a hearing or conference, the applicant should explain the need for multiple attendees.

10. *Electronic billing records:* The billing records (detailed time and service entries) substantiating the application should be provided in an open and searchable electronic data format: (i) With the application to the court, the debtor-in-possession (or trustee), official committees, the United States Trustee, and the fee review committee, fee examiner, and fee auditor; and (ii) upon request, to any other party in interest.[4] The applicant may provide the electronic data in the manner in which it maintains it. An applicant that does not maintain billing data electronically is encouraged to consult with the United States Trustee about providing paper copies of such information. The applicant's submission of electronic data does not relieve the applicant of its obligations under the Code, local rules, and any applicable compensation or case management orders, including providing paper copies if required.

11. *Case status:* The following information should be provided to the extent possible:

a. A brief summary of the case, discussing key steps completed and key steps remaining until the case can be closed.

b. The amount of cash on hand or on deposit, the amount and nature of accrued unpaid administrative expenses, and the amount of unencumbered funds in the estate.

c. Any material changes in the status of the case that occur after the filing of the fee application should be raised at the hearing on the application or, if a hearing is not required, prior to the expiration of the time period for objection.

12. *Expense Categories:* To facilitate effective review of the application, all expense entries should be arranged by expense categories.

a. The expense categories set forth below should be used to the extent applicable:

i. Copies.
ii. Outside Printing.
iii. Telephone.
iv. Facsimile.
v. Online Research.
vi. Delivery Services/Couriers.
vii. Postage.
viii. Local Travel.
ix. Out-of-town Travel:
(a) Transportation.
(b) Hotel.
(c) Meals.
(d) Ground Transportation.
(e) Other (please specify).
x. Meals (local).
xi. Court Fees.
xii. Subpoena Fees.
xiii. Witness Fees.
xiv. Deposition Transcripts.
xv. Trial Transcripts.
xvi. Trial Exhibits.
xvii. Litigation Support Vendors.
xviii. Experts.
xix. Investigators.
xx. Arbitrators/Mediators.
xxi. Other (please specify).

b. Although certain expense categories may appear in the category list, the United States Trustee may still object to the inclusion of any expenses that should properly be deemed an applicant's overhead. *See* ¶ B.3.e.

c. Unusual items require more detailed explanations and should be allocated, where practicable, to specific projects.

13. *Contents of application for reimbursement of reasonable, actual, and necessary expenses:* Any expense for which reimbursement is sought must be reasonable, actual, and necessary, and must be of the kind customarily billed to non-bankruptcy clients.

a. Expenses should be reported in chronological order within each expense category.

b. Each expense should include the following information:

i. Amount.
ii. Description and pertinent detail (e.g., copy costs, messengers, computer research, type of travel, type of fare, rate, destination, etc.).
iii. Date incurred.
iv. Who incurred the expense, if relevant.
v. Reason for expense.

14. *Summaries:*

a. All applications should contain a summary cover sheet that provides the information below. Exhibit E is a model form that may be useful in transmitting this information.

i. Name of applicant.
ii. Name of client.
iii. Time period covered by this application.
iv. Total compensation sought this period.
v. Total expenses sought this period.
vi. Petition date.
vii. Retention date.
viii. Date of order approving employment.
ix. Total compensation approved by interim order to date.
x. Total expenses approved by interim order to date.
xi. Total allowed compensation paid to date.
xii. Total allowed expenses paid to date.
xiii. Blended rate in this application for all attorneys.
xiv. Blended rate in this application for all timekeepers. *See* Exhibit A.
xv. Compensation sought in this application already paid pursuant to a monthly compensation order but not yet allowed.
xvi. Expenses sought in this application already paid pursuant to a monthly compensation order but not yet allowed.
xvii. Number of professionals included in this application.
xviii. If applicable, the number of professionals included in this application not included in a staffing plan approved by the client.
xix. If applicable, difference between fees budgeted and compensation sought for this period.
xx. Number of professionals billing fewer than 15 hours to the case during this period.
xxi. If the applicant has increased rates during the case, the application should disclose the effect of the rate increases. For comparison purposes, the applicant should calculate and disclose the total compensation sought in the application using the rates originally disclosed in the retention application.

b. All applications should summarize fees and hours by project category and expenses by expense category. Exhibit D–1 (fees) and Exhibit D–2 (expenses) are model forms that may be useful in providing this information.

c. All applications should summarize professionals (preferably in alphabetical order) included in the fee application by the professional's name, title, primary practice group, date of first admission, fees, hours, rates, and number of rate increases. Exhibit B is a model form that may be useful in providing this and other information.

D. Applications For Employment

1. *Statement from the applicant.* The applicant should answer the questions below in all applications for employment filed under sections 327 or 1103 of the Code. Most questions require only a yes or no answer. The applicant, however, is free to provide additional information if it chooses to explain or clarify its answers.

a. Did you agree to any variations from, or alternatives to, your standard or customary billing arrangements for this engagement?

[4] See *www.LEDES.org* for information regarding open electronic data formats commonly used in legal e-billing.

b. Do any of the professionals included in this engagement vary their rate based on the geographic location of the bankruptcy case?

c. If you represented the client in the 12 months prepetition, disclose your billing rates and material financial terms for the prepetition engagement, including any adjustments during the 12 months prepetition. If your billing rates and material financial terms have changed postpetition, explain the difference and the reasons for the difference.

d. Has your client approved your prospective budget and staffing plan, and, if so, for what budget period?

2. *Verified statement from the client:*[5] The client should provide a verified statement with all applications for employment filed under sections 327 and 1103 of the Code that addresses the following:

a. The identity and position of the person making the verification. The person ordinarily should be the general counsel of the debtor or another officer responsible for supervising outside counsel and monitoring and controlling legal costs.

b. The steps taken by the client to ensure that the applicant's billing rates and material terms for the engagement are comparable to the applicant's billing rates and terms for other non-bankruptcy engagements and to the billing rates and terms of other comparably skilled professionals.

c. The number of firms the client interviewed.

d. If the billing rates are not comparable to the applicant's billing rates for other non-bankruptcy engagements and to the billing rates of other comparably skilled professionals, the circumstances warranting the retention of that firm.

e. The procedures the client has established to supervise the applicant's fees and expenses and to manage costs. If the procedures for the budgeting, review and approval of fees and expenses differ from those the client regularly employs in non-bankruptcy cases to supervise outside counsel, explain how and why. In addition, describe any efforts to negotiate rates, including rates for routine matters, or in the alternative to delegate such matters to less expensive counsel.

f. The client verification should be appropriately detailed and should not be a routine form prepared by the client's bankruptcy counsel.

[5] A verified statement is either a declaration executed in accordance with 28 U.S.C. 1746 or an affidavit conforming to the laws of the jurisdiction where executed.

E. Budgets and Staffing Plans, In General

1. In a larger chapter 11 case that meets the threshold, the United States Trustee ordinarily will seek the use of fee and expense budgets and staffing plans, either with the consent of the parties or by court order as soon as feasible after the commencement of the case. As set forth in ¶ B.2.m above, the United States Trustee will consider fee applications in the context of budgets and staffing plans used in the case, and the professionals are urged to consult with the United States Trustee whether they anticipate delays in formulating budgets. The United States Trustee will also consider whether the client has approved the applicant's budget and staffing plan when reviewing applications for employment. *See* ¶ D.1.d. Exhibit C contains a model budget (Exhibit C–1) and staffing plan (Exhibit C–2).

2. Budgets and staffing plans should be agreed to between the professional and its client.

3. Budgets can and should be amended as necessary to reflect changed circumstances or unanticipated developments.

4. The appropriate budget period should be decided between the professional and its client. For example, the budget could be provided for the next month, the next 120-day interim application period, or for any other time period as agreed.

5. The staffing plan should use the same planning period as the budget.

6. In the staffing plan, the number of professionals expected to work on the matter during the budget period may be disclosed either by category of timekeeper (*e.g.,* 25 associates) or by years of experience (*e.g.,* 15 lawyers with 8–14 years of experience).

7. Except as provided in ¶ E.8. below, any disclosure of the budget and staffing plan to the United States Trustee and other parties will be retrospective only in conjunction with the fee application. *See* ¶ C.6. above.

8. Absent the parties' consent, the United States Trustee may seek a court order expressly authorizing the exchange of budgets by counsel for the debtor-in-possession and the official committees once they are approved by their respective clients or whenever amended. These budgets may be provided subject to an appropriate confidentiality agreement and redacted to protect privileged or confidential information. Such redactions may be compensable if the disclosure of the privileged or confidential information cannot otherwise be avoided through careful drafting. But the time spent for redactions should be reasonably proportional to the overall fees sought. The confidential and prospective exchange of budgets between these fiduciaries concerns the administration of the case and potentially avoids duplication, consistent with the requirements of section 1103 of the Code.

F. Retention and Compensation of Co-Counsel

1. *Scope of retention:*

a. Where a debtor retains multiple section 327(a) bankruptcy counsel, the retention applications should clearly specify which firm is acting as lead counsel and should clearly delineate the areas of secondary counsel's responsibility. In general, it should be presumed that all bankruptcy matters in the case will be handled by the lead counsel unless the retention application specifically assigns them to secondary counsel.

b. The retention application should not contain an indeterminate or open-ended description of secondary counsel's duties. In particular, retention orders should not contain language permitting secondary counsel to perform additional, unspecified services at the discretion of the debtor or the lead counsel.

c. When a new matter within the authorized scope of secondary counsel's engagement is assigned by the lead counsel to secondary counsel, secondary counsel need not file a supplemental retention application and obtain an amended order. Rather, secondary counsel should file a supplemental declaration in accordance with Bankruptcy Rule 2014, and provide notice of the filing sufficient to afford parties in interest an opportunity to object. Nevertheless, if the matter does not fall within the authorized scope of the engagement, secondary counsel should file a supplemental retention application and obtain an amended order to expand the scope of the engagement to include that matter.

d. Except to the extent that such work is directly relevant to its assigned duties, secondary counsel should not perform or be compensated for general case administration duties, such as preparing agenda letters, monitoring dockets, reviewing pleadings, or attending hearings at which it does not directly participate.

e. The retention application should clearly identify to whom the proposed secondary counsel will report. In most cases, secondary counsel should report directly to the management of the debtor.

2. *Necessity for retention:*

a. Applications to retain secondary counsel should contain sufficient facts to support any contention that employment of an additional law firm will benefit the estate. Secondary counsel may be either ''efficiency counsel'' or ''conflicts counsel.'' Efficiency counsel is secondary counsel employed to handle more routine and ''commoditized'' work, such as claims objections and avoidance actions, at lower cost to the estate than lead bankruptcy counsel. Conflicts counsel is secondary counsel employed when lead bankruptcy counsel is subject to a limited, not pervasive, conflict of interest that prevents it from performing some small part of its duties.

b. In the case of efficiency counsel, the retention application should include, at a minimum, a comparison of the billing rates of the lead counsel and secondary counsel and a projection of the total cost savings to the estate that would result from employing secondary counsel. The retention application should also identify any other factors that would weigh for or against retaining secondary counsel, including any significant differences in associated travel costs.

c. In the case of conflicts counsel, the retention application should set forth with specificity the nature of the lead counsel's conflict, including the identity of any relevant party whom the lead counsel has represented, a description of the nature of that representation, and the terms of any waivers or covenants that affect the lead counsel's ability to take action adverse to that party. The application should also set forth any procedures that the debtor proposes to adopt in response to that conflict, including any ethical walls to which the lead counsel will be subject.

3. *Lead counsel's conflicts:*

a. In most cases, applications for the retention of conflicts counsel are filed because either the debtor is aware at the outset that its proposed lead counsel is subject to a conflict of interest that prevents it from performing some part of its duties, or in response to an objection to retention filed by the United States Trustee or other party. The United States Trustee should carefully review the proposed conflicts counsel's retention to assure that the lead counsel's conflicts are not so pervasive as to give rise to an objection to the lead counsel's retention rather than the appointment of secondary counsel.

b. As in any case, the United States Trustee should review the lead counsel's conflicts based on the particular facts and circumstances of the case, including the specific terms of the proposed conflicts counsel's retention. The following are circumstances that may indicate that the retention of conflicts counsel is inappropriate and should weigh in favor of an objection to the retention application of the lead counsel:

i. The responsibilities of conflicts counsel are not confined to discrete legal matters.

ii. The conflicts counsel will be used to handle matters that are inseparable from the major reorganization activities of the case (e.g., negotiation of major plan provisions).

iii. The conflicts counsel will act under the direct supervision of, and at the direction of, the lead counsel.

iv. The conflicts counsel's role will include filing or advocating pleadings that have been drafted by lead counsel.

v. The conflicts counsel has been retained to litigate matters in which the lead counsel has represented the debtor in settlement negotiations.

vi. The debtor will not (or cannot) create an ethical wall to screen the lead counsel from the work of the conflicts counsel.

c. One recent trend has been for law firms to obtain limited conflicts waivers that permit them to engage in settlement negotiations against certain entities, but which require them to assign the matter to conflicts counsel in the event that the dispute is litigated in court. Such arrangements are generally objectionable, and the United States Trustee retains discretion whether to object in a particular situation. Negotiation without the ability to litigate against a party usually will render a lawyer disqualified from the matter, and such disqualification cannot be cured by retention of conflicts counsel to handle the litigation.

4. *Billing and fee matters:* The United States Trustee should encourage both lead and secondary counsel to submit their billing records in a format that will enable the United States Trustee and other interested parties to easily identify any duplication or overlap in their work. Matters for which secondary counsel is primarily responsible should be assigned a separate billing code, and fee statements should clearly reflect both the amount of time that lead counsel or other professionals have spent on the matter assigned to secondary counsel, as well as the amount of time that secondary counsel has spent on matters outside its primary responsibility.

5. *Non-compensable services:* The United States Trustee should monitor the fees of both lead counsel and secondary counsel for services that are unnecessary, duplicative, or that do not benefit the estate, and should advise counsel in advance that the United States Trustee will object to any such fees. Among other examples, the United States Trustee should object to fees for the following:

a. Excessive time bringing secondary counsel ''up to speed'' on the case, including time spent reviewing background materials that are not germane to secondary counsel's areas of responsibility;

b. ''Shadowing'' of secondary counsel by lead counsel (or vice versa);

c. Unnecessary attendance of attorneys from both lead and secondary counsel at court hearings and conferences, and other meetings;

d. Reviewing, editing, or revising the work product of the other counsel; or

e. Unnecessary duplication of case administration tasks, such as monitoring the docket, reviewing pleadings, or preparing hearing agenda letters.

G. Special Fee Review Entities

1. *Generally:* In a larger chapter 11 case where a significant number of professionals will be retained and the normal fee application and review process would be especially burdensome, the United States Trustee ordinarily will seek the court's appointment of a special fee review entity, such as a fee review committee or an independent fee examiner. Such an entity can assist the court and parties in reviewing fee applications and can bring consistency, predictability, and transparency to the process. Although whether a fee review entity is appointed is ultimately the court's decision, the United States Trustee will follow these Guidelines in connection with fee review entities, subject to the court's directions and orders.

2. *Timing:* The United States Trustee ordinarily will seek the appointment of a fee review entity as soon as practicable after the order for relief.

3. *Purpose:* A fee review entity's primary purpose is to ensure that professional fees and expenses paid by the estate are reasonable, actual, and necessary, as required by section 330 of the Code. Thus, a fee review entity should monitor, review, and where appropriate, object to interim and final applications for fees and expenses filed by professionals who seek compensation from the estate. If a case has a monthly compensation order permitting the payment of fees and expenses before approval of interim or final applications, the fee review entity should also monitor, review, and where appropriate, object to monthly invoices submitted for payment. The fee review entity can also establish other measures

to assist the court and the professionals in complying with the Code, the Federal Rules of Bankruptcy Procedure, local rules or general orders, the Guidelines, and other controlling law within the jurisdiction. In the absence of local rules or general orders and other controlling law within the jurisdiction, a fee review entity should monitor, review, and where appropriate, object to interim and final fee applications under section 330 in accordance with these Guidelines.

4. *Models:* A fee review entity can take one of several forms. The determination of the appropriate form for a particular case will be the product of consultation among the United States Trustee, the debtor, and any official committee, but it is ultimately the court's decision. There are several possible models, including a fee review committee, a fee review committee with an independent member, and an independent fee examiner.

a. *Fee review committee:* The court could appoint a Fee Review Committee, which should ordinarily consist of representatives of the debtor-in-possession, the unsecured creditors committee, any other official committee, and the United States Trustee. The representatives of the debtor-in-possession and the official committee(s) should not be retained professionals whose fees and expenses will be subject to review by the Fee Review Committee. One member of the Fee Review Committee should be designated as chairman, but that person's function should be administrative. The chairman should serve as a point of contact for any professionals retained by the Fee Review Committee. Each member should have one vote, and decisions should be reached by majority vote. The order appointing the Fee Review Committee or any protocol developed by the members may address other administrative issues, including the resolution of any tie vote.

b. *Fee review committee with independent member:* The court could appoint a Fee Review Committee, as described above, and add an ''Independent Member'' as chairman. The Independent Member should be an experienced person not otherwise involved in the case as a party in interest or as a representative of a party in interest. The Independent Member will perform administrative functions and serve as the primary contact for any professionals retained by the Fee Review Committee. In addition, the Independent Member will be an active participant in the substantive discussions of the Fee Review Committee and will, in consultation with the committee, meet and otherwise communicate with professionals whose compensation is subject to the committee's review. Each member, including the Independent Member, should have a vote, and decisions should be reached by majority vote. In the event of a tie vote, the Independent Member's vote should be determinative. The United States Trustee will, at the court's request, solicit suggestions from parties in interest for appointment as the Independent Member and submit several names to the court for consideration.

c. *Independent fee examiner:* The court may appoint a single person to serve as an Independent Fee Examiner for the case. The Fee Examiner should be an experienced person not otherwise involved in the case as a party in interest or a representative of a party in interest. The order appointing the Fee Examiner should fully describe the Fee Examiner's duties and reporting obligations.

5. *Retention of professionals:* A fee review entity should be authorized, subject to court approval, to retain professionals, including but not limited to attorneys and fee auditors, to assist in discharging its duties. The United States Trustee, however, may not participate in or vote on the hiring of professionals for the fee review entity, although the United States Trustee may suggest persons who should serve as Independent Members or Independent Fee Examiners.

6. *Compensation:* The Fee Review Committee's professionals, the Independent Member, and the Independent Fee Examiner should be compensated in accordance with the fee procedures established in the case and should file interim and final fee applications for consideration under the reasonableness standards set forth in 11 U.S.C. § 330(a). Compensation under a flat fee arrangement may be appropriate in certain cases but only if subject to reasonableness review under section 330.

7. *Rights of a party in interest:* A fee review entity should have the rights of a party in interest in connection with fee issues, and should be authorized to negotiate fee disputes with retained professionals, to object to fee applications both interim and final, to object to monthly invoices if a case is governed by a monthly compensation order, and to undertake discovery in connection with contested fee matters.

8. *Budgets:* If the court directs that budgets be adopted by retained professionals, a fee review entity should establish guidelines and requirements for the preparation and submission of fee and expense budgets by the retained professionals. A fee review entity should also consider whether case-specific project billing codes should be developed to facilitate preparation and review of fee applications.

9. *Dispute resolution:* A fee review entity should establish procedures to resolve fee disputes with retained professionals, while retaining the right to file and prosecute objections if disputes cannot be resolved.

10. *Exculpation and indemnification:* The order appointing a fee review entity should contain appropriate provisions exculpating and indemnifying Fee Review Committee members, the Independent Member, or the Fee Examiner from any liability arising out of their service.

Clifford J. White III,

Director, Executive Office for United States Trustees.

EXHIBIT A—CUSTOMARY AND COMPARABLE COMPENSATION DISCLOSURES WITH FEE APPLICATIONS

[*See* Guidelines ¶ C.3. for definitions of terms used in this Exhibit]

Category of timekeeper (using categories already maintained by the firm)	Blended hourly rate	
	Billed or collected firm or offices for preceding year, excluding bankruptcy	Billed in this fee application
Sr./Equity Partner/Shareholder		
Jr./Non-equity/Income Partner		
Counsel		

EXHIBIT A—CUSTOMARY AND COMPARABLE COMPENSATION DISCLOSURES WITH FEE APPLICATIONS—Continued

[*See* Guidelines ¶ C.3. for definitions of terms used in this Exhibit]

Category of timekeeper (using categories already maintained by the firm)	Blended hourly rate	
	Billed or collected firm or offices for preceding year, excluding bankruptcy	Billed in this fee application
Sr. Associate (7 or more years since first admission)		
Associate (4–6 years since first admission)		
Jr. Associate (1–3 years since first admission)		
Staff Attorney		
Contract Attorney		
Paralegal		
Other (please define)		
All timekeepers aggregated		

Case Name and Number: _____
Applicant's Name: _____
Date of Application: _____
Interim or Final: _____

Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases

EXHIBIT B—SUMMARY OF TIMEKEEPERS INCLUDED IN THIS FEE APPLICATION

Name	TITLE OR POSITION	Department, group, or section	Date of first admission[1]	Fees billed in this application	Hours billed in this application	Hourly rate billed		Number of rate increases since case inception
						In this application	In first interim application	

[1] If applicable.

Case Name and Number: _____
Applicant's Name: _____
Date of Application: _____
Interim or Final: _____

Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases

If the parties consent or the court so directs, a budget approved by the client in advance should generally be attached to each interim and final fee application filed by the applicant. If the fees sought in the fee application vary by more than 10% from the budget, the fee application should explain the variance. *See* Guidelines ¶ C.8. for project category information.

EXHIBIT C–1—BUDGET

Project category	Estimated hours	Estimated fees
Asset Analysis and Recovery		
Asset Disposition		

EXHIBIT C–1—BUDGET—Continued

Project category	Estimated hours	Estimated fees
Assumption and Rejection of Leases and Contracts		
Avoidance Action Analysis		
Budgeting (Case)		
Business Operations		
Case Administration		
Claims Administration and Objections		
Corporate Governance and Board Matters		
Employee Benefits and Pensions		
Employment and Fee Applications		
Employment and Fee Application Objections		
Financing and Cash Collateral		
Litigation: Contested Matters and Adversary Proceedings (not otherwise within a specific project category)—identify each separately by caption and adversary number, or title of motion or application and docket number		
Meetings and Communications with Creditors		
Non-Working Travel		
Plan and Disclosure Statement		
Real Estate		
Relief from Stay and Adequate Protection		
Reporting		
Tax		
Valuation		
Total		

Case Name and Number: _____
Applicant's Name: _____
Date of Application: _____
Interim or Final: _____

Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases

If the parties consent or the court so directs, a staffing plan approved by the client in advance should generally be attached to each interim and final fee application filed by the applicant. If the fees are sought in the fee application for a greater number of professionals than identified in the staffing plan, the fee application should explain the variance.

EXHIBIT C–2—STAFFING PLAN

Category of timekeeper [1] (using categories maintained by the firm)	Number of timekeepers expected to work on the matter during the budget period	Average hourly rate
Sr./Equity Partner/Shareholder		
Jr./Non-equity/Income Partner		
Counsel		
Sr. Associate (7 or more years since first admission)		
Associate (4–6 years since first admission)		
Jr. Associate (1–3 years since first admission)		

EXHIBIT C–2—STAFFING PLAN—Continued

Category of timekeeper [1] (using categories maintained by the firm)	Number of timekeepers expected to work on the matter during the budget period	Average hourly rate
Staff Attorney		
Contract Attorney		
Paralegal		
Other (please define)		

[1] As an alternative, firms can identify attorney timekeepers by years of experience rather than category of attorney timekeeper: 0–3, 4–7, 8–14, and 15+. Non-attorney timekeepers, such as paralegals, should still be identified by category.

Case Name and Number: _____
Applicant's Name: _____
Date of Application: _____
Interim or Final: _____

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EXHIBIT D–1—SUMMARY OF COMPENSATION REQUESTED BY PROJECT CATEGORY

[*See* Guidelines ¶ C.8. for project category information.]

Project category	Hours budgeted [1]	Fees budgeted [1]	Hours billed	Fees sought
Asset Analysis and Recovery				
Asset Disposition				
Assumption and Rejection of Leases and Contracts				
Avoidance Action Analysis				
Budgeting (Case)				
Business Operations				
Case Administration				
Claims Administration and Objections				
Corporate Governance and Board Matters				
Employee Benefits and Pensions				
Employment and Fee Applications				
Employment and Fee Application Objections				
Financing and Cash Collateral				
Litigation: Contested Matters and Adversary Proceedings (not otherwise within a specific project category)—identify each separately by caption and adversary number, or title of motion or application and docket number				
Meetings and Communications with Creditors				
Non-Working Travel				
Plan and Disclosure Statement				
Real Estate				
Relief from Stay and Adequate Protection				
Reporting				
Tax				
Valuation				

EXHIBIT D–1—SUMMARY OF COMPENSATION REQUESTED BY PROJECT CATEGORY—Continued

[*See* Guidelines ¶C.8. for project category information.]

Project category	Hours budgeted [1]	Fees budgeted [1]	Hours billed	Fees sought
TOTAL				

[1] If applicable.

Case Name and Number: _____
Applicant's Name: _____
Date of Application: _____
Interim or Final: _____

Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases

EXHIBIT D–2—SUMMARY OF EXPENSE REIMBURSEMENT REQUESTED BY CATEGORY

[*See* Guidelines ¶C.12. for expense category information]

Category	Amount
Copies	
Outside Printing	
Telephone	
Facsimile	
Online Research	
Delivery Services/ Couriers	
Postage	

EXHIBIT D–2—SUMMARY OF EXPENSE REIMBURSEMENT REQUESTED BY CATEGORY—Continued

[*See* Guidelines ¶C.12. for expense category information]

Category	Amount
Local Travel	
Out-of-Town Travel: (a) Transportation	
(b) Hotel	
(c) Meals	
(d) Ground Transportation	
(e) Other (please specify)	
Meals (local)	
Court Fees	
Subpoena Fees	
Witness Fees	
Deposition Transcripts	

EXHIBIT D–2—SUMMARY OF EXPENSE REIMBURSEMENT REQUESTED BY CATEGORY—Continued

[*See* Guidelines ¶C.12. for expense category information]

Category	Amount
Trial Transcripts	
Trial Exhibits	
Litigation Support Vendors	
Experts	
Investigators	
Arbitrators/Mediators	
Other (please specify)	

Case Name and Number: _____
Applicant's Name: _____
Date of Application: _____
Interim or Final: _____

Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases

EXHIBIT E—SUMMARY COVER SHEET OF FEE APPLICATION

Name of applicant	
Name of client	
Time period covered by this application	
Total compensation sought this period	
Total expenses sought this period	
Petition date	
Retention date	
Date of order approving employment	
Total compensation approved by interim order to date	
Total expenses approved by interim order to date	
Total allowed compensation paid to date	
Total allowed expenses paid to date	
Blended rate in this application for all attorneys	

EXHIBIT E—SUMMARY COVER SHEET OF FEE APPLICATION—Continued

Blended rate in this application for all timekeepers	
Compensation sought in this application already paid pursuant to a monthly compensation order but not yet allowed	
Expenses sought in this application already paid pursuant to a monthly compensation order but not yet allowed	
Number of professionals included in this application	
If applicable, number of professionals in this application not included in staffing plan approved by client	
If applicable, difference between fees budgeted and compensation sought for this period	
Number of professionals billing fewer than 15 hours to the case during this period	
Are any rates higher than those approved or disclosed at retention? If yes, calculate and disclose the total compensation sought in this application using the rates originally disclosed in the retention application	

Case Name and Number: _____
Applicant's Name: _____
Date of Application: _____
Interim or Final: _____

Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases

Exhibit F

ANALYSIS OF COMMENTS RECEIVED AND SUMMARY OF SIGNIFICANT CHANGES IN RESPONSE TO COMMENTS

A. *INTRODUCTION*

On November 4, 2011, the United States Trustee Program (''USTP'') posted for public comment an initial draft of the Appendix B—Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases (''Appendix B guidelines'' or ''Guidelines''). The Appendix B guidelines reflect eight core principles:

1. Ensuring that fee review is subject to client-driven market forces, accountability, and scrutiny.
2. Ensuring adherence to the requirements of section 330 of the Bankruptcy Code so that all professional compensation is reasonable and necessary, particularly as compared to the market measured both by the professional's own billing practices for bankruptcy and non-bankruptcy engagements and by those of its peers.
3. Enhancing meaningful disclosure by professionals and transparency in billing practices.
4. Increasing client and constituent accountability for overseeing the fees and billing practices of their own professionals.
5. Encouraging the development of budgets and staffing plans to bring discipline, predictability, and client involvement and accountability to the compensation process.
6. Decreasing the administrative burden of review.
7. Maintaining the burden of proof on the fee applicant, and not the objecting party.
8. Increasing public confidence in the integrity and soundness of the bankruptcy compensation process.

The USTP received more than two dozen comment letters on the initial draft of the Appendix B guidelines posted on November 4, 2011. The USTP thereafter convened a public meeting regarding the Appendix B guidelines on June 4, 2012. Seven commenters appeared at the public meeting, and this discussion is reflected in the transcript of the public meeting.

The USTP reviewed the written and oral comments to the initial draft of the Appendix B guidelines, and on November 2, 2012, posted its analysis of those comments and a summary of the significant revisions incorporated in the second draft of the Appendix B guidelines. *See* ¶ B.2. below.[1] At the same time, the USTP also posted the second draft of the Appendix B guidelines for an additional and final comment period ending November 23, 2012.

The USTP received six comment letters on the second draft. After reviewing the comments to the second draft, the USTP finalized and issued the Appendix B guidelines. The USTP's analysis of the comments on the second draft and a summary of the significant revisions incorporated in the final Appendix B guidelines as issued follow the USTP's comment analysis on the initial draft. *See* ¶ C. below.[2]

All comments to the initial and second drafts of the Appendix B guidelines, as well as the transcript of the June 4, 2012, public meeting, are available for review on the USTP's website, at *http://www.justice.gov/ust/eo/rules_regulations/guidelines/public_comments.htm.* An analysis of the primary comments received on both drafts and a summary of the significant changes made in response to the comments follow.

B. SUMMARY OF SIGNIFICANT CHANGES AND ANALYSIS OF COMMENTS RECEIVED AFTER *POSTING INITIAL DRAFT GUIDELINES FOR COMMENT ON NOVEMBER 4, 2011*

1. Summary of Significant Changes Following Posting of Initial Draft Appendix B *Guidelines for Comment on November 4, 2011*

a. **THRESHOLD FOR APPLICATION:** The threshold for application has been revised to $50 million or more in assets ***and*** $50 million or more in liabilities, aggregated for jointly administered cases and excluding single asset real estate cases. Guidelines ¶ A.2.[3] The initial threshold was $50 million in assets and liabilities combined.

b. DISCLOSURES FOR CUSTOMARY AND COMPARABLE COMPENSATION AND CLIENT VERIFICATIONS: The disclosures that the USTP will request regarding customary and comparable compensation have been amended. Guidelines ¶ C.3. Instead of disclosing high, low and average rates, the revised Guidelines provide that applicants disclose blended billing rates in the aggregate and by category of professional. Guidelines ¶ C.3.a-b. Applicants have the flexibility to report

[1] Summary of Significant Changes and Analysis of Comments Received After Posting Initial Draft Guidelines for Comment on November 4, 2011.

[2] Summary of Significant Changes and Analysis of Comments Received After Posting Revised Draft Guidelines for Final Comment on November 2, 2012.

[3] All references are to the final Appendix B guidelines as issued.

their blended rate information for non-bankruptcy engagements based on either time billed or revenue collected either for the firm (domestic offices only) or offices in which timekeepers billed at least 10% of the hours to the bankruptcy case during the application period. Guidelines ¶ C.3.a.i. The revised Guidelines clarify that pro bono and materially discounted charitable or firm-employee engagements may be excluded from the non-bankruptcy blended rate computation. Guidelines ¶ C.3.a.iv.(c). Disclosure in accordance with ¶ C.3.a.-b. of the Guidelines will provide a limited ''safe harbor'' from additional requests from the United States Trustee for information about customary and comparable compensation under section 330(a)(3)(F) of the Bankruptcy Code, without prejudice to the United States Trustee's ability to seek additional information based upon the particular facts and circumstances of the case, to file an objection, or to offer evidence on comparable compensation from other sources. Guidelines ¶ C.4.

c. BUDGETS AND STAFFING PLANS: A budget and staffing plan will be used only with the consent of the professionals or if the United States Trustee obtains a court order. Guidelines ¶ E.1. The United States Trustee will ask that the counsel for the debtor-in-possession and official committees exchange their budgets once client-approved, Guidelines ¶ E.8., and that professionals provide budgets and staffing plans to the United States Trustee retrospectively with the fee application. Guidelines ¶¶ C.6.a., E.7.-8. Budgets may be redacted to protect privileged or confidential information. Guidelines ¶¶ C.6.b., E.8. The Guidelines clarify that the attorney and the client should decide the appropriate budget period, and that budgets may be amended as necessary to reflect changed circumstances or unanticipated developments. Guidelines ¶¶ E.3.-4.

d. TASK CODES AND SUB-CATEGORY ACTIVITY CODES: The 20 sub-category activity codes have been deleted. Instead, the USTP slightly modified the project categories in the existing Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses filed under 11 U.S.C. § 330, 28 C.F.R. Part 58, Appendix A (''Appendix A guidelines''). Guidelines ¶ C.8.b.; Exhibits C-1, D-1. First, the USTP added a ''Budgeting'' category to reflect the intention to seek the use of budgets for the applicant in most cases that satisfy the threshold. Second, to provide better transparency and accountability, the USTP extracted and separately categorized certain tasks that are included in the broader Appendix A guidelines' project categories, all but one of which is included in the long-established Uniform Task Based Management System (''UTBMS'') bankruptcy code set.[4] These tasks are: Assumption and Rejection of Leases and Contracts; Avoidance Action Analysis; Corporate Governance and Board Matters; Litigation; Non-Working Travel; Real Estate; and Reporting.

e. CO-COUNSEL RETENTIONS AND STAFFING EFFICIENCIES: Debtors and official committees are encouraged to use co-counsel arrangements to achieve better staffing and fee efficiencies. Guidelines ¶¶ B.2.c., F. These arrangements include using less expensive co-counsel for certain routine, commoditized, or discrete matters to avoid duplication, overlap, and inefficiencies.

f. DEBTORS' ESTIMATE OF FEES INCURRED IN ORDINARY COURSE AND NOT BECAUSE OF BANKRUPTCY: This requested disclosure has been deleted.

g. REDACTIONS: The USTP will not object to compensation for limited redactions to protect privileged or confidential information in the budget or the fee application, the disclosure of which could not be avoided through drafting. Guidelines ¶¶ B.2.f., C.6.b., E.8.

h. CLIENT AGREEMENT TO RATE INCREASES: The applicant's statement for the fee application adds an additional question: ''Did your client agree when retaining the law firm to accept all future rate increases? If not, did you inform your client that they need not agree to modified rates or terms in order to have you continue the representation, consistent with ABA Formal Ethics Opinion 11-458?'' Guidelines ¶ C.5.f. The client's verification at the time of the fee application has been deleted.

2. Discussion of Initial Public Comments after Posting Initial Draft for Comment on *November 4, 2011 and the Public Meeting Held June 4, 2012*

As of October 19, 2012, the USTP had received 31 comments on the Appendix B guidelines. In addition, seven commenters appeared at the public meeting held on June 4, 2012, and this discussion is reflected in the transcript of the public meeting. Many of the comments contained several sub-comments. The USTP appreciates the comments and has considered each comment carefully. The USTP's response to the most significant comments are discussed below, starting with the ''General Comments'' section and continuing with comments categorized by specific subject matter.

a. GENERAL COMMENTS

1) ***Comment:*** **Official committees, the U.S. Trustee, and the court already review fee applications. The Appendix A guidelines should not be updated because the current system works well and changes would not improve the administration of bankruptcy cases.**

Response: The existing Appendix A guidelines were adopted 16 years ago, and law firm billing practices and billing technology have evolved considerably since then. Better data and better technology permit comparisons that would have been difficult, if not impossible, two decades ago. In addition, while clients have substantially improved the way they manage and pay their counsel outside of bankruptcy, estate-paid bankruptcy engagements may not have been subject to comparable discipline. In its comment, the Managed Funds Association (''MFA''), an industry group that represents regular consumers of sophisticated legal services in both bankruptcy and non-bankruptcy engagements, asserted that ''bankruptcy compensation has moved from the economy of administration standard to a premium standard by which bankruptcy professionals are effectively compensated at rates higher than those realized in comparable non-bankruptcy engagements. . . . In bankruptcy cases, we do not perceive the same cost control-driven constraints [that we see in non-bankruptcy engagements or bankruptcy engagements not subject to section 330] . . . .'' MFA letter dated September 21, 2012, p. 2 (''MFA Letter''). Similarly, one academic took the view that the bankruptcy compensation process generally requires improvement, including better disclosures. *See generally* Professor Nancy B. Rapoport, Letters dated December 14, 2011, and May 1, 2012, and Public Meeting Tr., pp. 11-36. The Appendix B guidelines seek to remain current with contemporary law firm practice and improve the fee application process for all stakeholders.

2) Comment: **The Appendix B guidelines would benefit from a robust**

[4] The UTMBS was developed in the mid-1990s by the Association of Corporate Counsel and the American Bar Association and is now under the jurisdiction of the non-profit LEDES Oversight Committee. *See www.LEDES.org.* Task-based billing, coded and aggregated by type of work performed, allows corporate clients to have ''consistent enforcement'' of their ''outside counsel billing guidelines and alleviat[ed] some of the burden on bill reviewers. Time entry coding assists with reporting and facilitates comparison . . . .'' *See www.utbms.com.*

and open rule-making process. Similarly, the USTP should ''convene a series of meetings with practitioners, judges, and debtors and creditors' committees . . . to discuss the USTP's concerns with the current fee process and hear and solicit views on the relevant issues from the participants.'' 119 law firms' letter dated January 30, 2012, p. 14 (''119 Law Firms' Initial Letter'').

Response: The Appendix B guidelines are internal procedural guidelines that are not subject to the notice-and-comment process of the Administrative Procedure Act (''APA''). Nevertheless, recognizing the importance of the proposed Guidelines to the bankruptcy system, the USTP has solicited a great deal of public comment within a framework that exceeds APA requirements.

The USTP engaged in pre-drafting outreach to various bankruptcy judges and practitioners. In November 2011, the USTP posted on its website the initial draft Appendix B guidelines for public comment through the end of January 2012. The USTP posted the comments on its website as they were received and re-opened the comment period at the request of various commenters. The USTP convened a public meeting on June 4, 2012, and invited the public—and all commenters—to attend and to make presentations. The USTP made available on its website a transcript of the public meeting and advised interested parties that it would revise the Guidelines as necessary after consideration of the comments and post a second draft for an additional (third) comment period. The USTP also considered written submissions after the public meeting.

The USTP concludes that no changes are necessary to the process that the USTP employed to solicit public comment or to the Guidelines based on these comments.

b. SCOPE OF THE APPENDIX B GUIDELINES

3) ***Comment:*** **The threshold of $50 million in combined assets and liabilities is too low. In addition, certain types of cases, such as single asset real estate cases, should be excluded from the Appendix B guidelines.**

Response: The USTP reviewed available data before setting the initial threshold. A combined assets and liabilities standard was adopted based on the metric used in the American Bankruptcy Institute's chapter 11 fee study, *see* Stephen J. Lubben, *Corporate Reorganization and Professional Fees,* 82 Am. Bankr. L.J. 77, 105 (2008),[5] and it is the formula used by some courts, including one in the District of Delaware, when determining whether to appoint fee examiners. *See General Order Re: Fee Examiners in Chapter 11 Cases With Combined Assets and/or Liabilities in Excess of $100,000,000* (Bankr. D. Del. Dec. 16, 2009) (Sontchi, J.). The $50 million threshold appeared to apply to approximately 40% of all chapter 11 cases filed in the District of Delaware and 10% of all cases filed in the Southern District of New York. Virtually every other judicial district would have had approximately one or two cases a year at this level.

Although a few commenters offered suggestions on revising the threshold, there was no clear basis for those suggestions. For example, the NBC suggested raising the threshold from $50 million to $100 million but did not have a particular basis for its suggestion and acknowledged that, ''[t]here is no precise answer here . . . .'' Public Meeting Tr., p. 59.

The group of 118 law firms (previously 119) suggested a complex formula resulting in an even higher threshold. 118 law firms' supplemental letter dated April 16, 2012, p. 2 (''118 Law Firms' Supplemental Letter''). The suggested threshold would require all of the following:

- More than $250 million in assets.
- More than $50 million of unencumbered assets.
- More than $250 million of unsecured debt.
- At least 250 unsecured creditors (excluding present and former employees).
- More than $50 million of syndicated debt for borrowed money.

The petition does not collect asset, debt, and creditor information in the manner necessary to determine whether a particular case meets the threshold suggested by the commenters. Therefore, it is impossible to confirm without further information whether any chapter 11 cases that are currently pending in any judicial district or that have been filed since 2009, would meet that proposed threshold. Under the 118 law firms' proposal, debtors would need to provide in their first day filings the information necessary to answer these five questions or risk uncertainty and delay.

The USTP revised the threshold after evaluating additional data in light of the comments. Guidelines ¶ A.2. First, the threshold was increased to a combination of at least $50 million in assets ***and*** $50 million in liabilities, based on the values shown on the petition. Second, the USTP agreed that single asset real estate cases should be excluded because they do not routinely entail the complexities of other large cases and revised the Guidelines to exclude them. Without controlling for single asset real estate cases, the USTP estimates that approximately one-half of the chapter 11 cases subject to the revised Guidelines would be filed outside of the District of Delaware and the Southern District of New York, in approximately two-thirds of the USTP's judicial districts.

4) ***Comment:*** **The Appendix B guidelines should apply to all estate compensated professionals.**

Response: The USTP is revisiting the fee guidelines in phases. Other considerations are relevant in evaluating the fee applications of financial advisors and other professionals, as well as attorneys in chapter 11 cases below the threshold in the Appendix B guidelines. Until the USTP promulgates new guidelines, the Appendix A guidelines remain in effect for the USTP's review of fee applications of other types of professionals in chapter 11 cases that meet the threshold, of professionals in all chapter 11 cases below the threshold, and of all professionals in cases not under chapter 11.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

c. COMPARABLE COMPENSATION DISCLOSURES

5) ***Comment:*** **The comparable billing disclosures proposed by the USTP are overly burdensome.**

Response: The necessity for comparable billing data arises from the Bankruptcy Code, which requires that courts determine ''reasonable compensation'' based on, among other factors, ''customary compensation charged by comparably skilled practitioners in cases other than cases under title 11.'' 11 U.S.C. § 330. The USTP concurs that the disclosure of data for the necessary comparison to customary compensation outside of bankruptcy must strike the right balance between the parties' and the court's need for evidence and the professional's burden of providing it.

The National Bankruptcy Conference (''NBC'') suggested modifications to the Appendix B guidelines intended to preserve the ability of reviewers to meaningfully evaluate fee applications while arguably lessening the burden on the applicants. In substance, the NBC proposed that applicants should be

[5] Professor Lubben used the sum of assets and liabilities as a measure of debtor size to select large cases for his analysis.

provided with a ''menu'' of three possible, alternative methods for demonstrating comparable compensation. These options are: (1) a certification that would compare the billing rates of certain of the attorneys assigned to the case with their billing rates in other engagements; (2) a certification comparing the blended rates of the firm or office as a whole to its overall billing rate in the past year; or (3) a client verification detailing the steps it took to ensure that it was being charged reasonable market rates. NBC's supplemental letter dated February 27, 2012, pp. 3-5. The NBC further proposed that firms satisfying any of the three alternatives should receive a limited ''safe harbor'' from a USTP objection on whether the firm has met its burden to disclose customary and comparable compensation information. *Id.,* pp. 2-3.

The USTP agrees that many of the NBC's suggestions have merit, subject to further modification. The NBC's menu of options could too easily be circumvented by uncorroborated and boilerplate certifications and therefore would not represent a substantial improvement on current practices. In addition, the MFA suggested that the comparability disclosure should be ''more plainly and overtly referenced than capturing it in a blended rate as the NBC proposed.'' MFA Letter, p. 4.

Based on these comments, the USTP has revised the Appendix B guidelines regarding customary and comparable compensation, ¶ C.3., as follows:

a) The USTP adopted the NBC's ''blended hourly rate'' disclosures, with some modifications. *See* Guidelines ¶ C.3.

• Professionals should disclose blended rate information by category of timekeeper. The USTP modified the NBC's suggestion of a single, aggregate blended rate in order to ensure that staffing patterns, which may vary for different types of cases, do not mask differences in blended rates among professionals within the firm that have the same level of experience. If higher blended rates are charged by bankruptcy professionals as compared to similarly experienced professionals in other practice areas, then the applicant should explain why the bankruptcy rate is higher and how the rate satisfies the statutory standard. Disclosing the blended rate by category of professional also obviates the need for the NBC's suggested disclosure of staffing percentages for bankruptcy and other engagements, which the USTP understood would have been difficult for certain firms to calculate.

• To provide flexibility, blended hourly rate information may be disclosed on either an as-billed or as-collected basis. Blended hourly rates should be calculated as total dollar value of hours billed (or collected) divided by the number of hours.[6]

• To provide further flexibility, the USTP also adopted the NBC's suggestion that firms choose one of two alternative groups of timekeepers for the blended rate disclosures. Firms may calculate the blended rate based on all domestic timekeepers throughout the firm or, alternatively, on all timekeepers in only those domestic offices in which professionals collectively billed at least 10% of the hours to the matter during the relevant application period.

b) The USTP partially adopted the NBC's suggestion of a limited ''safe harbor.'' An applicant that provides the disclosures in the Appendix B guidelines at ¶ C.3. will receive a limited ''safe harbor'' from additional requests from the United States Trustee for information about customary and comparable compensation under section 330(a)(3)(F) of the Bankruptcy Code. The United States Trustee, however, is not precluded by the ''safe harbor'' from seeking additional information based on the particular facts and circumstances of the case, filing an objection, or offering evidence on comparable compensation from other sources. Guidelines ¶ C.4.

c) The USTP also adopted the NBC's proposal that other meaningful and detailed evidence may satisfy the professional's disclosure obligations on comparable and customary compensation, which is consistent with the MFA's suggestion of an alternative flexible standard to avoid the Guidelines' obsolescence as billing practices evolve. Disclosures other than in compliance with the Guidelines at ¶ C.3. fall outside the scope of the ''safe harbor,'' and the United States Trustee might object to the adequacy of those disclosures. Guidelines ¶ C.3.c.

6) ***Comment:*** **Given the prevalence of alternative fee arrangements and other variable terms of engagements outside of bankruptcy, including volume or repeat business discounts and other individually negotiated billing arrangements, the disclosures seek incomplete or inaccurate information and will not establish comparability. Similarly, *pro bono* or other types of engagements should be excluded**.

Response: Several commenters expressed the view that the requested data on hourly rates actually billed would not establish comparable data because it would not account for such things as volume discounts or other alternative fee arrangements. This conclusion ignores that applicants may choose to explain why a particular alternative fee arrangement would be an inaccurate point of comparison for bankruptcy engagements. Moreover, excluding these arrangements would circumvent comparability with the firm's bankruptcy fees as required by the Bankruptcy Code, because ''[d]iscount arrangements . . . are regularly sought and given in non-bankruptcy engagements; therefore, we think that any safe harbor should measure the market by the effective discount provided in non-bankruptcy engagements.'' MFA Letter, p. 3.

The USTP concludes that no changes are necessary to the Guidelines based on these comments, except for one clarification: The USTP agrees that for all comparable billing rate disclosures, firms may exclude pro bono, charitable, or firm-employee engagements that were never contemplated to be billed at or near standard or full rates. Guidelines ¶ C.3.a.iv.(c).

7) ***Comment:*** **The increased disclosures of actual comparable billing data will force sophisticated practitioners and firms to withdraw from a bankruptcy practice because they would choose to leave bankruptcy practice before disclosing this data. This would result in decreased competition for estate-paid bankruptcy work.**

Response: These comments suggest that estate-paid professionals may ignore the requirement in section 330 that an applicant establish that its compensation is comparable to compensation outside of bankruptcy. The USTP concludes that no changes are necessary to the Guidelines based on these comments.

8) ***Comment:*** **Some commenters stated that requiring disclosure of the lowest hourly rates billed seeks to re-impose the economy of administration standard rejected by Congress in the 1978 Bankruptcy Code. In contrast, other commenters stated that requiring the disclosure of high, average, and low hourly rates might ''normalize'' the market at the high range and therefore drive up estate costs.**

Response: These comments are irreconcilable. The USTP does not seek to re-impose the economy of administration standard rejected by the 1978 Code any more than it seeks to foster premium compensation for bankruptcy. By emphasizing actual market forces, the revised Appendix B guidelines reinforce the legislative

[6] The USTP adopted NBC's calculation of ''blended hourly rate,'' which was the same as the USTP's original formula for ''average rate billed.''

purpose of the 1978 Code as embodied in section 330—that comparable services are the standard by which to measure bankruptcy fees. ''Comparable'' does not mean ''economy'' or ''premium'' as the standard against which bankruptcy fees should be measured.

Nevertheless, the USTP agrees with the NBC's suggestion that the average (or blended) hourly billed rate is the most meaningful of the originally requested disclosures. Accordingly, the USTP revised the Appendix B guidelines to delete the request for any disclosure of low and high rates billed. The USTP retains the right to seek further information based on the facts and circumstances in a particular case or if an applicant does not choose to disclose billing information in compliance with the limited ''safe harbor'' option at ¶ C.4.

9) ***Comment:*** **Some commenters stated that the additional disclosures of actual comparable billing data will increase the cost of preparing fee applications and, therefore, chapter 11 bankruptcy cases. Other commenters stated that it is logistically impossible for even the most sophisticated law firms to generate low, high, and average billed rates by attorney or other comparable billing data sought in the Appendix B guidelines.**

Response: Sophisticated law firms maintain and study copious amounts of data and metrics for various purposes, including managing their own profitability, determining partner compensation, and meeting client expectations. As the co-chairman of the NBC stated at the public meeting, ''firm billing systems are just huge databases. . . . [W]hen a firm wants to do a bill, it extracts data from the database, and when it wants to do financial reporting statistics, it extracts data from the database.'' Public Meeting Tr., pp. 71–73. A law firm that maintains that it is impossible to provide this information may explain in the fee application and attest in its statement why it is unable to do so.

The evidence is overwhelming that law firms routinely obtain and review billing data in setting their rates outside of bankruptcy. For example, many firms provide internal billing and other financial data that is made available to participating firms in a variety of surveys, including the Citi Private Bank Law Watch Annual Survey of Law Firm Financial Performance, PriceWaterhouseCoopers BRASS Survey (billing rate and associate salary survey), the Thomson Reuters Peer Monitor data, Hildebrandt International surveys, and various Altman Weil Surveys. In addition, firms (including many that commented on the Guidelines) routinely disclose aggregate billing rate information to periodicals for publication, including the National Law Journal (''NLJ'') 250 Annual Billing Rate survey, which provides low, high, and average rates by timekeeper class for a number of firms and includes far more detailed information than the information requested in the Appendix B guidelines.

Although there will be some additional work for the professionals in preparing fee applications with these disclosures, the financial data to be disclosed will come from the professionals' accounting and finance staff. Moreover, as explained above, the USTP revised the Guidelines to no longer require disclosure of low and high rates. The USTP concludes that no further changes are necessary to the Guidelines based on these comments.

10) ***Comment:*** **A firm's actual billing data is attorney-client privileged, confidential, and proprietary. Alternatively, the USTP should seek comparable billing data from outside proprietary sources, such as CitiBank, Hildebrand, and Hoffman Alvery.**

Response: The proposed disclosure of blended billing rates in the Appendix B guidelines does not require the disclosure of attorney-client privileged information. The disclosure is not a COMMUNICATION with a client and does not identify particular clients.

Moreover, the broad dissemination of a firm's billing information to third parties, as discussed in the prior response, is inconsistent with the contentions that the information is legally privileged and that clients consistently maintain such information as proprietary. For example, the CT Tymetrix and Corporate Executive Board Real Rate Report 2012 analyzes actual invoice data provided by clients. The 2012 report reviewed $7.6 billion in law firm billings generated from 2007 through 2011 by more than 4,000 law firms and roughly 120,000 timekeepers. Although the Real Rate Report does not disclose rates of particular firms or attorneys, it is generated from the billing data firms send to their clients.

To the extent that commenters suggest that the USTP obtain comparable billing data from outside survey sources, these are generally unavailable to the USTP (and the court as the arbiter). For example, CitiBank and PWC BRASS surveys are only available to those who participate and for a fee. In addition, comparability under section 330 requires consideration of fees charged by comparably skilled practitioners within the firm for other types of engagements as well as fees charged by other firms providing similar services. These surveys address comparability with other firms, not within the firm.

Some commenters state that their billing rates are proprietary business information and that their business will be harmed if they disclose them, presumably because disclosure would allow law firms to bid for work against each other more effectively. Other commenters appear concerned that if their rate structures are transparent to their clients, those clients may be better positioned to negotiate fees. The commenters, however, do not explain why their pecuniary interest in preventing transparency in billing practices should outweigh the need to produce evidence that satisfies the Bankruptcy Code's comparable services requirement.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

11) ***Comment:*** **The Appendix B guidelines should only obtain comparability data from domestic practitioners because international billing practices vary widely.**

Response: The USTP agrees and has revised the Guidelines to clarify that comparability data should be reported for U.S. professionals only. Guidelines ¶ C.3.a.i.

d. BUDGETS AND STAFFING PLANS

12) ***Comment:*** **Budgets and staffing guidelines are unduly burdensome.**

Response: The requested budgets are a summary with little detail. Presumably attorneys in complex chapter 11 cases—at least once the critical early days of a case have passed—make some effort to plan next steps, to strategize on ultimate outcome, and to assign tasks accordingly, taking into account their experience in other complex cases.

Moreover, requesting budgets and staffing plans in bankruptcy cases is consistent with practices employed by clients outside of bankruptcy to manage legal costs. The USTP budget and staffing templates are modeled after the Association of Corporate Counsel's (''ACC'') Sample Case Budget Template.[7] The ACC is a global bar association for in-house counsel with 29,000 members employed by over 10,000 organizations. The extensive resources provided by ACC to its members on legal project management, including budgeting and staffing,

[7] *See http://www.acc.com/legalresources/resource.cfm?show=743131; see also http://www.acc.com/ValueChallenge/resources/avcresources.cfm?rs_vc=365.*

strongly suggest that budgeting and staffing plans are mainstream and common features of legal engagements across a wide spectrum of businesses.

The USTP slightly modified the ACC template. *See* Exhibit C. First, the USTP separated the budget template from the staffing template. Second, the USTP budget template at Exhibit C uses the modified project categories in ¶ C.8.b. of the Guidelines, as described more fully in the response to Comment 18 below. Third, in the revised Appendix B guidelines, the USTP further simplified the staffing plan to reduce the perceived burden. Rather than asking for identification of each professional proposed to work on the engagement, the revised USTP template requests the number of professionals by category of timekeeper (*e.g.,* 10 partners, 30 associates, *etc.*) or experience level, as well as their average hourly rates (billed or collected). Unlike the ACC template, however, the USTP revised staffing plan does not ask for this information for each project category.

13) ***Comment:*** **Public disclosure of budgets with interim fee applications will reveal confidential strategy information and give adversaries advantages.**

Response: The USTP addressed this concern in the initial draft of the Appendix B guidelines in two ways. First, the budgets and staffing plans are to be publicly disclosed retrospectively with the fee application and for the same time period covered by the fee application. Guidelines ¶¶ C.6., E.7.-8. Second, the budget template is a summary chart of aggregate hours and fees by project code, without the detail of the budget that the professional provided to its client prospectively at the beginning of the fee application period. Exhibit C-1. While the budget submitted with the fee application will retrospectively summarize the fees estimated to be required during that period, the fee application itself and invoices contain the detailed information about what was actually done during the period.

Nevertheless, to further address this concern, the USTP revised the Guidelines to provide that budgets and invoices may be redacted as necessary, and such redactions may be compensable if necessary to protect privileged or confidential information that must be disclosed. Guidelines ¶¶ C.6.b., E.8. But the time spent for redactions should be reasonably proportional to the overall fees sought. Redactions, particularly to address issues of litigation strategy, may be unnecessary if the applicant uses the model budget in Exhibit C, which budgets total hours and fees by project category without descriptive entries.

The USTP also revised the Guidelines to provide for one prospective disclosure of the budget on a confidential basis: between counsel for the debtor-in-possession and official committees once the budgets have been approved by their respective clients or whenever they are amended. Guidelines ¶ E.8. As the NBC commented, there are at least two ''set[s] of professionals compensated out of the estate . . . looking out for the estate's interests.'' NBC letter dated January 30, 2012, p. 2. Official committees routinely receive confidential or other sensitive information during the case that they are precluded from sharing. In addition to providing the budgets under appropriate confidentiality agreements, the debtor and committees may redact the budgets to address privilege or confidentiality concerns. Guidelines ¶¶ C.6.b., E.8. The confidential and prospective exchange of budgets between these fiduciaries facilitates communication, avoids duplication of effort, and promotes efficiency in the administration of the bankruptcy case, consistent with the requirements of section 1103 of the Bankruptcy Code.

14) ***Comment:*** **Budgets are ineffective and provide little, if any, benefit to the estate because bankruptcy is just too unpredictable to budget.**

Response: Budgets are a planning tool for disciplined and deliberative case management that business clients routinely expect of their professionals outside of bankruptcy. The pervasiveness of this practice supports the conclusion that budgets are effective to focus the scope of the engagement and the efficiency in staffing.

Moreover, the concern about the alleged unpredictability of bankruptcy engagements in particular is overstated. All budgets—whether for a bankruptcy case, a litigation matter, a chapter 13 debtor, a law firm, a business, or the government—are an informed estimate of expectations, identifying that which is predictable based on historical experience and that which is truly volatile and beyond the budgeter's control.

Indeed, budgets for professional fees are already a regular feature of chapter 11 cases. Secured lenders typically require debtors and their counsel to prepare budgets as a condition to the estate's use of cash collateral. Similarly, parties in the case, including the debtor and official committees, often insist that examiners prepare and file budgets and work plans.

The USTP concludes that no changes are necessary to the budget and staffing guidelines based on these comments.

15) ***Comment:*** **Budgets should not be mandatory.**

Response: Only the courts can award compensation and determine what requirements professionals must satisfy consistent with section 330 to be paid from the estate. The Appendix B guidelines are internal procedural guidelines that the USTP will follow ''in the absence of controlling law or rules in the jurisdiction'' in reviewing applications for compensation and determining whether to comment or object. Guidelines ¶ A.4. In some instances, the Guidelines reflect disclosures, standards, or procedures that the United States Trustee may consider presumptively reasonable or presumptively unreasonable when deciding whether to object to fee applications.

After considering these comments, the USTP revised the Guidelines to clarify that, although budgets are not mandatory, the parties may agree to the budgets or the court may require them. Guidelines ¶¶ C.6., E.1. If the parties do not consent, the United States Trustee generally will move the court to require budgets of estate-paid attorneys in larger chapter 11 cases consistent with the Guidelines.

16) ***Comment:*** **Budgets should be non-binding and should be able to be amended.**

Response: The USTP agrees. The revised Appendix B guidelines provide that ''[b]udgets can and should be amended as necessary to reflect changed circumstances or unanticipated developments.'' Guidelines ¶ E.3. Similarly, the Guidelines request an explanation if the fees sought in the application exceed the budget during the application period by at least 10%, and whether the applicant has discussed the variance with the client. Guidelines ¶¶ C.2.l., C.5.b.; Exhibit C.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

17) ***Comment:*** **Time spent preparing budgets and staffing plans should be compensable.**

Response: The USTP agrees. For this reason, the Appendix B guidelines, both as originally proposed and as revised, include a suggested project category for ''budgeting.'' Guidelines ¶ C.8.b.; Exhibits C-1, D-1.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

e. PROJECT CODES AND CATEGORIES

18) ***Comment:*** **The project categories and sub-categories create 480 possible coding combinations, which is unworkable and unduly complicated without a corresponding benefit.**

Response: The Appendix A guidelines contain suggested project codes that professionals have used for years to categorize their time in fee applications. To further assist the court and parties in reviewing fee applications, the USTP had proposed additional disclosures in the initial draft of the Appendix B guidelines in the form of sub-categories for the project codes, substantially comparable to the UTBMS activity codes used with task codes in legal billing.

Based on these comments to streamline project coding, the USTP revised the Appendix B guidelines to eliminate the proposed sub-categories. The Appendix B guidelines will continue to use the project categories from the Appendix A guidelines with slight modifications. First, the USTP added a ''Budgeting'' category to reflect the intention to seek the use of budgets for the applicant in most cases that satisfy the threshold. Second, to provide better transparency and accountability, the USTP extracted and separately categorized certain tasks that are included in the broader Appendix A project categories.[8] *See* Guidelines ¶ C.8.b. All but one of these tasks (''Reporting'') is included in the long-established UTBMS bankruptcy code set.

Based on these revisions to the project categories, the USTP conformed other requested disclosures that incorporate the modified project categories, such as the budgets and the reconciliation of fee applications to budgets. *See* Exhibits C-1, D-1.

The USTP retains discretion not to seek coding or to seek case-specific coding if the standard template does not meet the needs of a particular case.

f. CO-COUNSEL AND STAFFING EFFICIENCIES

19) ***Comment:*** **The USTP should encourage the use of co-counsel for more routine or ''commoditized'' work, such as preference actions and claims objections, to bring efficiencies to the bankruptcy estate.**

Response: This suggestion was raised by several commenters, including the NBC, Professor Lubben, and Togut, Segal & Segal. It is also similar to the local counsel requirement in the District of Delaware. The USTP agrees that applicants should consider how to assign and staff more routine and ''commoditized'' work, and whether lower cost co-counsel should be retained for discrete types of work, provided that the use of multiple section 327(a) bankruptcy counsel must not mask disqualifying conflicts and connections, and co-counsel must avoid duplication of services.

The USTP revised the Appendix B guidelines to provide that retention applications should clearly specify lead counsel and clearly delineate secondary counsel's responsibility. *See* Guidelines ¶ F. In general, all bankruptcy matters should presumptively be handled by lead counsel unless the retention application specifically assigns them to secondary counsel. The retention application should not contain indeterminate or open-ended duties for secondary counsel, and retention of secondary counsel must benefit the estate.

The USTP will carefully review the proposed co-counsel retention to ensure that the lead counsel does not have a pervasive conflict requiring disqualification that the retention of secondary counsel is designed to conceal or ignore. The USTP will also monitor the fees of both lead and secondary counsel for services that are unnecessary, duplicative, or not beneficial to the estate.

At the public meeting, one commenter suggested that the USTP should also include a proposed form of order for the retention of co-counsel. Public Meeting Tr., pp. 99-100. In developing a proposed form of order, the USTP will benefit from experience with these Guidelines and declines to address a specific form of order at this time.

g. ELECTRONIC DATA

20) ***Comment:*** **Submitting electronic billing records creates confidentiality concerns.**

Response: Fee applications with detailed invoices are routinely filed and served on parties in a particular case through the courts' Case Management/Electronic Case Filing (CM/ECF) system. In addition, once filed this information is available to the general public through the courts' Public Access to Court Electronic Records (PACER) system. There should be no confidentiality concern in providing the same data in a format that can be queried and sorted.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

21) ***Comment:*** **Submitting electronic data may require firms to revamp their billing software.**

Response: The USTP suggested using LEDES standards because this is the universal standard adopted by law firms, clients, and e-billing vendors and because no particular software is required. *See www.LEDES.org.* Because it is an open standard, a firm can provide electronic data in the same format in which it maintains the data and does not need to modify its existing billing software.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

h. APPLICATIONS FOR EMPLOYMENT AND RELATED VERIFICATIONS

22) ***Comment:*** **The USTP has no statutory authority to address compensation issues at the retention stage.**

Response: The USTP is statutorily required to adopt uniform guidelines for the review of professional compensation applications. 28 U.S.C. § 586(a)(3)(A). The review of fee applications under section 330 of the Bankruptcy Code is inextricably intertwined with the terms and conditions of the applicant's retention under section 327 or 1103. The NBC, among others, supports the view that a closer consideration of the terms of compensation at the outset of the case can lead to less controversy later and benefit both the professionals and the estate. *See* Public Meeting Tr., p. 74. The USTP's adoption of uniform guidelines governing the review of applications for retention under sections 327 and 1103 of the Bankruptcy Code on issues that are relevant to fee applications benefits professionals, the court, and parties in interest by providing predictability in enforcement and is consistent with the USTP's statutory mandate.

The NBC proposed adding a client verification at the retention stage. The USTP agrees and has modified the Appendix B guidelines to provide that clients supply a verified statement on retention. Guidelines ¶ D.2. This is in lieu of the previously requested client verification with the fee application. The proposed verification may explain the steps the client took to ensure compensation was comparable to the non-bankruptcy market, to control legal fees as it would outside of chapter 11, and to negotiate rates.

[8] ''Reporting'' was extracted from the existing ''Case Administration'' category. ''Assumption and Rejection of Leases and Contracts'' was extracted from ''Asset Disposition.'' ''Avoidance Action Analysis'' was extracted from ''Litigation.'' ''Corporate Governance and Board Matters,'' ''Real Estate'' and ''Non-working Travel'' span across a number of the existing Appendix A project categories.

The USTP concludes that no other changes are necessary to the Guidelines based on these comments.

i. FEE APPLICATIONS

23) ***Comment:*** **The USTP exceeds its statutory authority when it reviews and comments on interim fee applications filed under section 331. The USTP may only comment on final fee applications under section 330.**

Response: Consistent with its statutory duties, the USTP has commented on and objected to thousands of interim fee applications, and is unaware that any party has challenged the USTP's right to appear and be heard in that litigation. In addition to 28 U.S.C. § 586(a)(3), section 307 of the Bankruptcy Code gives the United States Trustee broad authority to raise, to be heard, and to appear on any issue in any case. Moreover, deferring all objections to the final fee application would seem unfair and unduly prejudicial to the professionals, in addition to being unduly burdensome to the USTP, the court, and other parties in interest.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

24) ***Comment:*** **The Appendix B guidelines fail to consider that for many debtors a significant portion of estate-paid work is for non-bankruptcy matters. Other practitioners stated that the Guidelines require debtors' attorneys to speculate about what legal fees the debtor would have incurred outside of bankruptcy, which will be costly and of no value.**

Response: The USTP originally included a disclosure to address the complaint that the public misunderstands professional fees in bankruptcy because some of the fees that the court must approve may not result from the bankruptcy filing. Thus, the fee application may include fees for matters for which the debtor routinely engaged counsel before the bankruptcy filing. The USTP did not anticipate that providing this data would be time-consuming or arduous because applicants could provide historical data. Nevertheless, the group of 119 law firms, representing a broad segment of the bankruptcy legal community and including many of the firms that are routinely involved in the larger cases meeting the threshold, stated that this disclosure ''serves no useful purpose.'' 119 Law Firms' Initial Letter, p. 7. Based on this comment, the USTP eliminated the disclosure.

j. COMPENSATION FOR PARTICULAR MATTERS

25) ***Comment:*** **Redaction of bills or invoices for privileged or confidential information should be compensable.**

Response: The USTP has re-evaluated its position in light of these comments. It is important that clients receive informative invoices that may contain privileged or confidential information. But professionals whose compensation will be paid by the bankruptcy estate know at the inception that their billing records must be publicly filed and should draft time entries and prepare invoices both to minimize redactions and to avoid vague descriptions. Therefore, the time for redacting invoices that are submitted under a monthly compensation order or filed with the fee application should be kept to a minimum and bear some reasonable relationship to the overall fees sought. Guidelines ¶ B.2.f.

26) ***Comment:*** **The Appendix B guidelines prohibit the use of transitory professionals and the attendance of multiple attorneys at meetings or hearings.**

Response: This comment is inaccurate. In these two instances, the Guidelines instruct the United States Trustee to seek an explanation of practices that could be evidence of billing abuses. Guidelines ¶¶ B.2.c., e. An adequate explanation will avert an objection on this guideline.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

27) ***Comment:*** **Precluding compensation for preparing monthly invoices is inappropriate.**

Response: The ability to bill monthly is an accommodation to professionals to enable them to avoid the delay incumbent in the interim fee application process. The professional's decision to avail itself of this opportunity should not cost the estate additional money. The United States Trustee may object if a professional seeks compensation for the preparation of monthly invoices that is duplicative of fees that the professional later seeks for the preparation of the fee application related to those invoices. Based on these comments, the USTP has revised the Appendix B guidelines to clarify its position. *See* Guidelines ¶ B.2.f.

28) ***Comment:*** **Attorneys should be entitled to compensation for litigating and negotiating objections to fee applications.**

Response: The Appendix B guidelines provide that *''[r]easonable* charges for preparing interim and final fee applications . . . are compensable,'' (¶ B.2.f.) (emphasis in original), because the preparation of a fee application is not required for lawyers practicing in areas other than bankruptcy as a condition to getting paid. But time spent beyond the initial preparation of the applications, including without limitation time spent explaining the fees, negotiating objections, and litigating contested fee matters, is properly characterized as work that is for the benefit of the professional, and not the estate. Such services are therefore not compensable under 11 U.S.C. § 330(a)(4)(ii) because they are neither reasonably likely to benefit the debtor's estate nor necessary to the administration of the bankruptcy case. This result is consistent with non-bankruptcy practice because law firms typically do not charge clients for time spent explaining or defending a bill. Thus, the USTP's position is that awarding compensation for fee application matters beyond the initial preparation of the application is inappropriate, unless those activities fall within an applicable and judicially recognized exception (such as litigating an objection to the application where the applicant substantially prevails).

The USTP has clarified its position in the Guidelines based on these comments. *See* Guidelines ¶ B.2.f.

29) ***Comment:*** **Attorneys should always be able to charge their highest rate, and are not bound by their lower ''home forum'' rate when the bankruptcy case is pending in a higher-priced market, for example, New York.**

Response: The Appendix B guidelines provide that the USTP will not object to attorneys charging their ''home forum'' rate regardless of where a case is pending. Guidelines ¶ B.2.l. This recognizes that a substantial component of a professional's billing rate is overhead attributable to the professional's home office, and does not penalize professionals (or their clients in their choice of professionals) solely because of the forum in which the case is pending.

By contrast, the group of 118 law firms (formerly 119) proposed that, if a lawyer from St. Louis, for example, traveled to New York for a bankruptcy case, the St. Louis lawyer should charge New York rates. 118 Law Firms' Supplemental Letter, p. 2. But the 118 law firms would not have the New York lawyer traveling to St. Louis charge St. Louis rates. This result is illogical because it is not based on the professional's overhead (or even the forum in which the case is pending). Additionally, travel costs are typically reimbursed by the estate, and allowing professionals to receive both a rate

higher than their home forum rate and reimbursement for travel costs is unreasonable.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

30) ***Comment:*** **Routine expenses, such as copies and long distance calls, should not require explanation. Similarly, referring to telephone charges as ''overhead'' might result in objection to long distance and conference charges currently allowed.**

Response: Clients outside of bankruptcy increasingly refuse to reimburse expenses, even routine ones, that clients consider part of a firm's overhead. Thus, the Appendix B guidelines provide that the United States Trustee will ordinarily object to expenses not customarily charged by the applicant to its non-bankruptcy clients and by the applicant's peers in the market, as well as overhead expenses incident to the operation of the applicant's office. Guidelines ¶¶ B.3.c., e.

31) ***Comment:*** **Routine objection to summer associate time and non-working travel at full rate are not market-based.**

Response: These commenters did not provide any support for the contention that sophisticated clients routinely pay for summer associate time or full rates for non-working travel. Indeed, the USTP understands that it has long been customary for firms to write off the time of their summer associates, which is more properly attributed to recruitment and training. And clients increasingly refuse to pay for first or second year associates working on their matters.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

32) ***Comment:*** **Fee enhancements should be based on agreements between counsel and clients, subject to court approval.**

Response: A central principle of the Appendix B guidelines is that bankruptcy fees should be reasonable, fully disclosed, and consistent with market norms. For this reason, it is problematic when bankruptcy professionals seek to compel the estate, through their clients, to pay them a fee enhancement or a bonus that is not based on their contractual agreement and disclosed and approved at retention. An applicant's request for fees above the amounts it initially represented in its retention application remains subject to section 330 of the Bankruptcy Code, including the comparability requirements of section 330(a)(3)(F), and other applicable law. Therefore, fee enhancements should be available only in extraordinary circumstances and solely to the extent that a professional outside of bankruptcy would be entitled to demand fees from the client in excess of a contractually agreed upon amount.

Upon further consideration, the USTP concludes that the issue of fee enhancements should, at this time, be addressed on a case-by-case basis and thus deleted the considerations pertaining to fee enhancements from the Guidelines.

k. FEE REVIEW ENTITIES

33) ***Comment:*** **Fee examiners and fee committees are appropriate only if the court believes they will be helpful. Similarly, special fee review procedures should not be included in the Appendix B guidelines.**

Response: The appointment of a fee examiner or a fee committee is a decision reserved to the judgment of the bankruptcy court. To enhance the transparency and integrity of the fee review process, the Guidelines simply offer several alternative models that the USTP may suggest in a particular case. Guidelines ¶ G.

The success of the fee examiner in the case of *In re General Motors Corp.,* No. 09–50026 (Bankr. S.D.N.Y. filed June 1, 2009), and of the fee committee in the case of *In re Lehman Brothers Holdings, Inc.,* No. 08–13555 (Bankr. S.D.N.Y. filed Sept. 15, 2008), has demonstrated that alternative fee review arrangements can have salutary effects. The fee examiner and fee committee have identified both discrete issues with the applications of certain professionals and global issues affecting compensation sought by many professionals. When possible, they have negotiated an acceptable resolution of those issues. When agreement could not be reached, they have presented the issues to the court in an organized manner that eased the burden of fee review on the court and others.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

34) ***Comment:*** **The costs of fee examiners should be borne by the federal government.**

Response: Presumably the commenter intended that the USTP bear these costs. The Bankruptcy Code is premised on bankruptcy estates paying the costs of administration, including professional fees. *See, e.g.,* 11 U.S.C. §§ 330, 503(b), 507(a)(2); 28 U.S.C. § 1930. Fee examiners and fee committees are typically sought in cases that are administratively solvent and very complex to ease the burden of fee review on the court and parties in interest. It is reasonable that the costs of administration of the estate include the cost of a fee examiner or a fee committee.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

l. MISCELLANEOUS COMMENTS

35) ***Comment:*** **One commenter stated that firms should not have to disclose all rate increases under all circumstances. Rather, the commenter proposed that firms should only disclose annual rate increases exceeding 10% and should not have to disclose any ''standard seniority step ups'' regardless of amount or any annual increases of 10% or less.**

Response: The cumulative cost to the estate of regular rate increases of, for instance, 10% per year over the life of a lengthy chapter 11 case is significant. This additional cost would be compounded by annual step increases as attorneys advance in seniority. At a minimum, law firms should disclose the additional cost being borne by the estate and its creditors as a result of increased rates so the parties, the court, and the United States Trustee can evaluate whether the requested compensation is reasonable, comparable, and customary.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

36) ***Comment:*** **The guideline on billing a disproportionate amount of time in .5 and 1.0 hour increments is not realistic.**

Response: This is not a change from the existing Appendix A guidelines. Moreover, routinely billing in those increments can be suggestive of billing abuses and failure to carefully track an attorney's time.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

37) ***Comment:*** **The Appendix B guidelines lack consequences that would give professionals incentives to comply with them.**

Response: The Guidelines are internal procedural guidelines that the USTP will follow in reviewing and commenting on fee applications in the absence of controlling law or rules in a jurisdiction. The Guidelines do not supersede local rules, court orders, or other controlling authority. Only the court has the authority to award compensation and reimbursement under section 330 of the Bankruptcy Code and to provide incentives for complying with the Guidelines. Guidelines ¶¶ A.1.-5.

The USTP concludes that no changes are necessary to the Guidelines based on this comment.

38) ***Comment:*** **Greater transparency in fee applications would reduce concerns and address allegations that professionals are overly compensated for unnecessary work and diverting value.**

Response: One of the USTP's stated goals has been to bring greater transparency to the compensation process in chapter 11 cases and to foster public confidence in the integrity of that process.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

C. SUMMARY OF SIGNIFICANT CHANGES AND ANALYSIS OF COMMENTS RECEIVED AFTER POSTING REVISED DRAFT GUIDELINES FOR FINAL COMMENT ON NOVEMBER 2, 2012

1. Summary of Significant Changes Following Posting of Revised Draft Appendix B ***Guidelines for Final Comment on November 2, 2012***

a. DISCLOSURES OF CUSTOMARY AND COMPARABLE COMPENSATION: Applicants should include a concise description of the methodology used to calculate hourly blended rates if the calculation includes any fee arrangements not billed by the hour. Guidelines ¶ C.3.a.iv.(d).

b. BUDGETS: Absent the parties' consent, the United States Trustee may seek a court order encouraging the prospective sharing of budgets by counsel for the debtors-in-possession and the official committees. Guidelines ¶ E.8.

c. CO-COUNSEL RETENTION: Guidance regarding the use of secondary counsel, either efficiency or conflicts co-counsel, has been clarified as follows:

1) When a new matter within the authorized scope of engagement for efficiency or conflicts co-counsel is assigned by lead counsel to that co-counsel, co-counsel need not file a supplemental retention application and obtain an amended order. Rather, co-counsel should file a supplemental declaration in accordance with Bankruptcy Rule 2014 and provide notice of the filing sufficient to afford parties in interest an opportunity to object. Nevertheless, if the matter does not fall within the authorized scope of engagement, co-counsel should file a supplemental retention application and obtain an amended order to expand the scope of the engagement to include that matter. Guidelines ¶ F.1.c.

2) The use of conflicts counsel to litigate a specific matter as to which lead counsel's involvement is limited to negotiation is generally objectionable, and the United States Trustee retains discretion whether to object in a particular situation. Negotiation without the ability to litigate against a party usually will render a lawyer disqualified from the matter, and such disqualification cannot be cured by retention of conflicts counsel to handle the litigation. Guidelines ¶ F.3.c.

d. ORDINARY COURSE PROFESSIONALS: The Guidelines will not apply to counsel retained and paid as an ordinary course professional pursuant to appropriate court order or local rule (''ordinary course professional''), unless the professional is required to file a fee application under such court order or local rule. Guidelines ¶ A.3.

e. ELECTRONIC BILLING RECORDS: The applicant should provide electronic billing data to the court, the debtor-in-possession (or trustee), official committees, the United States Trustee, and the fee review committee, examiner or auditor. Other parties in interest should receive the electronic billing data upon request. Guidelines ¶ C.10.

f. APPLICATIONS FOR EMPLOYMENT AND RELATED VERIFICATIONS: Applicants who represented the client in the 12 months prepetition should disclose in the application for employment specific and material information regarding their prepetition billing rates and financial terms to explain the reasons for any difference between prepetition and postpetition billing rates and terms. Guidelines ¶ D.1.c. In the verification provided by an applicant who also represented the client prepetition, the disclosure of the applicant's ''effective rate'' has been deleted, and instead, the applicant should disclose and explain any postpetition change in ''billing rates and material financial terms.'' *Id.* The client verification has been revised to delete the undefined term ''market rate'' and instead to use terms expressly contained in the statute. Thus, the client should disclose the steps taken to ensure that the applicant's billing rates and terms are comparable to the applicant's billing rates and terms for other engagements and to those of other comparably skilled professionals. Guidelines ¶ D.2.b.-c.

g. MONTHLY INVOICES: The United States Trustee will not object to the extent that monthly invoices under a monthly compensation order effectively serve as the interim fee applications and the applicant seeks no additional compensation for preparing the interim fee application because the time was expended on the related monthly invoices (or vice versa). Guidelines ¶ B.2.f.(iv).

h. ''FEES ON FEES'': The USTP's position on fees for contesting or litigating objections to applications for compensation has been amended. ''Fees on fees'' are generally inappropriate unless they fall within a judicial exception applicable within the district allowing such fees. The word ''binding'' has been deleted from the exception. Guidelines ¶ B.2.g.

i. STEP INCREASES: The disclosure of rate increases and calculations of their effect may exclude annual ''step increases'' historically awarded in the ordinary course to attorneys throughout the firm due to advancing seniority and promotion, if the firm distinguishes between ''step increases'' and other types of rates increases. Nevertheless, applicants should not attempt to characterize actual rate increases that are unrelated to an attorney's advancing seniority and promotion as ''step increases'' in effort to thwart meaningful disclosure or billing discipline. If a firm does not distinguish between ''step increases'' and other types of rate increases, it should disclose and explain all rate increases. Guidelines ¶ B.2.d.

j. OVERHEAD: Actual charges for multi-party conference calls related to the case will be considered a reimbursable expense, not overhead. Guidelines ¶ B.3.e.

k. EFFECTIVE DATE: The effective date of the Guidelines has been changed from July 1, 2013 to November 1, 2013, to afford sufficient time for the courts to incorporate the Guidelines into local rules and practice and for the bankruptcy bar to become familiar with the new disclosure provisions.

l. EXHIBITS: The Guidelines have been revised to incorporate certain information that was previously included in exhibits and to renumber the remaining exhibits. The project categories and expense categories formerly at Exhibit E have been incorporated into the Guidelines at ¶ C.8. (project categories for billing records) and ¶ C.12. (expense categories). The ''United States Trustee Considerations on the Retention and Compensation of Co-Counsel'' formerly at Exhibit B have been incorporated into the Guidelines at ¶ F.

2. Discussion of Public Comments after Posting Revised Draft for Final Comment on *November 2, 2012*

The USTP received six comment letters in response to the USTP's posting of the revised draft of the Appendix B guidelines. Many of the comments contained several sub-parts. The USTP appreciates the comments and has considered each carefully. Those

comments that simply repeated earlier arguments against any reform or improvement of the fee review process were addressed in the preceding analysis of the initial draft, *see* ¶ B.2. above, and will not be revisited here. The USTP's responses to the most significant comments are discussed below, and the comments are categorized by the same subject matters used above in ¶ B to categorize comments on the initial draft.[9]

a. GENERAL COMMENTS

N/A

b. SCOPE OF THE APPENDIX B GUIDELINES

1) ***Comment:*** **Use of the Appendix B guidelines by the United States Trustee should be discretionary, rather than mandatory, in cases that meet the revised threshold.**

Response: Consistent with 28 U.S.C. § 586(a)(3)(A), the Appendix B guidelines are internal procedures that the United States Trustees will apply in reviewing applications for compensation filed by attorneys employed under section 327 or 1103 in chapter 11 cases that meet the threshold. The Guidelines provide transparency in the USTP's review of fee applications by providing notice of the USTP's policy positions in the absence of controlling law or rules in the jurisdiction. They also create greater efficiency in the review of the applications by the court, parties in interest, as well as the USTP, and provide uniformity and predictability in enforcement nationally. In administering any particular case, the United States Trustee may exercise discretion in applying the Guidelines based on the facts of that case. The exercise of such discretion in a specific case will not be routine or obviate the Guidelines in any particular district.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

c. COMPARABLE COMPENSATION DISCLOSURES

2) ***Comment:*** **The disclosure of blended rates for comparable services should exclude rates from dissimilar areas of practice, such as insurance defense.**

Response: This comment misconstrues the statutory standard specified in section 330(a)(3)(F). That section expressly requires that reasonableness should be determined ''based on the customary compensation . . . in cases other than cases under this title [11].'' 11 U.S.C. § 330(a)(3)(F). Thus, a disclosure of blended rates that takes into account the rates charged in non-bankruptcy matters simply reflects Congress's stated intent that bankruptcy practitioners be compensated on terms comparable to other areas of practice, and no worse and no better. *See* Guidelines ¶ C.3. The applicant retains the right, and is encouraged, to supplement its disclosure with additional information explaining the different rate structures of the various practice groups in the firm and their impact on the firm's blended rate.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

3) ***Comment:*** **The Appendix B guidelines permit bankruptcy boutiques to exclude estate-billed engagements from the blended rate computation for comparable services, but do not permit full-service law firms to do so. This exclusion should apply to all law firms.**

Response: This comment may misunderstand the Appendix B guidelines as they apply to full-service firms. Consistent with section 330(a)(3)(F), the blended rate computation for comparable services rendered by full-service firms is based on non-bankruptcy matters billed by the firm, but not matters arising in bankruptcy cases (whether estate-paid or not). Guidelines ¶ C.3.a.iv.(a). Because bankruptcy boutiques often do not conduct a significant volume of work in non-bankruptcy matters, they are subject to a slightly different computation, which includes non-estate paid bankruptcy work (as the closest approximation to what those firms would likely bill outside of bankruptcy) while continuing to exclude estate-paid work. Guidelines ¶ C.3.a.iv.(b). There is no need to extend this specific exclusion to full-service firms because all bankruptcy-related work is already excluded from the blended rate computation for full-service firms.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

4) ***Comment:*** **The limited safe harbor on the disclosure of comparable billing data should be an absolute safe harbor from a United States Trustee objection or further disclosure.**

Response: The United States Trustee has a statutory duty to review and comment on applications for compensation as ''appropriate.'' 28 U.S.C. § 586(a)(3)(A). Accordingly, the USTP cannot prospectively limit the United States Trustee's prosecutorial discretion or authority to remedy billing abuses or insufficient disclosures. The limited safe harbor, however, is an effort to provide professionals with some comfort that making these types of disclosures will normally be sufficient to avoid the United States Trustee seeking further comparable billing information from the applicant. Guidelines ¶ C.4. Among other things, an absolute safe harbor would lead to the anomalous result where a party that fully disclosed that its bankruptcy rates are higher than its non-bankruptcy rates would be immune from an objection while admitting that it has violated the statutory standard for reasonable compensation.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

5) ***Comment:*** **The comparable billing data is proprietary, should be sought only from external sources, should be provided confidentially to the United States Trustee, and should only be obtained through discovery by the United States Trustee, not through proactive disclosure.**

Response: The suggestion that specific disclosures of customary and comparable compensation should be provided only upon request instead of proactively by the applicant improperly shifts the evidentiary burden under section 330 away from the applicant and onto the court, the United States Trustee, and other parties in interest. An applicant seeking to be paid by the bankruptcy estate under section 330 has an affirmative burden to prove that the compensation sought is reasonable, including by offering evidence sufficient to satisfy section 330(a)(3)(F). The court and other parties in interest, in addition to the United States Trustee, are entitled to information necessary to evaluate the reasonableness of an application for compensation. The statute and public interest requires transparency of the bankruptcy compensation process for the multiple stakeholders in the case. Finally, it is inefficient and uneconomical for the court and parties to have the United States Trustee propound identical discovery requests in every larger chapter 11 case when the United States Trustee will presumptively seek this information.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

6) ***Comment:*** **If an applicant includes a discounted or alternative arrangement in the blended hourly rate disclosures, the applicant should also explain its calculation methodology. Applicants should be required to disclose the specifics of any discount or**

[9] Summary of Significant Changes and Analysis of Comments Received After Posting Initial Draft Guidelines for Comment on November 4, 2011.

other alternative billing arrangement in non-bankruptcy matters.

Response: The USTP agrees that a concise statement of methodology on how the applicant calculated the blended hourly rates would be helpful and would enable those reviewing the information to determine whether the disclosed data fully and accurately reflects the information necessary for the comparison contemplated by section 330. The Appendix B guidelines have been so amended. *See* Guidelines ¶ C.3.a.iv.(d). Because the effect of discounts and alternative billing arrangements should generally be reflected in the blended hourly rate, a requirement that applicants disclose the specifics of every discount would be unlikely to produce a benefit that would outweigh the burden of making such disclosures. If the blended hourly rate does not capture the effect of discounts and alternative billing, the explanation of how the rate was calculated should explain this and may lead to further inquiry by the United States Trustee. The USTP adopted a middle ground by seeking blended rates and explanations rather than other potentially useful and informative disclosures that are more burdensome.

7) ***Comment:*** **In its response to the comments to the Appendix B guidelines as initially posted November 4, 2011, the USTP stated that ''[a] law firm that maintains that it is impossible to provide'' information relevant to the blended rate disclosures ''may explain in the fee application and attest in its statement why it is unable to do so.''** *See* **Response to Comment 9 in ¶ B.2.c. above. A commentator replied that the standard should be changed from ''impossible'' to ''impracticable,'' and some applicants may not easily produce the requested disclosures because it is cost prohibitive to produce.**

Response: The USTP agrees that an impracticability standard is more appropriate. Nevertheless, as the USTP explained in its response to the prior comments, most law firms that are retained in the larger cases that meet the threshold should have the technology and resources necessary to provide this information. *See, e.g.,* Response to Comment 9 in ¶ B.2.c. above; Response to Comment 21 in ¶ B.2.g. above. Therefore, with rare exception, cost should not be a basis for asserting impracticability in providing the blended rate disclosures.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

d. BUDGETS AND STAFFING PLANS

8) ***Comment:*** **The sharing of budgets and staffing plans between debtors-in-possession and official committees should be voluntary.**

Response: The USTP encourages counsel for the debtors-in-possession and official committees to prospectively share their respective budgets once agreed to by their clients or amended, subject to an appropriate confidentiality agreement and redaction to protect privileged or confidential information. As the USTP previously explained in response to the comments to the Appendix B guidelines as originally posted November 4, 2011, the confidential and prospective exchange of budgets between these fiduciaries facilitates communication, potentially avoids duplication, and promotes efficiency in the administration of the bankruptcy case, consistent with the requirements of section 1103 of the Bankruptcy Code. *See* Response to Comment 13 in ¶ B.2.d. above. The USTP has clarified the Appendix B guidelines to provide that, in the absence of the parties' agreement, the United States Trustee may seek a court order expressly authorizing the prospective sharing of budgets by counsel for the debtors-in-possession and the official committees. Guidelines ¶ E.8.

9) ***Comment:*** **Budgets should not be required; they should only be encouraged. Moreover, even if not required, detailed budgets should not be sought in every case because they are unnecessary, costly, and burdensome and constrain the professionals' flexibility in handling the case. Other commenters said that the USTP-sought budgets would be redundant of cash collateral and debtor-in-possession (''DIP'') loan budgets already used in every case.**

Response: In its response to the comments to the Guidelines as originally posted November 4, 2011, the USTP highlighted that it had revised the Appendix B guidelines to provide that the United States Trustee will seek budgets and staffing plans only with the consent of the parties or by court order. *See* Response to Comment 15 in ¶ B.2.d. above. The USTP also fully addressed the concerns about the effectiveness and burden to applicants of providing budgets and staffing plans. *See* Response to Comments 12 and 14 in ¶ B.2.d. above. It is undisputed that clients frequently require budgets inside and outside of bankruptcy, and that secured lenders in bankruptcy cases typically require debtors and their counsel to prepare budgets as a condition to the estate's use of cash collateral. The USTP believes that such sound practices ought to be followed as part of the fee review process. Moreover, the budgeting guidelines are not redundant of cash collateral and DIP loan budgets, which typically include a single line-item for professional fees, insofar as the guidelines include a reasonable amount of additional and relevant detail, such as a description of major areas of activity.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

10) ***Comment:*** **Budgets should not use the bankruptcy project or task codes.**

Response: As the USTP explained in its response to the comments to the Guidelines as originally posted November 4, 2011, budgets serve at least two important purposes: they help ensure that professional fees will be incurred in a more disciplined manner, and are a helpful tool to evaluate applications for compensation. *See* Response to Comments 12 and 14 in ¶ B.2.d. above. By using a common set of project and task codes, the Appendix B guidelines serve both of these purposes by ensuring that the budgeted and actual fees can be directly and transparently compared. *See* Exhibit D–1.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

11) ***Comment:*** **Budgets should not be sought during the first sixty days of a case.**

Response: The Appendix B guidelines do not impose an inflexible timetable for adopting a budget. Consistent with practices for submitting cash collateral and DIP loan budgets, the USTP's position is that budgets should be adopted earlier, rather than later.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

e. PROJECT CODES AND CATEGORIES

N/A

f. CO-COUNSEL AND STAFFING EFFICIENCIES

12) ***Comment:*** **No supplemental application for employment and corresponding order should be necessary when lead counsel transfers a matter to conflicts co-counsel.**

Response: The USTP has clarified the Appendix B guidelines to provide that when a new matter within the authorized scope of engagement for either efficiency or conflicts co-counsel is assigned by lead counsel to that co-counsel, co-counsel need not file a

supplemental retention application and obtain an amended order. Rather, co-counsel should file a supplemental declaration in accordance with Bankruptcy Rule 2014, and provide notice of the filing sufficient to afford parties in interest an opportunity to object. Nevertheless, if the matter does not fall within the authorized scope of engagement, co-counsel should file a supplemental retention application and obtain an amended order to expand the scope of the engagement to include that matter. Guidelines ¶ F.1.c.

13) ***Comment:*** **The Appendix B guidelines should not provide that the USTP will object to the use of conflicts counsel in situations in which lead counsel may negotiate, but not litigate, a particular matter.**

Response: The USTP has revised the Appendix B guidelines to clarify that the use of conflicts counsel to litigate a specific matter as to which lead counsel's involvement is limited to negotiation is generally objectionable, and the United States Trustee retains discretion whether to object in a particular situation. Negotiation without the ability to litigate against a party usually will render a lawyer disqualified from the matter, and such disqualification cannot be cured by retention of conflicts counsel to handle the litigation. Guidelines ¶ F.3.c.

14) ***Comment:*** **The Appendix B guidelines should clarify that they do not limit the use of ordinary course professionals, local counsel, or special counsel.**

Response: The USTP agrees and has amended the Appendix B guidelines accordingly. *See* Guidelines ¶ B.2.c.

15) ***Comment:*** **The Appendix B guidelines should not apply to ordinary course professionals or special counsel.**

Response: The Appendix B guidelines have been clarified to provide that they do not preclude the use of counsel retained and paid as an ordinary course professional pursuant to appropriate court order or local rule. Guidelines ¶ B.2.c. The USTP acknowledges that ordinary course professionals are distinguishable from other counsel retained by the estate, including special counsel, because the court's order authorizing the retention or local rule governs whether and when they are required to file a fee application. Thus, the Appendix B guidelines have been further clarified to provide that generally they will not apply to an ordinary course professional, unless the professional is required to file a fee application under the court's order authorizing retention or local rule. Guidelines ¶ A.3.

g. ELECTRONIC DATA

16) ***Comment:*** **Electronic records should be provided only to the debtor, official committees, and the United States Trustee.**

Response: Section 330 provides for an open and public bankruptcy compensation process whereby all parties in interest and the court have access to relevant information necessary to evaluate whether the applicant has sustained its burden that the compensation sought to be paid from the estate is reasonable. Nevertheless, the USTP agrees that it is likely more efficient that, in the ordinary course, an applicant provide the billing data in an electronic format to the court, the United States Trustee and those parties in interest most likely to use the information electronically, provided that other parties in interest may obtain it upon request. Accordingly, the USTP has revised the Appendix B guidelines to provide that an applicant should provide electronic billing data to the court, the debtor in possession (or trustee), official committees, the United States Trustee, and the fee review committee, examiner, or auditor. Other parties in interest should receive the electronic billing data upon requesting it from the applicant. Guidelines ¶ C.10.

h. APPLICATIONS FOR EMPLOYMENT AND RELATED VERIFICATIONS

17) ***Comment:*** **If an applicant has represented the client at any time during the 12 months prepetition, then it should disclose in the retention application the specifics of its billing arrangement, including discounted rates, write-down policies, or other material terms affecting the billing and compensation arrangement. Similarly, if the applicant has changed the terms of its billing arrangements with the client during the postpetition period, the applicant should explain why.**

Response: The USTP agrees that these specific disclosures and explanations would be helpful and meaningful. The USTP has amended the Appendix B guidelines to provide that applicants who represented the client in the 12 months prepetition should disclose specific and material information regarding their prepetition billing rates and financial terms to explain the reasons for any difference between prepetition and postpetition billing rates and terms. Guidelines ¶ D.1.c.

18) ***Comment:*** **The applicant's disclosure with the application for employment currently asks whether the applicant is billing its client at the same "effective rate" as was in effect prepetition. This may cause confusion because alternative arrangements may not readily translate into hourly rates and elsewhere the Appendix B guidelines use the term blended hourly rate.**

Response: The USTP agrees and has amended the Appendix B guidelines to delete references to "effective rate." Instead, the applicant should disclose and explain any postpetition change in "billing rates and material financial terms." Guidelines ¶ D.1.c.

19) ***Comment:*** **The client verification with the application for employment should not verify that the engagement is at "market rate." Rather, the client should only verify that the rate and terms are proper under the circumstances because clients should be free to select the best counsel for the engagement.**

Response: The Bankruptcy Code requires that the compensation for an estate-paid engagement be reasonable as compared to customary compensation for similarly skilled practitioners in cases other than under Title 11. That means a market rate. Nevertheless, the USTP has clarified the Appendix B guidelines to conform to the language of section 330. Guidelines ¶¶ D.2.b., d.

i. FEE APPLICATIONS

N/A

j. COMPENSATION FOR PARTICULAR MATTERS

20) ***Comment:*** **Compensation for preparing monthly invoices when a case has a monthly compensation order should be allowed if it is not duplicative of preparing interim fee applications. Conversely, compensation for preparing interim fee applications should be allowed if it is not duplicative of preparing monthly invoices.**

Response: The USTP agrees and has revised the Appendix B guidelines to provide that the United States Trustee will not object to the extent that monthly invoices under a monthly compensation order effectively serve as the interim fee application and the applicant seeks no additional compensation for preparing the interim fee application because the time was expended on the related monthly invoices (or vice versa). Guidelines ¶ B.2.f.(iv).

21) ***Comment:*** **Applicants should be compensated for responding to inquiries and negotiating issues related to applications for compensation.**

Response: The USTP disagrees. Applicants should and do have the incentive to prepare an unobjectionable

application for compensation in the first instance. Reasonable and proportionate time for fee application preparation is compensable. Applicants should not be rewarded with additional compensation for responding to inquiries and objections that should have been avoided, particularly when the statutory standards are well-developed and the USTP guidelines are clear.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

22) ***Comment:*** **The Appendix B guidelines make an exception for objecting to ''fees on fees'' for activities that fall within a ''judicially-recognized and binding exception (such as litigating an objection to the application where the applicant substantially prevails).'' The use of the word ''binding'' suggests only authority by the applicable court of appeals on an issue would be considered binding, whereas the prevailing law in the lower courts would not.**

Response: The USTP has clarified its position to provide that fees for contesting or litigating objections to applications for compensation are generally inappropriate unless they fall within a judicial exception applicable within the district allowing such fees. The term ''binding'' has been deleted from the exception. Guidelines ¶ B.2.g.

The USTP concludes that no other changes are necessary to the Guidelines based on these comments.

23) ***Comment:*** **The USTP standard that it will object to fees for responding to objections to fees unless the applicant substantially prevails on the objection should be the court's decision and is inconsistent with the Bankruptcy Code.**

Response: This standard represents the litigating position of the USTP that applicants who pursue unmeritorious positions in defending their fees, and thereby waste the resources of the court and parties, should not be entitled to payment of fees. The USTP's position follows the bankruptcy court's decision in *In re Motors Liquidation Co.,* No. 09–50026, Bench Decision on Pending Fee Issues, at 2 (Bankr. S.D.N.Y. Nov. 23, 2010) (ECF No. 7896), which appropriately takes into account inherent litigation risks and the reasonableness of the applicant's arguments.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

24) ***Comment:*** **The Appendix B guidelines should not treat phone charges related to multi-party, case-specific conference calls as overhead and should instead consider them a reimbursable expense.**

Response: The USTP agrees and has revised the Appendix B guidelines to provide that actual charges for multi-party conference calls related to the case will be considered a reimbursable expense, not overhead. Guidelines ¶ B.3.e.

k. FEE REVIEW ENTITIES

25) ***Comment:*** **If the court appoints a fee committee, fee examiner, or other reviewer, the United States Trustee should defer all compensation and expense inquiries and objections to such reviewed to avoid subjecting the applicant to multiple and competing demands for information.**

Response: The United States Trustee has an independent statutory duty to review and comment on applications for compensation. 28 U.S.C. § 586(a)(3)(A). That duty cannot be delegated. Nevertheless, the United States Trustee will not lightly deviate from positions taken by the fee committee, examiner or other reviewer.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

26) ***Comment:*** **The United States Trustee should use discretion and only seek a fee committee or examiner when circumstances dictate. Similarly, the appointment should be sought at the earliest stages of the case.**

Response: The Appendix B guidelines already address these issues and provide that the United States Trustee will ''ordinarily'' seek appointment of a fee review entity. Guidelines ¶ G.1. The Guidelines acknowledge that the appointment is ultimately the court's decision. Similarly, the United States Trustee will ordinarily seek a fee committee, examiner or other review entity ''as soon as practicable after the order for relief.'' Guidelines ¶ G.2.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

27) ***Comment:*** **The scope of fee review entities should be expanded to include active consultation with and oversight of the clients regarding the retention of professionals and the terms of those retentions, which should reflect market-driven considerations.**

Response: The USTP strongly concurs that section 330(a)(3)(F) expresses Congress' intention that professional compensation in bankruptcy be market driven. Oversight of professionals retained on behalf of the estate must be limited to ensuring that they satisfy the requirements set by Congress in the Bankruptcy Code, including sections 327 and 330, without overreaching. Moreover, while the United States Trustee ordinarily will seek the appointment of a fee review entity as soon as practicable after the order for relief, it typically will not be in place when most applications for employment are filed early in the case. Consequently, the Appendix B guidelines are not being changed to give the fee review entities any additional express responsibilities.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

l. MISCELLANEOUS COMMENTS

28) ***Comment:*** **One commenter suggested that the Appendix B guidelines ''provide a useful template for any court that wishes to systematize a law firm's explanation of its fees and expenses'' in larger chapter 11 cases, and that if the courts adopted these as local rules that ''would create a single set of expectations for what belongs in fee applications in such cases.'' Prof. Rapoport Letter, dated November 6, 2012.**

Response: The USTP agrees and will urge courts to incorporate the Appendix B guidelines into their local rules or general orders, as many have with the existing Appendix A guidelines. Uniformity and consistency in the USTP's review of fee applications will benefit the courts, the applicants, and the public, in addition to the USTP. Moreover, before the Guidelines go effective, the USTP will engage in a systematic training and outreach effort related to the Appendix B guidelines, including coordination and training with relevant professional associations.

The USTP concludes that no changes are necessary to the Guidelines based on these comments.

29) ***Comment:*** **The requested disclosures for rate increases should not include annual ''step increases'' related to the advancement of an attorney but should be limited only to increases of the overall rate structure.**

Response: The USTP agrees. The USTP has revised the Appendix B guidelines to provide that the disclosure of rate increases and calculations of their effect may exclude annual ''step increases'' historically awarded in the ordinary course to attorneys throughout the firm due to advancing seniority and promotion, if the firm distinguishes between ''step increases'' and other types of rates increases. Guidelines ¶ B.2.d., n.2. Nevertheless, applicants should not attempt to characterize actual rate increases that are unrelated to an attorney's advancing seniority and promotion as ''step increases'' in effort

to thwart meaningful disclosure or billing discipline. If a firm does not distinguish between ''step increases'' and other types of rate increases, it should disclose and explain all rate increases.

June 12, 2013

Submitting on Behalf of the U.S. Trustees Office,
Jerri Murray,
Department Clearance Officer for PRA, U.S. Department of Justice

[FR Doc. 2013–14323 Filed 6–14–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Regulations Containing Procedures for Handling of Retaliation Complaints

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) revision titled, ''Regulations Containing Procedures for Handling of Retaliation Complaints,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.).

DATES: Submit comments on or before July 17, 2013.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201305-1218-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: The OSHA administers and enforces a number of provisions in various Federal laws and regulations prohibiting retaliatory action by an employer against an employee who is believed to have reported a possible violation of those laws or regulations, or who otherwise engages in an activity protected specified by an anti-retaliation provision. Any person may file a complaint alleging the employer violated these protection provisions with the OSHA for investigation. This ICR has been classified as a revision, because the OSHA is making Web-based and paper options available for filing complaints. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on January 17, 2013 (78 FR 3918).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0236. The DOL notes that existing information collection requirements remain in effect while they undergo review. New information collection requirements would only take upon OMB approval.

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0236. The OMB is particularly interested in comments that:

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

Agency: DOL–OSHA.

Title of Collection: Regulations Containing Procedures for Handling of Retaliation Complaints.

OMB Control Number: 1218–0236.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 2,872.

Total Estimated Number of Responses: 2,872.

Total Estimated Annual Burden Hours: 2,872.

Total Estimated Annual Other Costs Burden: $0.

Dated: June 11, 2013.

Michel Smyth,
Departmental Clearance Officer.

[FR Doc. 2013–14248 Filed 6–14–13; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 13–065]

NASA Advisory Council; Science Committee; Astrophysics Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–462, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Astrophysics Subcommittee of the NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Tuesday, July 16, 2013, 9:00 a.m. to 5:00 p.m., and Wednesday, July 17, 2013, 9:00 a.m. to 4:00 p.m., Local Time.

ADDRESSES: NASA Goddard Space Flight Center, Building 1, Rooms E100D

and E100E, 8800 Greenbelt Road, Greenbelt, Maryland 20771.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Norris, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–4452 or *mnorris@nasa.gov*.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. This meeting is also available telephonically and by WebEx. Any interested person may call the USA toll free conference call number (800) 857–7040, pass code APS, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com/,* the meeting number on July 16 is 994 082 104, and the password is APS@July16; the meeting number on July 17 is 990 483 015, and the password is APS@July17. The agenda for the meeting includes the following topics:

—Astrophysics Division Update
—Astrophysics Roadmap
—James Webb Space Telescope Briefing

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. All attendees will be requested to sign a register and to comply with NASA security requirements. U.S. attendees must show a valid State or Federal issued photo ID, passport, or Permanent Resident green card, before receiving an access badge to enter into the NASA Goddard Space Flight Center and must state that they are attending the NASA Advisory Council's Astrophysics Subcommittee meeting in Building 1. All U.S. citizens and green card holders desiring to attend must provide their full name, company affiliation (if applicable), and citizenship to Marian Norris via email at *mnorris@nasa.gov* or by telephone at (202) 358–4452 no later than the close of business July 9, 2013. Foreign Nationals must provide following information: full name, gender, date/place of birth, citizenship, home address, visa information (number, type, expiration date), passport information (number, country of issue, expiration date), employer/affiliation information (name of institution, title/position, address, country of employer, telephone, email address), and an electronically scanned copy of their passport and visa to Marian Norris via email at *mnorris@nasa.gov* no later than close of business July 1, 2013. If the above information is not received by the noted dates, U.S. attendees should expect a minimum delay of two (2) hours, and Foreign Nationals may not be granted entrance. All visitors to this meeting will report to the Goddard Space Flight Center (GSFC) Main Gate where they will be processed through security prior to entering GSFC. For security questions on the day of the meeting, please call Mary Holland at (301) 286–5412 or email *mary.holland@nasa.gov*.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2013–14324 Filed 6–14–13; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Thursday, June 20, 2013

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. Illinois Member Business Loan Rule.

RECESS: 10:45 a.m.

TIME AND DATE: 11:00 a.m., Thursday, June 20, 2013.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Consideration of Supervisory Activities. Closed pursuant to the following exemptions: (8), (9)(i)(B) and (9)(ii).

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, Telephone: 703–518–6304.

Mary Rupp,

Board Secretary.

[FR Doc. 2013–14508 Filed 6–13–13; 4:15 pm]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–025; NRC–2008–0252]

Vogtle Electric Generating Plant, Unit 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Determination of inspections, tests, analyses, and acceptance criteria completion.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) staff has determined that the inspections, tests, and analyses have been successfully completed, and that the specified acceptance criteria are met for Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) E.2.5.04.05.05.01, for the Vogtle Electric Generating Plant, Unit 3.

ADDRESSES: Please refer to Docket ID NRC–2008–0252 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0252. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; 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 access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Brian Anderson, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–9967, email: *Brian.Anderson@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Licensee Notification of Completion of ITAAC

On February 1, 2013, Southern Nuclear Operating Company, Inc. (the licensee) submitted an ITAAC closure notification (ICN) under section 52.99(c)(1) of Title 10 of the *Code of Federal Regulations* (10 CFR), informing the NRC that the licensee has successfully performed the required inspections, tests, and analyses for ITAAC E.2.5.04.05.05.01, and that the specified acceptance criteria are met for Vogtle Electric Generating Plant, Unit 3

(ADAMS Accession No. ML13032A592). This ITAAC was approved as part of the issuance of the combined license, NPF–91, for this facility.

NRC Staff Determination of Completion of ITAAC

The NRC staff has determined that the inspections, tests, and analyses have been successfully completed, and that the specified acceptance criteria are met for Vogtle Electric Generating Plant, Unit 3, ITAAC E.2.5.04.05.05.01. This notice fulfills the staff's obligations under 10 CFR 52.99(e)(1) to publish a notice in the **Federal Register** of the NRC staff's determination of the successful completion of inspections, tests and analyses.

The documentation of the NRC staff's determination is in the ITAAC Closure Verification Evaluation Form (VEF), dated March 19, 2013 (ADAMS Accession No. ML13109A243). The VEF is a form that represents the NRC staff's structured process for reviewing ICNs. The ICN presents a narrative description of how the ITAAC was completed, and the NRC's ICN review process involves a determination on whether, among other things, (1) the ICN provides sufficient information, including a summary of the methodology used to perform the ITAAC, to demonstrate that the inspections, tests, and analyses have been successfully completed; (2) the ICN provides sufficient information to demonstrate that the acceptance criteria are met; and (3) any required inspections for the ITAAC have been completed and any ITAAC findings associated with the ITAAC have been closed.

The NRC staff's determination of the successful completion of this ITAAC is based on information available at this time and is subject to the licensee's ability to maintain the condition that the acceptance criteria are met. If new information disputes the NRC staff's determination, this ITAAC will be reopened as necessary. The NRC staff's determination will be used to support a subsequent finding, pursuant to 10 CFR 52.103(g), at the end of construction that all acceptance criteria in the combined license are met. The ITAAC closure process is not finalized for this ITAAC until the NRC makes an affirmative finding under 10 CFR 52.103(g). Any future updates to the status of this ITAAC will be reflected on the NRC's Web site at *http://www.nrc.gov/reactors/new-reactors/oversight/itaac.html.*

Dated at Rockville, Maryland, this 10th day of June 2013.

For the Nuclear Regulatory Commission.

Brian Anderson,

Senior Project Manager, Licensing Branch 4, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2013–14307 Filed 6–14–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0159]

Fuel Oil Systems for Emergency Power Supplies

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing revision 2 of Regulatory Guide (RG) 1.137, ''Fuel Oil Systems for Emergency Power Supplies.'' Revision 2 of RG 1.137 endorses ANSI/ANS–59.51–1997, ''Fuel Oil Systems for Safety-Related Emergency Diesel Generators,'' (reaffirmed in October 2007) with the exceptions and clarification stated in the RG. ANSI/ANS–59.51–1997 describes methods that the NRC considers acceptable for use in complying with NRC regulations for assuring the quality of fuel oil for emergency diesel generators used in nuclear power plants.

ADDRESSES: Please refer to Docket ID NRC–2012–0159 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, using the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0159. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. Revision 2 of Regulatory Guide 1.137, is available in ADAMS under Accession No. ML12300A122. The regulatory analysis may be found in ADAMS under Accession No. ML121090459.
- *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.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER TECHNICAL INFORMATION CONTACT: Mark Orr, Division of Engineering, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–251–7495; email: *Mark.Orr@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is issuing a revision to an existing guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

II. Further Information

Revision 2 of RG 1.137 endorses American National Standards Institute (ANSI), American Nuclear Society (ANS) (ANSI/ANS) Standard 59.51–1997, ''Fuel Oil Systems for Safety-Related Emergency Diesel Generators,'' (reaffirmed in October 2007), and American Society for Testing and Materials (ASTM) standard D975–13, ''Standard Specification for Diesel Fuel Oils,'' with the exceptions stated in the regulatory positions. Both ANSI/ANS–59.51–1997 and ASTM D975–13 describe methods the NRC considers acceptable for use in complying with NRC requirements for assuring the quality of fuel oil and fuel oil systems for emergency diesel generators used in nuclear power plants. The methods described in ANSI/ANS 59.51–1997 and ASTM D975–13 are consistent with NRC requirements derived from ''General Design Criteria (GDC) 17, Electric Power Systems'' in Appendix A to Part 50 of Title 10, of the *Code of Federal Regulations* (10 CFR),

''Domestic Licensing of Production and Utilization Facilities,'' and 10 CFR 50.55a.

The 1979 revision to RG 1.137 endorsed the guidance in ANSI Standard N195–1976, ''Fuel Oil Systems for Standby Diesel-Generators.'' The ANSI standard was revised in 1989 and reformatted and revised in 1997 as ANSI/ANS–59.51–1997 with no change to RG 1.137. Revision 2 of RG 1.137 endorses the most current version of the ANSI/ANS standard.

Revision 2 of RG 1.137 was issued with a temporary identification as Draft Regulatory Guide, DG–1282 on July 5, 2012 (77 FR 39745) for a 60-day public comment period. The public comment period was extended until September 28, 2012 (77 FR 48177). Public comments were received and addressed by the NRC staff. These comments and the NRC staff responses are available in ADAMS under Accession No. ML12300A121.

The NRC prepared a regulatory analysis for the development of DG–1285 and it is available in ADAMS under Accession No. ML121090459.

Revision 2 of RG 1.137 supersedes Revision 1 of RG 1.137, and represents the NRC staff's guidance for future users and applications. Earlier versions of this regulatory guide, however, continue to be acceptable for those licensees whose licensing basis includes earlier versions of this regulatory guide, absent a licensee-initiated change to its licensing basis. Additional information on the staff's use of this revised regulatory guide with respect to both current and future users and applications is set forth in the ''Implementation'' section of the revised regulatory guide.

III. Backfitting and Issue Finality

Issuance of this final regulatory guide does not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR Part 52. As discussed in the ''Implementation'' section of this regulatory guide, the NRC has no current intention to impose this regulatory guide on holders of current operating licenses or combined licenses.

This regulatory guide may be applied to applications for operating licenses and combined licenses docketed by the NRC as of the date of issuance of the final regulatory guide, as well as future applications for operating licenses and combined licenses submitted after the issuance of the regulatory guide. Such action does not constitute backfitting as defined in 10 CFR 50.109(a)(1) or is otherwise inconsistent with the applicable issue finality provision in 10 CFR Part 52, inasmuch as such applicants or potential applicants are not within the scope of entities protected by the Backfit Rule or the relevant issue finality provisions in Part 52.

Congressional Review Act

This regulatory guide is a rule as designated in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget (OMB) has not found it to be a major rule as designated in the Congressional Review Act.

Dated at Rockville, Maryland, this 7th day of June, 2013.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2013–14309 Filed 6–14–13; 8:45 am]

BILLING CODE 7590–01–P

PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

[Notice–PCLOB–2013–03; Docket No 2013–0004; Sequence No. 3]

Sunshine Act Meeting

TIME AND DATE: 1:00 p.m.–3:00 p.m. on Wednesday, June 19, 2013.

PLACE: The meeting will be held at 2100 K Street NW., Washington, DC 20427.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The Privacy and Civil Liberties Oversight Board will meet in closed session to discuss classified information pertaining to the PRISM-related activities and the Foreign Intelligence Surveillance Act.

The Government in the Sunshine Act, 5 U.S.C. 552b, normally requires that agencies provide at least one week prior notice to the public of the time, date, and location of meetings. As permitted by section 552b(e)(1), the Board determined, by recorded vote, that agency business requires that this meeting be called at an earlier date.

CONTACT PERSON FOR MORE INFORMATION: Susan Reingold, Chief Administrative Officer, 202–331–1986.

Dated: June 12, 2013.

Claire McKenna,

Legal Counsel.

[FR Doc. 2013–14431 Filed 6–13–13; 11:15 am]

BILLING CODE 6820–B3–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [78 FR 35075, June 11, 2013].

STATUS: Closed Meeting.

PLACE: 100 F Street NE., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: June 13, 2013 at 2:00 p.m.

CHANGE IN THE MEETING: Additional Item.

The following matter will also be considered during the 2:00 p.m. Closed Meeting scheduled for Thursday, June 13, 2013: a personnel matter.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions as set forth in 5 U.S.C. 552b(c)(2) and (6) and 17 CFR 200.402(a)(2) and (6), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Walter, as duty officer, voted to consider the item listed for the Closed Meeting in closed session, and determined that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: June 12, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–14422 Filed 6–13–13; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69735; File No. SR–NYSE–2013–39]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Rule 103B, Section III(A) To Increase From Three to Four the Minimum Number of DMM Units an Issuer Must Interview From the Pool of DMM Units Eligible To Participate in the Allocation Process

June 11, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

notice is hereby given that, on June 6, 2013, New York Stock Exchange LLC (the ''Exchange'' or ''NYSE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 103B, Section III(A) to increase from three to four the minimum number of DMM units an issuer must interview from the pool of DMM units eligible to participate in the allocation. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Rule 103B, Section III(A) (''Security Allocation and Reallocation'') to increase from three to four the minimum number of DMM units an issuer must interview from the pool of DMM units eligible to participate in the allocation process.

Rule 103B provides two options for the allocation of securities to DMMs: (1) The issuer selects the DMM unit; or (2) the issuer delegates selection of the DMM unit to the Exchange.[3] If the issuer proceeds under the first option, the listing company selects the DMM units it wishes to interview. A DMM unit's eligibility to participate in the allocation process is based on objective criteria and determined at the time the interview is scheduled.

Within five business days after the issuer selects the DMM units to be interviewed, the issuer meets with representatives of each of the DMM units. At least one representative of the listing company must be a senior official of the rank of Corporate Secretary or above of that company. Additionally, no more than three representatives of each DMM unit may participate in the meeting, each of whom must be an employee of the DMM unit, and one of whom must be the individual DMM who is proposed to trade the company's security, unless that DMM is unavailable to appear, in which case a telephone interview is permitted.

Following the interview, a DMM unit may not have any contact with an issuer. If an issuer has a follow-up question regarding any DMM unit(s) it interviewed, it must be conveyed to the Exchange. The Exchange then contacts the unit(s) to which the question pertains and provides any available information received from the unit(s) to the listing company. Within two business days of the issuer's interviews with the DMM units, the issuer selects its DMM unit in writing. The Exchange then confirms the allocation of the security to that DMM unit, at which time the security is deemed to have been so allocated.

If the issuer decides to select the DMM unit itself and conducts interviews pursuant to the above process, the issuer is currently required to select a minimum of three DMM units to interview from the pool of DMM units eligible to participate in the allocation process. The Exchange is proposing to increase the minimum number of DMM units that must be interviewed from three to four.[4] By increasing the minimum number of DMM units that must be interviewed, a larger number of DMM firms will have an opportunity to participate in the allocation process, which will lead to an increase in competition without being overly burdensome on the issuer. The increase in number of DMM units to interview will also provide the issuer with more choice in the selection of its assigned DMM unit. The Exchange believes that the increase in competition will provide DMM units with a greater incentive to perform optimally.[5]

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5),[7] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The Exchange believes that the proposal will promote just and equitable principles of trade because it will allow more DMM units to participate in the allocation process. The inclusion of these additional DMM units, moreover, will be based on objective criteria. Additionally, the Exchange believes that the proposal is designed to remove impediments to, and perfect the mechanism of a free and open market because increasing the number of DMMs participating in the allocations will increase competition to provide services to issuers and, thus, provide DMM units with a greater incentive to perform optimally, and will provide the issuer with more choice in the selection of its assigned DMM unit.

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 Exchange believes that the proposed rule change will increase competition among DMM units by allowing more DMM units to participate in the interview process and provide DMM units with a greater incentive to perform optimally potentially and enhance the quality of the services DMMs provide to issuers. While the proposal may increase the burden on issuers during the allocation process, the Exchange believes that any such increase will be small relative to the benefits that additional competition between DMM units may provide. Issuers could, moreover, permit the Exchange to select the DMM unit pursuant to the process

[3] In 2008, the Commission approved the Exchange's amendments to its rules to allow an issuer to select the DMM units it chooses to interview directly from the DMM units that are eligible to participate in the allocation process and eliminated the Allocation Committee. *See* Securities Exchange Act Release No. 58857 (Oct. 24, 2008), 73 FR 65435 (Nov. 3, 2008) (SR–NYSE–2008–52) (Approval Order).

[4] When a security is put up for reallocation, pursuant to NYSE Rule 103B, Section IV, the allocation process set forth in NYSE Rule 103B, Section III is followed. Under the proposed amendment, therefore, if an issuer chooses to select the DMM unit itself during the reallocation process, the issuer will have to interview a minimum of four DMM units.

[5] The Exchange also proposes to make technical, non-substantive changes to Rule 103B to conform the style of the headings in the rule.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

found in NYSE Rule 103B, Section III(B), which would lessen the burden of the allocation process on such issuers.[8]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the 30-day operative delay will benefit the Exchange's market, issuers, and investors. Therefore, the Commission designates the proposal operative upon filing.[11]

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)[12] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2013–39 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2013–39. 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 the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2013–39 and should be submitted on or before July 8, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14256 Filed 6–14–13; 8:45 am]

BILLING CODE 8011–01–P

[8] Despite delegating authority to the Exchange to select its DMM unit, an issuer may choose to submit a letter to the Exchange Selection Panel (''ESP'') indicating its preference and supporting justification for a particular DMM unit. *See* NYSE Rule 103B, Section III(B)(1).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78s(b)(2)(B).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69734; File No. SR–NYSE–2013–35]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Price List Related to Certain Pricing Applicable to Supplemental Liquidity Providers on the Exchange

June 11, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on May 30, 2013, New York Stock Exchange LLC (the ''Exchange'' or ''NYSE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List related to certain pricing applicable to Supplemental Liquidity Providers (''SLPs'') on the Exchange. The Exchange proposes to implement the fee change effective June 1, 2013. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List related to certain pricing applicable to SLPs on the Exchange. The Exchange proposes to implement the fee change effective June 1, 2013.

An SLP is a member organization that electronically enters orders or quotes from off the Floor of the Exchange into the systems and facilities of the Exchange and is obligated to maintain a bid or an offer at the National Best Bid (''NBB'') or the National Best Offer (''NBO'') in each assigned security in round lots averaging at least 10% of the trading day (the ''percentage quoting requirement'').[3] In addition, for all assigned SLP securities, an SLP is required to satisfy a ''monthly volume requirement'' by adding liquidity of an average daily volume (''ADV'') of more than a specified percentage (currently 0.22%) of consolidated ADV (''CADV'') in all NYSE-listed securities, as set forth in the Exchange's Price List.[4]

SLPs are eligible for credits when adding liquidity to the Exchange.[5] The amount of the credit is currently determined by the ''tier'' that the SLP qualifies for, which is generally based on the SLP's level of quoting and the ADV of liquidity added by the SLP in assigned securities.[6] The current rate for the base tier is $0.0015 per share (or $0.0010 if a Non-Displayed Reserve Order), which is applicable if an SLP does not satisfy the percentage quoting requirement or the monthly volume requirement and therefore does not qualify for the higher SLP tiers (and corresponding credits) in the Price List. The Exchange proposes that, instead of the static $0.0015 rate, the applicable rate for the base SLP tier would be the rate that applies to the non-SLP activity of the member organization (i.e., a $0.0015, $0.0017, or $0.0018 per share credit when adding liquidity to the Exchange). As a result, if an SLP did not qualify for one of the higher SLP tiers (e.g., a $0.0023 or $0.0025 per share credit), the SLP's transactions that add liquidity would be subject to the same rate that applies to the non-SLP transactions of the SLP's member organization. These rates are currently as follows:[7]

- A $0.0015 per share credit (or $0.0010 if a Non-Displayed Reserve Order) for adding liquidity to the Exchange, unless a higher credit applies;
- A $0.0017 per share credit when adding displayed liquidity to the Exchange if the member organization has ''Adding ADV''[8] that is at least 0.20% of NYSE CADV and executes market at-the-close (''MOC'') and limit at-the-close (''LOC'') orders of at least 0.10% of NYSE CADV; or
- An $0.0018 per share credit when adding displayed liquidity to the Exchange if the member organization satisfies certain thresholds related to ''Adding ADV,'' MOC and LOC activity, SLP activity and ''Customer Electronic Adding ADV.''[9]

In order to provide clarity regarding the applicable rates, the Exchange proposes to label these existing $0.0015, $0.0017, and $0.0018 per share credits the ''non-Tier Adding Credit,'' the ''Tier 2 Adding Credit'' and the ''Tier 1 Adding Credit,'' respectively.[10]

The Exchange is proposing this change because the current pricing structure could result in an SLP's transactions that add liquidity receiving a price that is inferior to that of the non-SLP transactions of the same member organization. The potential for this inferior pricing is the result of a pricing change that became effective October 1, 2012, through which the Exchange introduced the $0.0017 and $0.0018 rates in the Price List for non-SLP activity of a member organization that adds liquidity.[11] Prior to the introduction of these two rates, the non-SLP rate for adding liquidity was $0.0015 for all member organizations, which is the same as the base SLP credit rate.[12] Accordingly, prior to October 2012 it was not possible for an SLP to receive a rate for adding liquidity that was inferior to the rate applicable to non-SLP activity of a member organization, even if the SLP failed to satisfy the percentage quoting requirement or the monthly volume requirement. The Exchange notes that SLP volume is counted when determining whether a member organization has achieved the non-SLP pricing thresholds that correspond to the rates introduced in October 2012.

The SLP program provides incentives for quoting and adds competition to the existing group of liquidity providers. Specifically, by requiring SLPs to quote at the NBB or NBO a percentage of the regular trading day in their assigned securities, and by paying a rebate to SLPs, the Exchange believes that it rewards aggressive liquidity providers and encourages the additional utilization of, and interaction with, the Exchange and provides customers with the premier venue for price discovery, liquidity, competitive quotes and price improvement.[13]

The Exchange believes that it is inconsistent with the goal of the SLP program to continue to permit an SLP to receive a rate that is inferior to that

[3] *See* Rule 107B(a). An SLP can either be a proprietary trading unit of a member organization or a registered market maker at the Exchange. If an SLP does not satisfy the percentage quoting requirement, it may be subject to certain non-regulatory penalties. Specifically, if the SLP failed to satisfy the percentage quoting requirement during a particular month, it would be ineligible to receive higher SLP credits. If the SLP failed to satisfy the percentage quoting requirement for three consecutive calendar months in any assigned security, the SLP would be at risk of having its assignment in the affected security(ies) revoked or being disqualified from its status as an SLP. *See* Rule 107B(k).

[4] An SLP's failure to satisfy the monthly volume requirement would not result in the non-regulatory penalties described in Rule 107B(k). Rather, the monthly volume requirement only determines whether an SLP would be eligible for higher SLP credits.

[5] SLP credits are not applicable to executions of securities with a per share price of $1.00 or more at the close.

[6] For purposes of SLP liquidity credits, ADV calculations exclude early closing days.

[7] The Exchange notes that the $0.0010 rate for a Non-Displayed Reserve Order would not change as a result of this proposal.

[8] ''Adding ADV'' is when a member organization has ADV that adds liquidity to the Exchange during the billing month. Adding ADV excludes any liquidity added by a Designated Market Maker.

[9] An $0.0018 per share credit is provided per transaction when adding displayed liquidity to the Exchange if (i) the member organization has Adding ADV that is at least 1.5% of NYSE CADV, and executes MOC and LOC orders of at least 0.375% of NYSE CADV, (ii) the member organization has Adding ADV that is at least 0.8% of NYSE CADV, executes MOC and LOC orders of at least 0.12% of NYSE CADV, and adds liquidity to the NYSE as an SLP for all assigned SLP securities in the aggregate (including shares of both an SLP proprietary trading unit and an SLP market maker of the same member organization) of more than 0.15% of NYSE CADV, or (iii) the member organization has ADV that adds liquidity in customer electronic orders to the NYSE (''Customer Electronic Adding ADV,'' which shall exclude any liquidity added by a Floor broker, Designated Market Maker, or SLP) during the billing month that is at least 0.5% of NYSE CADV, executes MOC and LOC orders of at least 0.12% of NYSE CADV, and has Customer Electronic Adding ADV during the billing month that, taken as a percentage of NYSE CADV, is at least equal to the member organization's Customer Electronic Adding ADV during September 2012 as a percentage of CADV in NYSE-listed securities during September 2012 plus 15%.

[10] This proposed change would have no impact on these existing rates or the Exchange's method of determining applicability.

[11] *See* Securities Exchange Act Release No. 68021 (October 9, 2012), 77 FR 63406 (October 16, 2012) (SR–NYSE– 2012–50).

[12] The $0.0015 rate still applies for member organizations that do not qualify for the $0.0017 or $0.0018 rates.

[13] *See* Securities Exchange Act Release No. 58877 (October 29, 2008), 73 FR 65904–05 (November 5, 2008) (SR–NYSE–2008–108).

received by non-SLP activity of a member organization, because it could disincentivize member organizations from participating as SLPs and therefore lead to decreased levels of liquidity. Accordingly, the Exchange proposes to amend the Price List to specify that the rate applicable to the base SLP tier would be the applicable non-Tier Adding Credit, Tier 2 Adding Credit or Tier 1 Adding Credit (or $0.0010 if a Non-Displayed Reserve Order).

The Exchange notes that the proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any problems that member organizations, including SLPs, would have in complying with the proposed change.

The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[15] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed change is reasonable because the current pricing structure could result in an SLP's transactions that add liquidity receiving a price that is inferior to that of the non-SLP transactions of the same member organization. This is inconsistent with the goal of the SLP program, because it could disincentivize member organizations from participating as SLPs and therefore lead to decreased levels of liquidity.[16]

For example, an SLP must satisfy both the percentage quoting requirement and the monthly volume requirement in order to qualify for the higher SLP credits. However, only satisfaction of the percentage quoting requirement is required to avoid the non-regulatory penalties that are applicable to SLPs (i.e., the monthly volume requirement only determines whether the SLP is eligible for higher SLP credits). Accordingly, an SLP that satisfied the percentage quoting requirement would have satisfied its SLP ''obligations,'' but if it did not satisfy the monthly volume requirement it would not receive the higher SLP credits and therefore could receive a lower credit than the non-SLP activity of the same member organization.

The Exchange believes that this proposed change is also equitable and not unfairly discriminatory because it would result in a rate being applied to an SLP that does not qualify for the higher SLP tiers (and corresponding credits) that is the same as the rate applied to the non-SLP activity of the member organization. Therefore, an SLP's transactions that add liquidity would not be subject to a price that is inferior to that of the non-SLP transactions of the same member organization. The proposed change is also equitable and not unfairly discriminatory because it would eliminate the potential for this inferior SLP pricing that resulted from a pricing change that became effective October 1, 2012, through which the Exchange introduced the $0.0017 and $0.0018 rates in the Price List for non-SLP activity of a member organization that adds liquidity.[17] Prior to the introduction of these two rates, the non-SLP rate for adding liquidity was $0.0015, which is the same as the base SLP credit rate. The proposed change is also equitable and not unfairly discriminatory because SLP volume is counted when determining whether a member organization has achieved the non-SLP pricing thresholds that correspond to the rates introduced in October 2012.

Finally, the Exchange believes that the proposed change would not result in any unnecessary burden on competition. Instead, the Exchange believes that the proposed change will eliminate a disincentive to participation as an SLP, and therefore prevent decreased levels of liquidity, by resulting in a rate being applied to an SLP that does not qualify for the higher SLP tiers (and corresponding credits) that is the same as the rate applied to the non-SLP activity of the member organization when adding liquidity.

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,[18] 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. Rather, the Exchange believes that the proposed change will eliminate a disincentive to participation as an SLP, and therefore prevent decreased levels of liquidity, by resulting in a rate being applied to an SLP that does not qualify for the higher SLP tiers (and corresponding credits) that is the same as the rate applied to the non-SLP activity of the member organization when adding liquidity.

The Exchange notes that the potential for this inferior pricing is the result of a pricing change that became effective October 1, 2012, through which the Exchange introduced the $0.0017 and $0.0018 rates in the Price List for non-SLP activity of a member organization that adds liquidity.[19] Prior to October 2012 it was not possible for an SLP to receive a rate for adding liquidity that was inferior to the rate applicable to non-SLP member organizations, even if the SLP failed to satisfy the percentage quoting requirement or the monthly volume requirement.

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 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)[20] of the Act and subparagraph (f)(2) of Rule 19b–4[21] thereunder, because it establishes a due, fee, or other charge imposed by NYSE.

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

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4) and (5).

[16] *See supra* note 13.

[17] *See supra* note 11.

[18] 15 U.S.C. 78f(b)(8).

[19] *See supra* note 11.

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(2).

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) [22] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2013–35 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2013–35. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2013–35 and should be submitted on or before July 8, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14255 Filed 6–14–13; 8:45 am]

BILLING CODE 8011–01–P

[22] 15 U.S.C. 78s(b)(2)(B).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69736; File No. SR–NYSE–2013–21]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change Amending NYSE Rule 104 To Codify Certain Traditional Trading Floor Functions That May Be Performed by Designated Market Makers, To Make Exchange Systems Available to DMMs That Would Provide DMMs With Certain Market Information, To Amend the Exchange's Rules Governing the Ability of DMMs To Provide Market Information to Floor Brokers, and To Make Conforming Amendments to Other Rules

June 11, 2013.

On April 9, 2013, New York Stock Exchange LLC (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 amend NYSE Rule 104. The proposed rule change was published for comment in the **Federal Register** on April 29, 2013.[3] The Commission received two comment letters on the proposal.[4]

Section 19(b)(2) of the Act [5] provides that within 45 days of the publication of 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 either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is June 13, 2013. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change, which would amend NYSE Rule 104, and the potential issues raised by this proposal.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates July 26, 2013 as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSE–2013–21).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14257 Filed 6–14–13; 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. 69427 (April 23, 2013), 78 FR 25118. On April 18, 2013, the Exchange filed Partial Amendment No. 1 to the proposal. In Partial Amendment No. 1, the Exchange filed the Exhibit 3 which was not included in the April 9, 2013 filing.

[4] *See* Letter to Elizabeth M. Murphy, Secretary, Commission, from Daniel Buenza, Lecturer in Management, London School of Economics and Yuval Millo, Professor of Social Studies of Finance, University of Leicester, dated May 20, 2013; Letter to Commission, from James J. Angel, Ph.D., CFA, Associate Professor of Finance, Georgetown University, McDonough School of Business, dated May 14, 2013.

[5] 15 U.S.C. 78s(b)(2).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69731; File No. SR–CFE–2013–004]

Self-Regulatory Organizations; CBOE Futures Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Requirements Applicable to Foreign Trading Privilege Holders

June 11, 2013.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 31, 2013, CBOE Futures Exchange, LLC (''CFE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been prepared by CFE. The Commission is publishing this notice to solicit comments on the proposed rule

[1] 15 U.S.C. 78s(b)(7).

change from interested persons. CFE also has filed this proposed rule change with the Commodity Futures Trading Commission (''CFTC''). CFE filed a written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act (''CEA'')[2] on May 30, 2013.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

CFE proposes to amend CFE Rule 305B (Foreign Trading Privilege Holders) by adding new subparagraphs (b)(ii) and (b)(iii) to that rule that would require that foreign Trading Privilege Holders (''TPHs''): (1) Maintain in English and U.S. dollars any books and records that are required to be kept by TPHs under CFE Rules; and (2) prior to acting as agent for a customer from a foreign jurisdiction in relation to a CFE Contract, obtain written consent from that customer that permits the TPH to provide information regarding the customer and the customer's activities in CFE Contracts to CFE in response to a regulatory request for information pursuant to CFE Rules.

The scope of this filing is limited solely to the application of the rule changes to security futures traded on CFE. The only security futures currently traded on CFE are traded under Chapter 16 of CFE's Rulebook which is applicable to Individual Stock Based and Exchange-Traded Fund Based Volatility Index (''Volatility Index'') security futures.

The text of the proposed rule change is attached as Exhibit 4.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CFE 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. CFE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CFE Rule 305B (Foreign Trading Privilege Holders) provides that each TPH shall be organized under the laws of, and be solely responsible for ensuring that the location of any CBOE Workstation[4] is in, the United States or a foreign jurisdiction expressly approved by the Exchange. CFE Rule 305B also sets forth certain requirements that are applicable to any TPH organized under the laws of, or with a CBOE Workstation in, a foreign jurisdiction.

CFE proposes to amend CFE Rule 305B by adding two additional requirements that would apply to these foreign TPHs. First, a foreign TPH would be required under new subparagraph (b)(ii) to CFE Rule 305B to maintain in English and U.S. dollars any books and records required to be kept by the TPH under the Rules of the Exchange. Second, a foreign TPH, prior to acting as agent for a Customer from a foreign jurisdiction in relation to a CFE Contract, would be required under new subparagraph (b)(iii) to CFE Rule 305B to obtain written consent from that Customer that permits the TPH to provide information regarding the Customer and the Customer's activities in CFE Contracts to the Exchange in response to a regulatory request for information pursuant to the Rules of the Exchange.

The Exchange believes that the proposed changes will assist CFE in enforcing compliance with its Rules. Specifically, the Exchange believes that the proposed changes will be beneficial in connection with CFE regulatory examinations and investigations involving foreign TPHs and in connection with obtaining information for regulatory purposes regarding the trading activities in CFE Contracts of foreign customers that trade through those TPHs.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5)[6] in particular in that it is designed to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change will strengthen its ability to examine and investigate foreign TPHs more readily because books and records that are required to be kept under CFE Rules will be more easily understandable by CFE regulatory staff because they would be maintained in English and denominated in U.S. dollars. In addition, the Exchange believes that the proposed change will strengthen the Exchange's ability to carry out its self-regulatory obligations regarding the trading activities in CFE Contracts by foreign customers that trade those foreign TPHs.

B. Self-Regulatory Organization's Statement on Burden on Competition

CFE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory because amended CFE Rule 305B would apply to all foreign TPHs and reasonably and fairly requires uniformity (*i.e.,* English/U.S. dollar denomination) concerning books and records obligations.

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 proposed rule change will become operative on June 17, 2013.

At any time within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed

[2] 7 U.S.C. 7a–2(c).

[3] The Commission notes that Exhibit 4 is attached to the filing, not to this Notice.

[4] CFE Rule 116 provides that the term ''CBOE Workstation'' means any computer connected directly to the CBOE System, including by means of an Exchange application programming interface, for the purpose of trading Contracts. CFE Rule 115 provides that the term ''CBOE System'' means (i) the electronic systems administered by or on behalf of the Exchange which perform the functions set out in the Rules of the Exchange, including controlling, monitoring, and recording trading on the Exchange and (ii) any connectivity to the foregoing electronic systems that is administered by or on behalf of the Exchange, such as a communications hub in a foreign jurisdiction.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.[7]

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–CFE–2013–004 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CFE–2013–004. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CFE–2013–004, and should be submitted on or before July 8, 2013.

[7] 15 U.S.C. 78s(b)(1).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14250 Filed 6–14–13; 8:45 am]

BILLING CODE 8011–01–P

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69732; File No. SR–Phlx–2013–63]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change in Order To Disseminate a Spot Price for Treasury Options

June 11, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 3, 2013, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to disseminate a spot price for its physically-settled options on certain U.S. Treasury notes and U.S. Treasury bonds (''Treasury Options''). The proposed rule change will be implemented on a date that is on, or shortly after, the 30th day following the date of the filing.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

On October 4, 2012, the Commission approved the Exchange's proposed rule change for the listing and trading on the Exchange of Treasury Options (the ''Listing Filing'').[3] The purpose of this proposed rule change is to permit the Exchange to disseminate a spot value for the on-the-run U.S. Treasury notes and U.S. Treasury Bonds underlying the Exchange's Treasury Options over the facilities of the Options Price Reporting Authority (''OPRA'').

In the Listing Filing the Exchange explained that the prices of Treasury securities are widely disseminated, active, and visible to traders and investors, from numerous sources including broker dealers. It explained that there is a high level of price transparency for Treasury securities because of extensive price dissemination to the investing public (*e.g.,* commercial and investment banks, insurance companies, pension funds, mutual funds and retail investors) of price information by information vendors, including an industry-sponsored corporation, Govpx, that disseminates price and real-time trading volume information for Treasury securities via interdealer broker screens. The Exchange also noted that the prices are also available from exchanges that trade derivatives on Treasuries[4] and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Release Act No. 67976 (October 4, 2012), 77 FR 61794 (October 11, 2012) (SR-Phlx-2012–105) (approval order). Subsection (a)(1) of Rule 1001D states that the term ''Treasury securities'' (also known as Treasury debt securities) means a bond or note or other evidence of indebtedness that is a direct obligation of, or an obligation guaranteed as to principal or interest by, the United States or a corporation in which the United States has a direct or indirect interest (except debt securities guaranteed as to timely payment of principal and interest by the Government National Mortgage Association). Securities issued or guaranteed by individual departments or agencies of the United States are sometimes referred to by the title of the department or agency involved (*e.g.,* a ''Treasury security'' is a debt instrument that is issued by the United States Treasury). Phlx Treasury Options are European-style options on Treasury notes and bonds with a unit of trading of $10,000.

[4] *See,* for example, Chicago Mercantile Exchange Group (''CME'') offering futures as well as options on Treasury securities, at *http://www.cmegroup.com/trading/interest-rates/on-the-run-us-treasuryfutures.html.* CME Treasury futures volumes in the year 2011 include: 315,903,050 contracts on the 10 year Treasury note; and 92,065,406 contracts on the 30 year Treasury bond. The Exchange notes that while Treasury options have a face value of $10,000 per contract (Rule

that retail brokers (*e.g.,* Fidelity, TD Ameritrade, E*TRADE, Charles Schwab, Interactive Brokers, and Scottrade) offer market access and the ability to purchase and sell Treasury securities on a real time basis, similarly to equity securities.

In the Listing Filing, the Exchange also noted that it was considering offering a Treasury data feed to those Exchange members that may desire to acquire such data from the Exchange. The Exchange currently secures real-time Treasury prices (data) from BondDesk Group LLC (''BondDesk''), a market data provider, and uses this data in support of the Exchange's market, regulatory and surveillance operations.[5] For example, this data is now used for the purpose of opening and determining settlement values for Treasury options. The Exchange now proposes to also use the BondDesk market data in order to provide a Treasury data feed to Exchange members. Specifically, the Exchange will calculate the midpoint of BondDesk's real-time bid and ask quotations for the on-the-run 10-year Treasury note and the 30-year Treasury bond (the ''BondDesk On-the-Run Treasury Midpoint'' or ''BTM'') and distribute the BTM to OPRA pursuant to the Exchange's existing agreements with OPRA.[6] The Exchange will alert market participants to the introduction of the new BTM by issuing an Options Trader Alert. The Exchange will update its Web site to include a link to the Options Trader Alert which will describe the BTM and which will itself include a link to this proposed rule change.

The BTM will be an Exchange-calculated value using the midpoint of the bid/ask quotes currently provided by BondDesk for the on-the-run 10-year Treasury Note and 30-Year Treasury Bond. The value will be calculated by the Exchange and disseminated via OPRA with each received quote from BondDesk and at least once every five seconds, every trading day from 9:25 a.m. to 4:00 p.m. Eastern Time. For example, if the bid/offer is 99.50 x 99.60, then the midpoint value of 99.55 would be disseminated immediately. If no quotes are being received from BondDesk, the Exchange will manually cease disseminating the BTM until such time as the Exchange once again begins receiving quotes. If trading in the Treasury Option is halted, a midpoint value will continue to be calculated and disseminated as it does not drive the specialist's quotes and is merely a reference point for trading.

BTM values will be sent out to two decimal places (xx.xx or xxx.xx). If the calculation of the midpoint extends beyond two decimal places, the values will be rounded, not truncated, to the nearest penny.

Example 1: If the most recent bid/offer is 99.59 x 99.61, the midpoint would be 99.60.

Example 2: If the bid/offer is 97.6563 x 97.6953, then the midpoint would be 97.68 (rounded up from 97.67578).

Example 3: If the bid/offer is 99.5703 x 99.5781, then the midpoint would be 99.57 (rounded down from 97.57422).

Example 4: If the bid/offer is 99.50 x 99.55, then the midpoint would be 99.53 (rounded up from 97.525).

Finally, The [sic] BTM will be represented by a 3 character symbol which will change with introduction of each new Treasury auction.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and with Section 6(b)(5) of the Act,[8] in particular, which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, because it should provide additional information to market participants interested in Treasury Options. The Exchange believes that allowing the Exchange to provide additional spot market information to be disseminated over OPRA should encourage trading of Treasury Options, which in turn should enhance competition and allow traders and investors—including large and institutional investors and retail and public investors—to more effectively tailor their investing and hedging decisions in the current challenging economic climate.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Specifically, the proposal does not impose an intra-market burden on competition, because it will be available to all market participants who receive OPRA messages. Nor will the proposal impose a burden on competition among the options exchanges, because the proposal simply adds information that should be helpful to market participants. The proposal will allow the Exchange to provide useful pricing information that in turn should encourage the use of the Exchange's Treasury Options, a relatively new and innovative options product, giving market participants the ability to significantly expand their trading and hedging capabilities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because doing so will expedite the

1008D), CME futures products have a face value of $100,000.

[5] BondDesk is a provider of enterprise-wide fixed income solutions to many of the top broker-dealers in North America. The BondDesk Alternative Trading System (ATS), run by broker-dealer subsidiary BondDesk Trading LLC, member FINRA and SIPC, provides real-time Treasury prices (data) generated from the nation's largest retail bond trading venue. BondDesk data currently is not redistributed by Phlx but can be received directly by contacting BondDesk.

[6] Currently, the Exchange uses the midpoint of BondDesk's real-time bid and ask quotations to determine settlement prices. BondDesk data other than the midpoint is used in support of the Exchange's other market, regulatory and surveillance operations.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 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, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

provision to market participants of additional information concerning the spot price of Treasury securities, at no additional cost, which should enable market participants to make more informed investment decisions with respect to Treasury Options. Therefore, the Commission designates the proposal operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2013–63 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2013–63. This file number should be included on the subject line if email is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F St. NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2013–63, and should be submitted on or before July 8, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14241 Filed 6–14–13; 8:45 am]

BILLING CODE 8011–01–P

[11] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69737; File No. SR–C2–2013–021]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Penny Pilot Program

June 11, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 4, 2013, C2 Options Exchange, Incorporated (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules relating to the Penny Pilot Program. The text of the proposed rule change is provided below.

[(additions are *italicized;* deletions are [bracketed])

* * * * *

C2 Options Exchange, Incorporated Rules

* * * * *

Rule 6.4. Minimum Increments for Bids and Offers

The Board of Directors may establish minimum quoting increments for options traded on the Exchange. When the Board of Directors determines to change the minimum increments, the Exchange will designate such change as a stated policy, practice, or interpretation with respect to the administration of this Rule within the meaning of subparagraph (3)(A) of subsection 19(b) of the Exchange Act and will file a rule change for effectiveness upon filing with the Commission. Until such time as the Board of Directors makes a change to the minimum increments, the following minimum increments shall apply to options traded on the Exchange:

(1) No change.

(2) No change.

(3) The decimal increments for bids and offers for all series of the option classes participating in the Penny Pilot Program are: $0.01 for all option series quoted below $3 (including LEAPS), and $0.05 for all option series $3 and above (including LEAPS). For QQQQs, IWM, and SPY, the minimum increment is $0.01 for all option series. The Exchange may replace any option class participating in the Penny Pilot Program that has been delisted with the next most actively-traded, multiply-listed option class, based on national average daily volume in the preceding six calendar months, that is not yet included in the Pilot Program. Any replacement class would be added on the second trading day following [January 1, 2013] *July 1, 2013.* The Penny Pilot shall expire on [June 30, 2013] *December 31, 2013.* Also, for so long as SPDR options (SPY) and options on Diamonds (DIA) participate in the Penny Pilot Program, the minimum increments for Mini-SPX Index Options (XSP) and options on the Dow Jones Industrial Average (DJX), respectively, may be $0.01 for all option series quoting less than $3 (including LEAPS), and $0.05 for all option series quoting at $3 or higher (including LEAPS).

(4) No change.

* * * * *

The text of the proposed rule change is also available on the Exchange's Web

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

site (*http://www.c2exchange.com/Legal/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Penny Pilot Program (the ''Pilot Program'') is scheduled to expire on June 30, 2013. C2 proposes to extend the Pilot Program until December 31, 2013. C2 believes that extending the Pilot Program will allow for further analysis of the Pilot Program and a determination of how the Pilot Program should be structured in the future.

During this extension of the Pilot Program, C2 proposes that it may replace any option class that is currently included in the Pilot Program and that has been delisted with the next most actively traded, multiply listed option class that is not yet participating in the Pilot Program (''replacement class''). Any replacement class would be determined based on national average daily volume in the preceding six months,[3] and would be added on the second trading day following July 1, 2013. C2 will announce to its Trading Permit Holders by circular any replacement classes in the Pilot Program.

C2 is specifically authorized to act jointly with the other options exchanges participating in the Pilot Program in identifying any replacement class.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[4] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[5] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, the proposed rule change allows for an extension of the Pilot Program for the benefit of market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

C2 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. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Pilot Program and a determination of how the Program shall be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. In addition, the Exchange has been authorized to act jointly in extending the Pilot Program and believes the other exchanges will be filing similar extensions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6)(iii) thereunder.[9]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing.[10] However, pursuant to Rule 19b–4(f)(6)(iii),[11] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program.[12] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of

[3] The month immediately preceding a replacement class's addition to the Pilot Program (i.e. June) would not be used for purposes of the six-month analysis. Thus, a replacement class to be added on the second trading day following July 1, 2013 would be identified based on The Option Clearing Corporation's trading volume data from December 1, 2012 through May 31, 2013.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca-2009–44).

[13] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–C2–2013–021 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–C2–2013–021. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–C2–2013–021 and should be submitted on or before July 8, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14258 Filed 6–14–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69733; File No. SR–NYSEMKT–2013–25]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change Amending NYSE MKT Rule 104—Equities To Codify Certain Traditional Trading Floor Functions That May Be Performed by Designated Market Makers, To Make Exchange Systems Available to DMMs That Would Provide DMMs With Certain Market Information, To Amend the Exchange's Rules Governing the Ability of DMMs To Provide Market Information to Floor Brokers, and To Make Conforming Amendments to Other Rules

June 11, 2013.

On April 9, 2013, NYSE MKT LLC (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 amend NYSE MKT Rule 104—Equities. The proposed rule change was published for comment in the **Federal Register** on April 29, 2013.[3] The Commission received no comment letters on the proposal.

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of 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 either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is June 13, 2013. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change, which would amend NYSE MKT Rule 104—Equities, and the potential issues raised by this proposal.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates July 26, 2013 as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSEMKT–2013–25).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–14242 Filed 6–14–13; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13612 and #13613]

Louisiana Disaster #LA–00051

AGENCY: U.S. Small Business Administration.

ACTION: Notice

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Louisiana Dated: 06/10/2013.

Incident: Severe Weather and Tornadoes.

Incident Period: 05/16/2013.

Effective Date: 06/10/2013.

Physical Loan Application Deadline Date: 08/09/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 03/10/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

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[14] 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. 69428 (April 23, 2013), 78 FR 25012. On April 18, 2013, the Exchange filed Partial Amendment No. 1 to the proposal. In Partial Amendment No. 1, the Exchange filed the Exhibit 3 which was not included in the April 9, 2013 filing.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

The following areas have been determined to be adversely affected by the disaster:

Primary Parishes: De Soto.

Contiguous Parishes/Counties:

Louisiana: Caddo, Natchitoches, Red River, Sabine.

Texas: Panola, Shelby.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.750
Homeowners Without Credit Available Elsewhere	1.875
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.875
Non-Profit Organizations Without Credit Available Elsewhere	2.875
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.875

The number assigned to this disaster for physical damage is 13612 C and for economic injury is 13613 0.

The States which received an EIDL Declaration # are Louisiana, Texas.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Karen G. Mills,

Administrator.

[FR Doc. 2013–14262 Filed 6–14–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Revocation of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration by the Wind-Up Order of the United States District Court for the Eastern District of Arkansas, Western Division, entered January 16, 2013, the United States Small Business Administration hereby revokes the license of Small Business Investment Capital, Inc., an Arkansas Corporation, to function as a small business investment company under the Small Business Investment Company License No. 06060175 issued to Small Business Investment Capital, Inc., on March 06, 1975 and said license is hereby declared null and void as of January 16, 2013.

United States Small Business Administration

Dated: June 10, 2013.

Harry E. Haskins,

Acting Associate Administrator for Investment.

[FR Doc. 2013–14260 Filed 6–14–13; 8:45 am]

BILLING CODE P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes one extension and two revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB)

Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, *Email address: OIRA_Submission@omb.eop.gov.*

(SSA)

Social Security Administration, DCRDP, Attn: Reports Clearance Director, 107 Altmeyer Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, *Email address: OR.Reports.Clearance@ssa.gov.*

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than August 16, 2013. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. *Travel Expense Reimbursement—20CFR 404.999(d) and 416.1499—0960–0434.* The Social Security Act (Act) stipulates that Federal and State agencies reimburse travel expenses for claimants, their representatives, and all necessary witnesses for travel exceeding 75 miles to attend medical examinations, reconsideration interviews, and proceedings before an administrative law judge. Reimbursement procedures require the claimant to provide (1) a list of expenses incurred and (2) receipts of such expenses. Federal and State personnel review the listings and receipts to verify the amount reimbursable to the requestor. The respondents are claimants for title II benefits and title XVI payments, their representatives and witnesses.

Type of Request: Extension of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minute)	Estimated annual burden (hours)
404.999(d) & 416.1499	60,000	1	10	10,000

2. *Social Security Benefits Application—20 CFR 404.310–404.311, 404.315–404.322, 404.330–404.333, 404.601–404.603, and 404.1501–404.1512—0960–0618.* Title II of the Social Security Act provides retirement, survivors, and disability benefits to members of the public who meet the required eligibility criteria and file the appropriate application. This collection comprises the various application methods for each type of benefits. These methods include the following modalities: Paper forms (Forms SSA–1, SSA–2, and SSA–16); Modernized Claims System (MCS) screens for in-person interview applications; and Internet-based iClaim and iAppointment applications. SSA uses the information collected using these modalities to determine: (1) The applicants' eligibility for the above-mentioned Social Security benefits and (2) the amount of the benefits. The respondents are applicants

for retirement, survivors, and disability benefits under title II of the Social Security Act.

Type of Request: Revision of an OMB-approved information collection.

FORM SSA–1

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minute)	Estimated annual burden (hours)
MCS/Signature Proxy	1,441,400	1	10	240,233
Paper	2,300	1	11	422
Medicare-only MCS	418,300	1	7	48,802
Medicare-only Paper	300	1	7	35
Totals	1,862,300			289,492

FORM SSA–2

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minute)	Estimated annual burden (hours)
MCS/Signature Proxy	364,000	1	14	84,933
Paper	1,200	1	15	300
Totals	365,200			85,233

FORM SSA–16

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minute)	Estimated annual burden (hours)
MCS/Signature Proxy	1,695,800	1	19	537,003
Paper	53,300	1	20	17,767
Totals	1,749,100			554,770

iCLAIM SCREENS

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minute)	Estimated annual burden (hours)
iClaim 3rd Party	431,357	1	15	107,839
iClaim Applicant after 3rd Party Completion	431,357	1	5	35,946
First Party iClaim—Domestic Applicant	1,838,943	1	15	459,736
First Party iClaim—Foreign Applicant	8,291	1	3	415
Medicare-only iClaim	552,400	1	10	92,067
Totals	3,262,348			696,003

iAPPOINTMENT SCREENS

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minute)	Estimated annual burden (hours)
iAppointment	200,000	1	10	33,333

GRAND TOTAL

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minute)	Estimated annual burden (hours)
Total	7,438,948			1,658,831

3. *Request for Accommodation in Communication Method—0960–0777.* SSA allows blind or visually impaired Social Security applicants, beneficiaries, recipients, and representative payees to choose one of seven alternative methods of communication they want SSA to use when we send them benefit notices and other related communications. The seven alternative methods we offer are: (1) Standard print notice by first-class mail; (2) standard print mail with a follow-up telephone call; (3) certified mail; (4) Braille; (5) Microsoft Word file on data CD; (6) large print (18-point font); or (7) audio CD. However, respondents who want to receive notices from SSA through a communication method other than the seven methods listed above must explain their request to us. Those respondents use Form SSA–9000 to: (1) Describe the type of accommodation they want, (2) disclose their condition necessitating the need for a different type of accommodation, and (3) explain why none of the seven methods described above are sufficient for their needs. SSA uses Form SSA–9000 to determine, based on applicable law and regulation, whether to grant the respondents' requests for an accommodation based on their blindness, or other visual impairment. SSA collects this information electronically through either an in-person interview or a telephone interview during which the SSA employee keys in the information on Intranet screens. The respondents are blind or visually impaired Social Security applicants, beneficiaries, recipients, and representative payees who ask SSA to send notices and other communications in an alternative method besides the seven modalities we currently offer.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minute)	Estimated annual burden (hours)
SSA–9000	1417	1	20	472

This is a correction notice: SSA published this information collection with incorrect burden information at 78 FR 33142 on June 3, 2013. We are providing the corrected burden here.

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than July 17, 2013. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

1. *Representative Payee Evaluation Report—20 CFR 404.2065 & 416.665—0960–0069.* Sections 205(j) and 1631(a)(2) of the Act state SSA may appoint a representative payee to receive title II benefits or title XVI payments on behalf of individuals unable to manage or direct the management of those funds themselves. SSA requires appointed representative payees to report once each year on how they used or conserved those funds. When a representative payee fails to adequately report to SSA as required, SSA conducts a face-to-face interview with the payee and completes Form SSA–624, Representative Payee Evaluation Report, to determine the continued suitability of the representative payee to serve as a payee. The respondents are individuals or organizations serving as representative payees for individuals receiving title II benefits or title XVI payments and who fail to comply with SSA's statutory annual reporting requirement.

Type of Request: Revision of an OMB-approved information collection.

Modality of collection	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–624	267,000	1	30	133,500

Note: This is a correction notice: SSA published this information collection with outdated burden information at 78 FR 19794 on April 2, 2013. We are providing updated burden here.

2. *Waiver of Supplemental Security Income Payment Continuation—20 CFR 416.1400–416.1422—0960–0783.* Supplemental Security Income (SSI) recipients who wish to discontinue their SSI payments while awaiting a determination on their appeal complete Form SSA–263–U2, Waiver of Supplemental Security Income Payment Continuation, to inform SSA of this decision. SSA collects the information to determine whether the SSI recipient meets the provisions of the Act regarding waiver of payment continuation and as proof respondents no longer want their payments to continue. Respondents are recipients of SSI payments who wish to discontinue receipt of payment while awaiting a determination on their appeal.

Type of Request: Revision of an OMB-approved information collection.

Modality of collection	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–263–U2	3,000	1	5	250

Dated: June 12, 2013.

Faye Lipsky,

Reports Clearance Director, Social Security Administration.

[FR Doc. 2013–14278 Filed 6–14–13; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2013–25]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Title 14, Code of Federal Regulations (14 CFR). The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of the FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before July 8, 2013.

ADDRESSES: You may send comments identified by docket number FAA–2013–0437 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments digitally.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael Menkin, ANM–113, (425) 227–2793, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, or Andrea Copeland, ARM–208, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW; Washington, DC 20591; email *andrea.copeland@faa.gov;* (202) 267–8081.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 12, 2013.

Brenda D. Courtney,

Acting Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2013–0437.

Petitioner: Quiet Wing Aerospace, LLC.

Section of 14 CFR Affected: § 25.981(b).

Description of Relief Sought: For Boeing Model 737–400 airplanes, to allow the use of fuel vapor temperature instead of fuel temperature in the determination of tank flammability, as specified in Appendix N25.2 paragraph (a), this being the method of determination of tank flammability required by 14 CFR 25.981(b).

[FR Doc. 2013–14304 Filed 6–14–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2013–0031]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on March 22, 2013. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by July 17, 2013.

ADDRESSES: You may send comments within 30 days to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. All comments should include the Docket number FHWA–2013–0031.

FOR FURTHER INFORMATION CONTACT: Bruce Bradley, 202–493–0564, Department of Transportation, Federal Highway Administration, Office of Real Estate Services, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: FHWA Excellence in Right-of-Way Awards and Utility Relocation and Accommodation Awards.

Background: In 1995, the Federal Highway Administration established the biennial Excellence in Right-of-Way Awards Program to recognize partners, projects, and processes that use FHWA funding sources to go beyond regulatory compliance and achieve right-of-way excellence. Excellence in Right-of-Way awardees have contributed to outstanding innovations that enhance the right-of-way professional's ability to meet the challenges associated with acquiring real property for Federal-aid projects.

Similarly, FHWA established the Excellence in Utility Relocation and Accommodation Awards Program to honor the use of innovative practices and outstanding achievements in reducing the cost or shortening the time required to accommodate or relocate utilities associated with highway improvement projects. The goal of the program is to showcase exemplary and innovative projects, programs, initiatives, and practices that successfully integrate the consideration of utilities in the planning, design, construction, and maintenance of transportation facilities.

Award: Anyone can nominate a project, process, person or group that has used Federal Highway Administration funding sources to make an outstanding contribution to transportation and the right-of-way or utility fields. The nominator is responsible for submitting via email, fax, or mail an application form that summarizes the outstanding accomplishments of the entry. FHWA will use the collected information to evaluate, showcase, and enhance the public's knowledge on addressing right-of-way challenges on transportation projects and on relocating and accommodating utilities associated with highway improvement projects. Nominations will be reviewed by an independent panel of judges from varying backgrounds. It is anticipated that awards will be given every two years. The winners are presented plaques at an awards ceremony.

Respondents: Anyone who has used Federal Highway funding sources in the fifty states, the District of Columbia and Puerto Rico.

Frequency: The information will be collected biennially.

Estimated Average Burden per Response: 6 hours per respondent per application.

Estimated Total Annual Burden Hours: It is expected that the respondents will complete approximately 50 applications for an estimated total of 600 annual burden hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: June 11, 2013.

Michael Howell,

Information Collection Officer.

[FR Doc. 2013–14201 Filed 6–14–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Waiver Notification

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This notice provides information regarding the FHWA's finding that a conditional Buy America waiver is appropriate for the obligation of Federal-aid Congestion Mitigation and Air Quality (CMAQ) Improvement program funds for the purchase of three vehicles; Sedan or hatch back (Driver + 4 passenger capacity) two wheeled drive with minimum 27 MPG for the State of Vermont.

DATES: The effective date of the waiver is June 18, 2013.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, (202) 366–1562, or via email at *gerald.yakowenko@dot.gov.* For legal questions, please contact Mr. Michael Harkins, FHWA Office of the Chief Counsel, (202) 366–4928, or via email at *michael.harkins@dot.gov.* Office hours for the FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the Federal Register's home page at: *http://www.archives.gov* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Background

The FHWA's Buy America policy in 23 CFR 635.410 requires a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid construction project. The regulation also provides for a waiver of the Buy America requirements when the application would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available. This notice provides information regarding the FHWA's finding that a partial Buy America waiver is appropriate for the obligation of Federal-aid CMAQ program funds for the purchase of three vehicles; Sedan or hatch back (Driver + 4 passenger capacity) two wheeled drive with minimum 27 MPG for the State of Vermont.

In accordance with Division A, section 122 of the ''Consolidated and Further Continuing Appropriations Act, 2012'' (Pub. L. 112–284), the FHWA published a notice of intent to issue a waiver on its Web site for the three vehicles; Sedan or hatch back (Driver + 4 passenger capacity) two wheeled drive with minimum 27 MPG for the State of Vermont (*http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=67*) on March 5, 2012. The FHWA received 18 comments in response to the publication. Fifteen commenters objected to the proposed waiver but did not provide evidence of a domestic source that meets the appropriate requirements. Three of the commenters expressed partial or full support for the proposed waiver based on the belief that there are no domestic manufacturers that are able to provide a vehicle with 100 percent domestic steel and iron content. Several commenters questioned the need for this specific type of vehicle; however, Vermont's representative explained that the vehicles are necessary to meet their needs of the CarShare program.

During the 15-day comment period, the FHWA conducted additional review but was unable to locate a domestic manufacturer that could meet a 100 percent domestic steel and iron content requirement. Based on all the information available to the agency, the FHWA concludes that there are no domestic manufacturers that could meet a 100 percent domestic steel and iron content for the Sedan or hatch back (Driver + 4 passenger capacity) two

wheeled drive with minimum 27 MPG for the State of Vermont.

The FHWA's Buy America requirement was initially established in 1983 when the acquisition of vehicles was not eligible for assistance under the Federal-aid highway program. As such, the FHWA's Buy America requirements were tailored to the types of products that are typically used in highway construction, which generally meet a 100 percent domestic steel and iron content requirement. Vehicles were not the types of products that were initially envisioned as being purchased with Federal-aid highway funds when Buy America was first enacted. In today's global industry, vehicles are assembled with components that are made all over the world. The FHWA is not aware of any vehicle on the market that can claim to incorporate 100 percent domestic steel and iron content. For instance, the Chevy Volt, which was identified by many commenters in a November 21, 2011, **Federal Register** Notice as being a car that is made in the United States, comprises only 40 percent United States and Canada content according to the window sticker (*http://www.cheersandgears.com/uploads/1298005091/med_gallery_51_113_449569.png*). There is no indication of how much of this 40 percent United States/Canadian content is United States-made content. Thus, the FHWA does not believe that application of a domestic content standard should be applied to the purchase of vehicles. However, it appears that there is an indication of whether vehicles are assembled in the United States. Specifically, the window sticker for the Chevy Volt says that the vehicle's final assembly point was in the United States.

While the manufacture of steel and iron products that are typically used in highway construction (such as pipe, rebar, struts, and beams) generally refers to the various processes that go into actually making the entire product, the manufacture of vehicles typically refers to where the vehicle is assembled. Thus, given the inherent differences in the type of products that are typically used in highway construction and vehicles, we feel that simply waiving the Buy America requirement, which is based on the domestic content of the product, without any regard to where the vehicle is assembled would diminish the purpose of the Buy America requirement. Moreover, in today's economic environment, the Buy America requirement is especially significant in that it will ensure that Federal Highway Trust Fund (HTF) dollars are used to support and create jobs in the United States.

Several commenters noted that FHWA has historically limited the application of Buy America requirements to products that are permanently incorporated into a Federal-aid highway construction project. These commenters questioned the applicability of the Buy America requirements to vehicle acquisitions and retrofit projects. In response to these commenters, the FHWA is implementing the statutory provisions of 23 U.S.C. 313(a) which preclude FHWA from obligating any funds ''. . . unless steel, iron, and manufactured products used in such project are produced in the United States.'' The requirements are applicable to all Federal-aid projects funded under Title 23, United States Code. The basis for most of the opposing comments was that the State should be required to buy an American vehicle, such as the Chevy Volt. Since the FHWA is not aware of any vehicles containing 100 percent domestic content, including the Chevy Volt, the FHWA interprets these comments as advocating for a vehicle that is assembled in the United States. Therefore, the FHWA believes that a conditional waiver that allows Vermont to purchase these vehicles so long as the final assembly of the vehicle as the end product occurs in the United States is appropriate. This approach is similar to the conditional waivers given to Alameda County, San Francisco County, and Merced County, CA, for vehicle purchases on November 21, 2011 (76 FR 72027 and 76 FR 72028) and March 30, 2012 (77 FR 19410).

As a result, State departments of transportation will need to make a good faith effort to determine whether the final assembly of a vehicle or vehicle retrofit occurs in the United States. With respect to passenger motor vehicles, the FHWA notes that the National Highway Traffic Safety Administration has established criteria in 49 CFR Part 583 for vehicles subject to the America Automobile Labeling Act (AALA) (*http://www.nhtsa.gov/Laws+&+Regulations/Part+583+American+Automobile+Labeling+Act+(AALA)+Reports*). Vehicles meeting the criteria for final assembly under the AALA is one option for State DOTs to make a good faith effort in determining whether final assembly of vehicles subject to AALA requirements occurs in the United States. The FHWA will publish a notice in the **Federal Register** at a future date to request public comments on what standards should apply to vehicles. In the meantime, the FHWA does not wish to further delay these projects while the appropriate standard for vehicles is established.

In conclusion, and in light of the above, pursuant to 23 U.S.C. 313(b)(1), the FHWA finds that it is in the public interest to grant a conditional waiver from the general 100 percent domestic content requirement that applies to Federal-aid highway projects under Buy America. Under this conditional waiver, however, the final assembly of any vehicles purchased with HTF funds must occur in the United States. Thus, so long as the final assembly of the sedans or hatch backs (Driver + 4 passenger capacity) two wheeled drive with minimum 27 MPG occurs in the United States, Vermont may proceed to purchase these vehicles consistent with the Buy America requirement.

In accordance with the provisions of section 117 of the SAFETEA–LU Technical Corrections Act of 2008 (Pub. L. 110–244, 122 Stat. 1572), the FHWA is providing this notice as its finding that a waiver of Buy America requirements is appropriate. The FHWA invites public comment on this finding for an additional 15 days following the effective date of the finding. Comments may be submitted to the FHWA's Web site via the link provided to the Vermont waiver page noted above.

Authority: 23 U.S.C. 313; Pub. L. 110–161, 23 CFR 635.410.

Issued on: June 6, 2013.

Victor M. Mendez,

Administrator, Federal Highway Administration.

[FR Doc. 2013–14144 Filed 6–14–13; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Waiver Notification

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This notice provides information regarding the FHWA's finding that a conditional Buy America waiver is appropriate for the obligation of Federal-aid funds for 74 vehicle projects involving the purchase of approximately 3,500 vehicles (including sedans, vans, pickups, SUVs, trucks, buses, and equipment, such as backhoes, street sweepers, and tractors), including projects to retrofit vehicles with individual vehicle components, so long as they are assembled in the United States. The FHWA's Buy America requirements provide that 100 percent of all steel and iron that is permanently

incorporated into a project must be domestically manufactured. With respect to vehicles, manufacturers typically assemble these products with many different components and subcomponents containing steel and iron. As a result, vehicles are typically referred to as being made where the final product rolls off the assembly line for delivery into the marketplace. The FHWA is unaware of any vehicle that is comprised of 100 percent domestically produced steel and iron, resulting in a need for a conditional Buy America waiver for these projects to proceed.

DATES: The effective date of the waiver is June 18, 2013.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, (202) 366–1562, or via email at *gerald.yakowenko@dot.gov.* For legal questions, please contact Mr. Michael Harkins, FHWA Office of the Chief Counsel, (202) 366–4928, or via email at *michael.harkins@dot.gov.* Office hours for the FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register**'s home page at: *http://www.archives.gov* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Background

The FHWA's Buy America regulations at 23 CFR 635.410 require a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid construction project. The regulation also provides for a waiver of the Buy America requirements when the application would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available. This notice provides information regarding the FHWA's finding that a conditional Buy America waiver is appropriate for the obligation of Federal-aid funds for the purchase of 74 vehicle projects (including sedans, vans, pickups, SUVs, trucks, buses, and equipment, such as backhoes, street sweepers, and tractors).

In accordance with Division A, section 122 of the Consolidated and Further Continuing Appropriations Act, 2012'' (Pub. L. 112–284), the FHWA published a notice of intent to issue a waiver on its Web site for the 74 vehicle projects (including sedans, vans, pickups, SUVs, trucks, buses, and equipment, such as backhoes, street sweepers, and tractors) (*http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=87*) on April 12th. The FHWA received 28 comments in response to the publication. Seventeen comments in support of the waiver were from clean air proponents or supporters of the FHWA's Congestion Mitigation Air Quality (CMAQ) Improvement Program. Seven commenters objected to the proposed waiver but did not provide substantive information regarding the availability of domestic alternates that meet the appropriate requirements. Two individuals commented on the need to further define domestic content. One individual commented on the need to define domestic assembly and one other individual provided comment on the applicability of the Federal Transit Administration's Buy America requirements for rolling stocks, which are not applicable to Federal-aid program.

Several commenters noted that FHWA has historically limited the application of Buy America requirements to products that are permanently incorporated into a Federal-aid highway construction project. These commenters questioned the applicability of the Buy America requirements to vehicle acquisitions and retrofit projects. In response to these commenters, the FHWA is implementing the statutory provisions of 23 U.S.C. 313(a) which preclude FHWA from obligating any funds ''. . . unless steel, iron, and manufactured products used in such project are produced in the United States.'' The requirements are applicable to all Federal-aid projects funded under Title 23, United States Code including vehicle acquisitions and retrofit projects.

During the 15-day comment period, the FHWA conducted additional review but was unable to locate a domestic manufacturer that could meet a 100 percent domestic steel and iron content requirement. Based on all the information available to the agency, the FHWA concludes that there are no domestic manufacturers that could meet a 100 percent domestic steel and iron content for the 74 vehicle projects (including sedans, vans, pickups, SUVs, trucks, buses, and equipment, such as backhoes, street sweepers, and tractors).

The FHWA's Buy America requirement was initially established in 1983 when the acquisition of vehicles was not eligible for assistance under the Federal-aid highway program. As such, the FHWA's Buy America requirements were tailored to the types of products that are typically used in highway construction, which generally meet a 100 percent domestic steel and iron content requirement. Vehicles were not the types of products that were initially envisioned as being purchased with Federal-aid highway funds when Buy America was first enacted. In today's global industry, vehicles are assembled with components that are made all over the world. The FHWA is not aware of any vehicle on the market that can claim to incorporate 100 percent domestic steel and iron content. For instance, the Chevy Volt, which was identified by many commenters in a November 21, 2011, **Federal Register** Notice (76 FR 72027) as being a car that is made in the United States, comprises only 40 percent United States and Canada content according to the window sticker (*http://www.cheersandgears.com/uploads/1298005091/med_gallery_51_113_449569.png*). There is no indication of how much of this 40 percent United States/Canadian content is United States-made content. However, it appears that there is an indication of whether vehicles are assembled in the United States. Specifically, the window sticker for the Chevy Volt says that the vehicle's final assembly point was in the United States.

While the manufacture of steel and iron products that are typically used in highway construction (such as pipe, rebar, struts, and beams) generally refers to the various processes that go into actually making the entire product, the manufacture of vehicles typically refers to where the vehicle is assembled. Thus, given the inherent differences in the type of products that are typically used in highway construction and vehicles, we feel that simply waiving the Buy America requirement, which is based on the domestic content of the product, without any regard to where the vehicle is assembled would diminish the purpose of the Buy America requirement. Moreover, in today's economic environment, the Buy America requirement is especially significant in that it will ensure that Federal Highway Trust Fund (HTF) dollars are used to support and create jobs in the United States.

One commenter believed that it was imperative that FHWA issue guidance clarifying how it intends to handle future vehicle waiver requests so that public agencies and companies can plan accordingly. Several commenters suggested that guidance be provided concerning the definition of final assembly and how this definition would be implemented for vehicle retrofit projects where vehicles manufactured

outside the U.S. as gasoline or diesel vehicles are imported to the United States and then retrofitted or modified in the United States so that they can operate on alternative fuels. Another commenter suggested that FHWA issue a policy that defines the acceptable limit on domestic content.

In response to these comments, the FHWA does not believe that it is appropriate to establish a vehicle domestic content requirement threshold at the present time. The FHWA is uncertain whether such a condition would further the objectives of CMAQ Program to encourage State and local entities to pursue clean fuel technologies. Moreover, the FHWA has no data in order to determine what such a content standard should be. Also, the practicality of establishing such a limit for just the iron and steel components in a vehicle is questionable. The FHWA is unaware of any method by which the agency can use to determine where the steel and iron contained in the steel and iron components of a vehicle were manufactured. Similarly, the FHWA has no basis for defining the point of final assembly for vehicle retrofit projects other than the location where the retrofitting of the vehicle takes place prior to turning the vehicle over to the owner. As such, the FHWA is not prepared to address these issues as part of this particular waiver request.

As a result, State departments of transportation (DOT) will need to make a good faith effort to determine whether the final assembly of a vehicle or vehicle retrofit occurs in the United States. With respect to passenger motor vehicles, the FHWA notes that the National Highway Traffic Safety Administration has established criteria in 49 CFR Part 583 for vehicles subject to the America Automobile Labeling Act (AALA) (*http://www.nhtsa.gov/Laws+&+Regulations/Part+583+American+Automobile+Labeling+Act+(AALA)+Reports*). Vehicles meeting the criteria for final assembly under the AALA is one option for State DOTs to make a good faith effort in determining whether final assembly of vehicles subject to AALA requirements occurs in the United States. The FHWA will publish a notice in the **Federal Register** at a future date to request public comments on what standards should apply to vehicles. In the meantime, the FHWA does not wish to further delay these projects while the appropriate standard for vehicles is established.

While the FHWA has not located a vehicle that meets a 100 percent domestic iron and steel content requirement, the FHWA does not find that a complete waiver based on non-availability pursuant to 23 U.S.C. 313(b)(2) is appropriate. However, the FHWA also recognizes that at least a conditional waiver is necessary in order to permit the State DOTs to proceed with the projects. The FHWA believes that a conditional waiver that allows the public agencies to purchase vehicles so long as the final assembly of the vehicle as the end product occurs in the United States is appropriate. This approach is similar to the conditional waivers given to Alameda County, San Francisco County, and Merced County, CA, for vehicle purchases on November 21, 2011 (76 FR 72027 and 76 FR 72028) and March 30, 2012 (77 FR 19410).

In conclusion, and in light of the above, pursuant to 23 U.S.C. 313(b)(1), the FHWA finds that it is in the public interest to grant a conditional waiver from the general 100 percent domestic content requirement that applies to Federal-aid highway projects under Buy America. Under this conditional waiver, however, the final assembly of any vehicles purchased with HTF funds must occur in the United States. Thus, so long as the final assembly of the 74 vehicle projects (including sedans, vans, pickups, SUVs, trucks, buses, and equipment, such as backhoes, street sweepers, and tractors) occurs in the United States, applicants to this waiver request may proceed to purchase these vehicles and equipment consistent with the Buy America requirement.

In accordance with the provisions of section 117 of the SAFETEA–LU Technical Corrections Act of 2008 (Pub. L. 110–244, 122 Stat. 1572), the FHWA is providing this notice as its finding that a conditional waiver of Buy America requirements is appropriate. The FHWA invites public comment on this finding for an additional 15 days following the effective date of the finding. Comments may be submitted to the FHWA's Web site via the link provided to the waiver page noted above.

Authority: 23 U.S.C. 313; Pub. L. 110–161, 23 CFR 635.410.

Issued on: June 6, 2013.

Victor M. Mendez,

Administrator, Federal Highway Administration.

[FR Doc. 2013–14146 Filed 6–14–13; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice of Intent to Prepare an Environmental Impact Statement for the Federal Way Transit Extension, King County, Washington

AGENCY: Federal Transit Administration (FTA), DOT

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Federal Transit Administration (FTA) and the Central Puget Sound Regional Transit Authority (Sound Transit) are planning to prepare an Environmental Impact Statement (EIS) for Sound Transit's proposed Federal Way Transit Extension (FWTE) project. The FWTE project would allow Sound Transit to improve public transit service between the cities of SeaTac and Federal Way in King County, Washington. The FWTE project would also respond to a growing number of transportation and community needs identified in the agency's regional transit system plan, Sound Transit 2 (ST2).

The EIS will be prepared in accordance with the National Environmental Policy Act (NEPA) and Washington's State Environmental Policy Act (SEPA). This Notice of Intent initiates formal scoping for the EIS, invites interested parties to participate in the EIS process, provides information about the purpose and need for the proposed transit project, includes the general set of alternatives being considered for evaluation in the EIS, and identifies potential environmental effects to be considered. This notice invites public comments on the scope of the EIS and announces the public scoping meetings to receive comments. Alternatives being considered for evaluation include a No-Build alternative and various build alternatives to develop light rail in the FWTE corridor. The light rail alternatives were developed through an early scoping process, and an alternatives analysis study. Early scoping notification for the alternatives analysis phase was announced in the **Federal Register** on October 16, 2012. Results of the early scoping process, the alternatives analysis findings, and other background technical reports are available on the project Web site.

DATES: Written comments on the scope of alternatives and impacts to be considered in the EIS must be received no later than July 15, 2013, and must be sent to Sound Transit as indicated below. Information about the proposed

project, the alternatives analysis findings, the Scoping Information Folio, and the EIS process will be available at two public scoping meetings (on June 19 and June 26) and one scoping meeting for tribal and agency representatives (on June 25) at the locations described below. Sound Transit and FTA will accept comments at those meetings.

1. June 19, 2013, 3:00 p.m.–6:00 p.m.

Federal Way Transit Center, 31621 23rd Ave S., Federal Way, WA 98003.

2. June 26, 2013, 5:00 p.m.–7:00 p.m.

Parkside Elementary School, 2104 S. 247th Street, Des Moines, WA 98198.

3. (Agency and Tribal Meeting) June 25, 2013, 1:00 p.m.–3:00 p.m.

Sound Transit, Union Station, Ruth Fisher Boardroom, 401 S. Jackson Street, Seattle, WA 98104.

Invitations to the agency and tribal scoping meeting have been sent to appropriate Federal, tribal, state, and local governmental units. All public meeting locations are accessible to persons with disabilities who may also request materials be prepared and supplied in alternate formats by calling Tralayne Myers, (206) 398–5014 at least 48 hours in advance of the meeting. Persons who are deaf or hard of hearing may call (888) 713–6030 TTY.

Scoping information as well as general information is available at: *http://www.soundtransit.org/FWextension.*

The scoping period extends to July 15, 2013, or 30 days from the date of this notice, whichever is later. Written scoping comments are requested by July 15, 2013 at the address above, or they can be submitted at the public meetings.

ADDRESSES: Federal Way Transit Extension (c/o Kent Hale, Senior Environmental Planner) Sound Transit, 401 S. Jackson Street, Seattle, WA 98104–2826, or by email to *FWTE@soundtransit.org.*

FOR FURTHER INFORMATION CONTACT: Steve Saxton, FTA Transportation Program Specialist, phone: (206) 220–4311.

SUPPLEMENTARY INFORMATION:

The Proposed Project. Sound Transit is proposing to extend Link light rail transit service from the future Angle Lake Link light rail station at South 200th Street in SeaTac to the Federal Way Transit Center area in Federal Way. The project corridor is approximately 7.6 miles long and parallels State Route 99 (SR 99) and Interstate 5 (I–5). It generally follows a topographic ridge between Puget Sound and the Green River Valley where the city limits of SeaTac, Des Moines, Kent, and Federal Way meet. The project is part of the ST2 Plan of transit investments approved by the voters in 2008. Currently, there is projected funding to construct to Kent/Des Moines in the vicinity of Highline Community College.

Purpose of and Need for the Project. The purpose of the Federal Way Transit Extension is to expand the Sound Transit Link light rail system from SeaTac to the cities of Des Moines, Kent, and Federal Way in King County in order to meet the following objectives:

- Provide a rapid, reliable, accessible, and efficient alternative for travel to and from the corridor and other urban growth and activity centers in the region with sufficient capacity to meet projected demand.
- Expand mobility alternatives to traveling on congested roadways and improve connections to the regional multimodal transportation system with peak and off-peak service.
- Provide the high-capacity transit (HCT) infrastructure to support adopted regional and local land use, transportation, and economic development plans.
- Advance the long-range vision, goals, and objectives for transit service established by the Sound Transit Long-Range Plan for high-quality regional transit service connecting major activity centers in King, Pierce, and Snohomish counties.
- Implement a financially feasible system that seeks to preserve and promote a healthy environment.

The following conditions within the project corridor demonstrate the need for the project:

- North-south transit demand is expected to grow by 30 to 40 percent by 2035 as a result of residential and employment growth in the FWTE corridor and regionally.
- The FWTE corridor population is a highly transit-dependent population with needs for efficient, reliable regional connectivity.
- Congestion on I-5 and on the key corridor arterials leading in and out of the study area will increase and further degrade existing transit performance and reliability.
- There is a lack of reliable and efficient peak and off-peak transit service connecting persons in the FWTE corridor with the region's growth centers.
- Regional and local plans call for HCT in the corridor consistent with PSRC's VISION 2040 and the Regional Transit Long-Range Plan.
- Implementing the project will help meet environmental and sustainability goals of the state and region, including reduced vehicle miles traveled and greenhouse gas emissions.

Potential EIS Alternatives. Sound Transit and FTA are considering multiple alternatives for study in the EIS including a No-Build alternative and several light rail alternatives operating between the cities of SeaTac and Federal Way. Preliminary light rail alternatives were developed through an alternatives analysis process, the early scoping process (October 18 through November 19, 2012), and previous regional and local planning studies. Each light rail alternative includes three general station locations: the vicinity of South 240th Street (near Highline Community College), the vicinity of South 272nd Street (near the Redondo and Star Lake park-and-ride facilities), and the vicinity of South 317th Street (near the Federal Way Transit Center). The alternatives may include other additional station locations identified through the early scoping and alternatives analysis processes. FTA and Sound Transit invite comments on these preliminary alternatives. Public and agency input received during the scoping period will help FTA and Sound Transit develop a range of reasonable alternatives to evaluate in the Draft EIS.

No Build Alternative. NEPA requires consideration of a No-Build Alternative. It reflects the existing transportation system plus the transportation improvements included in PSRC's Transportation Improvement Program.

Potential I–5 Alternatives. The potential I–5 Alternatives consist of light rail guideway along I–5 in two configurations. In one configuration, the guideway would run along the south side of the proposed SR 509 right-of-way to I–5 and then along the west side of the I–5 right-of-way. The guideway would deviate west from the I–5 right-of-way near 317th Street to access the Federal Way Transit Center area. For the other configuration, the alignment would transition from the west side of I–5 to the median of I–5 south of S. 240th Street, briefly transition back to the west side at 272nd Street, then continue in the median to 317th Street before transitioning back to the west side to access the Federal Way Transit Center area Station locations proposed for evaluation with the I–5 Alternative include the vicinity of South 240th Street near Highline Community College; the vicinity of South 272nd Street near the Star Lake park-and-ride facility; and the vicinity of South 317th Street near the Federal Way Transit Center.

Potential SR 99 Alternatives. The potential SR 99 Alternatives would

consist of light rail guideway along SR 99 in two configurations. In one configuration the guideway would follow the median for most of the length of SR 99. For the other configuration, the guideway could utilize and transition between the east side, west side, and/or median of SR 99. Station locations proposed for evaluation with the SR 99 Alternatives include the areas near the vicinity of South 240th Street near Highline Community College; the vicinity of South 272nd Street near the Redondo park-and-ride facility; and the vicinity of South 317th Street near the Federal Way Transit Center. The SR 99 alternatives may include other additional station locations in the vicinities of South 216th Street and South 260th Street identified through the early scoping and alternatives analysis processes.

Potential 30th Avenue Alternative. The potential 30th Avenue Alternative would consist of light rail guideway along a portion of 30th Avenue South in the cities of Des Moines and Kent. From Angle Lake Station, the guideway would travel along SR 99 and transition east to 30th Avenue at approximately South 220th Street. The guideway would remain on 30th Avenue South from South 224th Street to approximately South 240th Street. From South 240th Street, the guideway would transition to SR–99 or I–5 and continue towards Federal Way. The station locations would be the same as those described in the previous alternatives.

Scope of Environmental Analysis. The EIS process explores in a public setting the potentially significant effects of implementing the proposed action (and alternatives to the proposed action) on the physical, human, and natural environment. Areas of investigation for this project may include, but might not be limited to, transportation, land use and consistency with applicable plans, land acquisition and displacements, socioeconomic impacts, park and recreation resources, historic and cultural resources, environmental justice, visual and aesthetic qualities, air quality, noise and vibration, energy use, safety and security, and ecosystems, including threatened and endangered species. These effects will be evaluated for both the construction period and the long-term period of operation. Indirect, secondary and cumulative impacts will also be evaluated. The EIS will identify measures to avoid, minimize, or mitigate significant adverse impacts.

Roles of Agencies and the Public. NEPA, and FTA's regulations for implementing NEPA, call for public involvement in the EIS process, including: (1) Invitations to other Federal and non-Federal agencies and Indian tribes that may have an interest in the proposed project to become ''cooperating'' or ''participating agencies,'' (2) opportunities for involvement by agencies and the public in helping to define the proposed project's purpose and need, as well as the range of alternatives for consideration in the impact statement, and (3) a plan for coordinating public and agency participation in and comment on the environmental review process.

An invitation to become a cooperating or participating agency will be extended to Federal and non-Federal agencies and Indian tribes that may have an interest in the proposed project. Any agency or tribe interested in the project that does not receive such an invitation should promptly notify the Sound Transit Senior Environmental Planner identified above under **ADDRESSES.**

A draft Coordination Plan for public and agency involvement is available for review at the project Web site. It identifies the project's coordination approach and structure, details the major milestones for agency and public involvement, and includes an initial list of interested agencies and organizations.

FTA and Sound Transit welcome comments from interested individuals, organizations, tribes and agencies. Comments are invited regarding the preliminary statement of purpose and need; the alternatives to be evaluated in the EIS; and any significant environmental issues related to the alternatives. Suggested reasonable alternatives that meet the project purpose and need will be considered. To assist the public during scoping, Sound Transit has prepared an Environmental Scoping Information Folio describing the project, potential alternatives, potential impact areas to be evaluated, and the preliminary EIS schedule. You may request a copy from Tralayne Myers, Sound Transit, 401 S. Jackson Street, Seattle, WA 98104–2826, telephone: (206) 398–5014 or email: *traylane.myers@soundtransit.org.* It is also available at *http://www.soundtransit.org/FWextension.* After the comment period, Sound Transit will publish a summary of the public and agency comments it receives. After scoping concludes later this year, the Sound Transit Board is expected to consider the scoping comments received and then act on a motion addressing the purpose and need for the project, the scope of environmental review, and alternatives to be considered in the draft EIS.

FTA and Sound Transit will comply with all applicable Federal environmental laws, regulations, and executive orders during the environmental review process. These requirements include, but are not limited to, the regulations of the Council on Environmental Quality implementing NEPA, and FTA's own NEPA regulations (40 CFR parts 1500–1508, and 23 CFR part 771); the air quality conformity regulations of the U.S. Environmental Protection Agency (EPA) (40 CFR part 93); the Section 404(b)(1) guidelines of EPA (40 CFR part 230); the regulations implementing Section 106 of the National Historic Preservation Act (36 CFR part 800); the regulations implementing Section 7 of the Endangered Species Act (50 CFR part 402); Section 4(f) of the Dept. of Transportation Act (23 CFR part 774); Executive Order 12898 on Environmental Justice, 11988 on floodplain management, and 11990 on wetlands; and DOT Order 5610.2(a) on Environmental Justice.

Paperwork Reduction. The Paperwork Reduction Act seeks, in part, to minimize the cost to the taxpayer of the creation, collection, maintenance, use, dissemination, and disposition of information. Consistent with this goal and with principles of economy and efficiency in government, FTA limits as much as possible the distribution of complete sets of printed environmental documents. Accordingly, absent a specific request for a complete printed set of environmental documents (preferably in advance of printing), Sound Transit will distribute only the executive summary of the environmental document together with a compact disc of the complete environmental document. A complete printed set of the environmental document will be available for review at the grantee's offices and elsewhere; an electronic copy of the complete environmental document will also be available on Sound Transit's Web page.

Issued On: June 11, 2013.

Kenneth A. Feldman,

Deputy Regional Administrator.

[FR Doc. 2013–14296 Filed 6–14–13; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[NHTSA Docket No. NHTSA–2013–0075]

Federal Interagency Committee on Emergency Medical Services; Meeting

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Meeting Notice—Federal Interagency Committee on Emergency Medical Services.

SUMMARY: NHTSA announces a meeting of the Federal Interagency Committee on Emergency Medical Services (FICEMS) to be held in the Washington, DC area. This notice announces the date, time and location of the meeting, which will be open to the public. Pre-registration is required to attend.

DATES: The meeting will be held on July 8, 2013, from 1:00 p.m. EDT to 4:00 p.m. EDT.

ADDRESSES: The meeting will be held at the Department of Health & Human Services (HHS) Headquarters Building at 200 Independence Avenue SW., Washington, DC 20201 in Suite 800 on the penthouse floor.

FOR FURTHER INFORMATION CONTACT: Drew Dawson, Director, Office of Emergency Medical Services, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., NTI–140, Washington, DC 20590, Telephone number (202) 366–9966; *Email Drew.Dawson@dot.gov.*

Required Registration Information: This meeting will be open to the public; however, pre-registration is required to comply with security procedures. Members of the public wishing to attend must register online at *http://events.signup4.com/FICEMSJuly2013* no later than July 3, 2013.

A picture I.D. must be provided to enter the HHS Building and it is suggested that visitors arrive 30 minutes early in order to facilitate entry. Please be aware that visitors to HHS are subject to search and must pass through a magnetometer. Weapons of any kind are strictly forbidden in the building unless authorized through the performance of the official duties of your employment (i.e. law enforcement officer). Staff from HHS will be in the lobby beginning at 12:30 p.m. EDT on the day of the meeting to escort members of the public to the meeting room.

SUPPLEMENTARY INFORMATION: Section 10202 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy For Users (SAFETEA–LU), Public Law 109–59, provides that the FICEMS consist of several officials from Federal agencies as well as a State emergency medical services director appointed by the Secretary of Transportation.

Tentative Agenda: This meeting of the FICEMS will focus on addressing the requirements of SAFETEA–LU and the opportunities for collaboration among the key Federal agencies involved in emergency medical services. The tentative agenda includes:

- Approval of the FICEMS Annual Report to Congress
- Report from the Chair of the National EMS Advisory Council (NEMSAC) on recently adopted recommendations for FICEMS
- Presentation by the National Institutes of Health, Office of Emergency Care Research
- Presentation on the White House Forum on Military Credentialing and Licensure for Emergency Medical Services
- Presentation from the Biomedical Advanced Research and Development Authority (BARDA)
- Discussion of Response to Recommendations from the National Transportation Safety Board
  - Update on Helicopter Emergency Medical Services recommendations
  - Status of responses to Mexican Hat, Utah Motorcoach Crash recommendations
- Reports and updates from Technical Working Group committees
- A discussion on FICEMS strategic planning
- Reports, updates, and recommendations from FICEMS members
- A public comment period

There will not be a call-in number provided for this FICEMS meeting; however, minutes of the meeting will be available to the public online at *www.EMS.gov.* A final agenda and other meeting materials will be posted at *www.EMS.gov* prior to the meeting.

Dated: June 12, 2013.

Jeffrey P. Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2013–14301 Filed 6–14–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 55 (Sub–No. 731X)]

CSX Transportation, Inc.—Discontinuance of Service Exemption—in Oswego County, NY

CSX Transportation, Inc. (CSXT) filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over approximately a 0.85-mile rail line on CSXT's Northern Region, Albany Division, Fulton Subdivision, between milepost QMF 37.10 at the connection with CSXT's main line and milepost QMF 37.95 at the end of the track, in Oswego County, NY (the Line). The Line traverses United States Postal Service Zip Code 13126, and includes the Oswego Station located at milepost QMF 37.10.

CSXT has certified that: (1) No local traffic has moved over the Line for at least two years; (2) any overhead traffic on the Line can be and has been rerouted; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on July 17, 2013, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2)[1] must be filed by June 27, 2013.[2] Petitions to reopen must be filed by July 8, 2013, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to CSXT's representative: Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

[1] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

[2] Because CSXT is seeking to discontinue service, not to abandon the Line, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historic documentation is required here under 49 CFR 1105.6(c) and 49 CFR 1105.8(b), respectively.

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov.*''

Decided: June 12, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–14311 Filed 6–14–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Designation of Four (4) Individuals Pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism''

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 four (4) individuals whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.''

DATES: The designations by the Director of OFAC of the 4 individuals in this notice, pursuant to Executive Order 13224, are effective on June 11, 2013.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, 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 (*www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

On September 23, 2001, the President issued Executive Order 13224 (the ''Order'') pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706, and the United Nations Participation Act of 1945, 22 U.S.C. 287c. In the Order, the President declared a national emergency to address grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the September 11, 2001 terrorist attacks in New York, Pennsylvania, and at the Pentagon. The Order imposes economic sanctions on persons who have committed, pose a significant risk of committing, or support acts of terrorism. The President identified in the Annex to the Order, as amended by Executive Order 13268 of July 2, 2002, 13 individuals and 16 entities as subject to the economic sanctions. The Order was further amended by Executive Order 13284 of January 23, 2003, to reflect the creation of the Department of Homeland Security.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in or hereafter come within the United States or the possession or control of United States persons, of: (1) Foreign persons listed in the Annex to the Order; (2) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States; (3) persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order; and (4) except as provided in section 5 of the Order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, deems appropriate in the exercise of his discretion, persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to the Order or determined to be subject to the Order or to be otherwise associated with those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order.

On June 11, 2013 the Director of OFAC, in consultation with the Departments of State, Homeland Security, Justice and other relevant agencies, designated, pursuant to one or more of the criteria set forth in subsections 1(b), 1(c) or 1(d) of the Order, four (4) individuals whose property and interests in property are blocked pursuant to Executive Order 13224.

The listings for these individuals on OFAC's list of Specially Designated Nationals and Blocked Persons appear as follows:

Individuals

1. AL–WATFA, Ali Ibrahim (a.k.a. AL–WAFA, Ali Ibrahim; a.k.a. AL–WAFA, Alie Ibrahim; a.k.a. AL–WATFA, Alie Ibrahim; a.k.a. IBRAHIM, Al Hajj Alie), 26 Malama Thomas Street, Freetown, Sierra Leone; DOB 1969; POB Al Qalamun, Lebanon (individual) [SDGT].
2. CHEHADE, Ali Ahmad (a.k.a. CHEADE, Ali; a.k.a. CHEHADE, Abou Hassan Ali; a.k.a. JAWAD, Abou Hassan; a.k.a. JAWAD, Abu Hassan; a.k.a. SHIHADI, Ali), Abidjan, Cote d Ivoire; DOB 05 Jan 1961; POB Ansarie, Lebanon; citizen Lebanon; Passport RL0516070 (Lebanon) (individual) [SDGT].
3. FAWAZ, Abbas Loutfe (a.k.a. FAWWAZ, 'Abbas Abu-Ahmad; a.k.a. FOUAZ, Abbas), Dakar, Senegal; DOB 07 Aug 1978; POB Jwaya, Lebanon; alt. POB Dakar, Senegal; citizen Lebanon; alt. citizen Senegal; Personal ID Card 096574S (Senegal) (individual) [SDGT].
4. KHANAFER, Hicham Nmer (a.k.a. KANAFER, Hicham; a.k.a. KANAFER, Hisham; a.k.a. KHANAFAR, Hisham; a.k.a. KHANAFIR, Hisham); DOB 23 May 1965; POB Ainata, Lebanon; alt. POB Kuntair, The Gambia; nationality Lebanon; alt. nationality The Gambia; Passport 1617889 (Lebanon) (individual) [SDGT].

Dated: June 11, 2013.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2013–14303 Filed 6–14–13; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, July 18, 2013.

FOR FURTHER INFORMATION CONTACT: Ellen Smiley or Patti Robb at 1–888–912–1227 or 414–231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee will be held Thursday, July 18, 2013, at 2:00 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Ms. Ellen Smiley or Ms. Patti Robb. For more information please contact Ms. Smiley or Ms. Robb at 1–888–912–1227 or 414–231–2360, or write TAP Office Stop 1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or post comments to the Web site: *http://www.improveirs.org.*

The committee will be discussing various issues related to Taxpayer Communications and public input is welcome.

Dated: June 11, 2013.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2013–14240 Filed 6–14–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, July 9, 2013.

FOR FURTHER INFORMATION CONTACT: Donna Powers at 1–888–912–1227 or (954) 423–7977.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee will be held Tuesday, July 9, 2013, at 2:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Donna Powers. For more information please contact Ms. Donna Powers at 1–888–912–1227 or (954) 423–7977, or write TAP Office, 1000 S. Pine Island Road, Plantation, FL 33324 or contact us at the Web site: *http://www.improveirs.org.*

The committee will be discussing various issues related to the Taxpayer Assistance Centers and public input is welcomed.

Dated: June 11, 2013.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2013–14238 Filed 6–14–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Joint Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Joint Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, July 24, 2013.

FOR FURTHER INFORMATION CONTACT: Susan Gilbert at 1–888–912–1227 or (515) 564–6638.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Joint Committee will be held Wednesday, July 24, 2013 at 2:00 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Notification of intent to participate must be made with Susan Gilbert. For more information please contact Ms. Gilbert at 1–888–912–1227 or (515) 564–6638 or write: TAP Office, 210 Walnut Street, Stop 5115, Des Moines, IA 50309 or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include various committee issues for submission to the IRS and other TAP related topics. Public input is welcomed.

Dated: June 11, 2013.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2013–14237 Filed 6–14–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, July 10, 2013.

FOR FURTHER INFORMATION CONTACT: Timothy Shepard at 1–888–912–1227 or 206–220–6095.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee will be held Wednesday, July 10, 2013, at 12 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Timothy Shepard. For more information please contact Mr. Shepard at 1–888–912–1227 or 206–220–6095, or write TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174, or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include a discussion on various letters, and other issues related to written communications from the IRS.

Dated: June 11, 2013.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2013–14236 Filed 6–14–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, July 10, 2013.

FOR FURTHER INFORMATION CONTACT: Marisa Knispel at 1–888–912–1227 or 718–834–2203.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee will be held Wednesday, July 10, 2013 at 11:00 a.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Ms. Knispel. For more information please contact Ms. Knispel at 1–888–912–1227 or 718–834–2203, or write TAP Office, 2 Metro Tech Center, 100 Myrtle Avenue 7th Floor, Brooklyn, NY 11201, or contact us at the Web site: *http://www.improveirs.org.*

The committee will be discussing various issues related to Tax Forms and Publications and public input is welcomed.

Dated: June 11, 2013.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2013–14235 Filed 6–14–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Toll-Free Phone Line Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Toll-Free Phone Line Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, July 16, 2013.

FOR FURTHER INFORMATION CONTACT: Linda Rivera at 1–888–912–1227 or (202) 622–8390.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Toll-Free Phone Line Project Committee will be held Tuesday, July 16, 2013 at 11:00 a.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Linda Rivera. For more information please contact: Ms. Rivera at 1–888–912–1227 or (202) 622–8390, or write TAP Office, 1111 Constitution Avenue NW., Room 1509—National Office, Washington, DC 20224, or contact us at the Web site: *http://www.improveirs.org.*

The committee will be discussing Toll-free issues and public input is welcomed.

Dated: June 11, 2013.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2013–14239 Filed 6–14–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900—NEW]

Proposed Information Collection (Hip and Thigh Conditions Disability Benefits Questionnaire) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to adjudicate the claim for VA disability benefits related to a claimant's diagnosis of a hip and thigh condition.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 16, 2013.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900—NEW (Hip and Thigh Conditions Disability Benefits Questionnaire)'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or Fax (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

SUPPLEMENTARY INFORMATION:

Title: Hip and Thigh Conditions Disability Benefits Questionnaire, VA Form 21–0960M–8.

OMB Control Number: 2900—NEW (Hip and Thigh Conditions Disability Benefits Questionnaire).

Type of Review: New data collection.

Abstract: The form will be used to gather necessary information from a claimant's treating physician regarding the results of medical examinations. VA will gather medical information related to the claimant that is necessary to adjudicate the claim for VA disability benefits. VA Form 21–0960M–8, *Hip and Thigh Conditions Disability Benefits Questionnaire,* will gather information related to the claimant's diagnosis of a hand or finger condition.

Affected Public: Individuals or Households.

Estimated Annual Burden: 25,000.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 50,000.

Dated: June 11, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–14225 Filed 6–14–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900—0568]

Proposed Information Collection (Submission of School Catalog to the State Approving Agency) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed from accredited and nonaccredited educational institutions.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 16, 2013.

ADDRESSES: Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0568'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or Fax (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Submission of School Catalog to the State Approving Agency.

OMB Control Number: 2900—0568.

Type of Review: Extension of a previously approved collection.

Abstract: Accredited and nonaccredited educational institutions, with the exceptions of elementary and secondary schools, must submit copies of their catalog to State approving agency when applying for approval of a new course. State approval agencies use the catalog to determine what courses can be approved for VA training. VA pays educational assistance to veterans, persons on active duty or reservists, and eligible persons pursuing an approved program of education. Educational assistance is not payable when claimants pursue unapproved courses.

Affected Public: Not-for-profit institutions.

Estimated Annual Burden: 2,250 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On Occasion.

Estimated Number of Respondents: 9,000.

Dated: June 11, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–14193 Filed 6–14–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900—NEW]

Proposed Information Collection (Non-Degenerative Arthritis (Including Inflammatory, Autoimmune, Crystalline and Infectious Arthritis) and Dysbaric Osteonecrosis Disability Benefits Questionnaire) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to adjudicate the claim for VA disability benefits related to a claimant's diagnosis of a non-degenerative arthritis or osteonecrosis condition.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 16, 2013.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900—NEW (Non-Degenerative Arthritis (including inflammatory, autoimmune, crystalline and infectious arthritis) and Dysbaric

Osteonecrosis Disability Benefits Questionnaire)'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or Fax (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

SUPPLEMENTARY INFORMATION:

Title: Non-Degenerative Arthritis (including inflammatory, autoimmune, crystalline and infectious arthritis) and Dysbaric Osteonecrosis Disability Benefits Questionnaire, VA Form 21–0960M–3.

OMB Control Number: 2900—NEW (Non-Degenerative Arthritis (including inflammatory, autoimmune, crystalline and infectious arthritis) and Dysbaric Osteonecrosis Disability Benefits Questionnaire).

Type of Review: New data collection.

Abstract: The VA Form 21–0960M–3, *Non-Degenerative Arthritis (including inflammatory, autoimmune, crystalline and infectious arthritis) and Dysbaric Osteonecrosis Disability Benefits Questionnaire,* will be used for disability compensation or pension claims which require an examination and/or receiving private medical evidence that may potentially be sufficient for rating purposes. The form will be used to gather necessary information from a claimant's treating physician regarding the results of medical examinations and related to the claimant's diagnosis of a non-degenerative arthritis or osteonecrosis condition. VA will gather medical information related to the claimant that is necessary to adjudicate the claim for VA disability benefits.

Affected Public: Individuals or Households.

Estimated Annual Burden: 25,000.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 100,000.

Dated: June 11, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–14230 Filed 6–14–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900—NEW]

Proposed Information Collection (Neck (Cervical Spine) Conditions Disability Benefits Questionnaire) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to adjudicate the claim for VA disability benefits related to a claimant's diagnosis of a cervical spine condition.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 16, 2013.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900—NEW (Neck (Cervical Spine) Conditions Disability Benefits Questionnaire)'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or Fax (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

SUPPLEMENTARY INFORMATION:

Title: (Neck (Cervical Spine) Conditions Disability Benefits Questionnaire) Disability Benefits Questionnaire, VA Form 21–0960M–13.

OMB Control Number: 2900—NEW ((Neck (Cervical Spine) Conditions Disability Benefits Questionnaire).

Type of Review: New data collection.

Abstract: The VA Form 21–0960M–13, *Neck (Cervical Spine) Conditions Disability Benefits Questionnaire,* will be used for disability compensation or pension claims which require an examination and/or receiving private medical evidence that may potentially be sufficient for rating purposes. The form will be used to gather necessary information from a claimant's treating physician regarding the results of medical examination and related to the claimant's diagnosis of a cervical spine condition. VA will gather medical information related to the claimant that is necessary to adjudicate the claim for VA disability benefits.

Affected Public: Individuals or Households.

Estimated Annual Burden: 37,500.

Estimated Average Burden per Respondent: 45 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 50,000.

Dated: June 11, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–14217 Filed 6–14–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Proposed Information Collection (Wrist Conditions Disability Benefits Questionnaire) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to adjudicate the claim for VA disability benefits related to a claimant's diagnosis of wrist conditions.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 16, 2013.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–NEW (Wrist Conditions Disability Benefits Questionnaire)'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or Fax (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

SUPPLEMENTARY INFORMATION:

Title: Wrist Conditions Disability Benefits Questionnaire, VA Form 21–0960M–16.

OMB Control Number: 2900–NEW (Wrist Conditions Disability Benefits Questionnaire).

Type of Review: New data collection.

Abstract: The VA Form 21–0960M–16, *Wrist Conditions Disability Benefits Questionnaire* will be used for disability compensation or pension claims which require an examination and/or receiving private medical evidence that may potentially be sufficient for rating purposes. The form will be used to gather necessary information from a claimant's treating physician regarding the results of medical examinations. VA will gather medical information related to the claimant that is necessary to adjudicate the claim for VA disability benefits. Lastly, this form will gather information related to the claimant's diagnosis of a wrist condition.

Affected Public: Individuals or Households.

Estimated Annual Burden: 20,000.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 40,000.

Dated: June 11, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–14224 Filed 6–14–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900—NEW]

Proposed Information Collection (Shoulder and Arm Conditions Disability Benefits Questionnaire) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to adjudicate the claim for VA disability benefits related to a claimant's diagnosis of shoulder and arm conditions.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 16, 2013.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900—NEW (Shoulder and Arm Conditions Disability Benefits Questionnaire)'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or Fax (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility;

(2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

SUPPLEMENTARY INFORMATION:

Title: Shoulder and Arm Conditions Disability Benefits Questionnaire, VA Form 21–0960M–12.

OMB Control Number: 2900–NEW (Shoulder and Arm Conditions Disability Benefits Questionnaire).

Type of Review: New data collection.

Abstract: The VA Form 21–0960M–12, *Shoulder and Arm Conditions Disability Benefits Questionnaire,* will be used for disability compensation or pension claims which require an examination and/or receiving private medical evidence that may potentially be sufficient for rating purposes. The form will be used to gather necessary information from a claimant's treating physician regarding the results of medical examinations and information related to the claimant's diagnosis of a shoulder or arm condition. VA will gather medical information related to the claimant that is necessary to adjudicate the claim for VA disability benefits.

Affected Public: Individuals or Households.

Estimated Annual Burden: 25,000.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 50,000.

Dated: June 11, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–14223 Filed 6–14–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900—NEW]

Proposed Information Collection: (Back (Thoracolumbar Spine) Conditions Disability Benefits Questionnaire) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the Federal Register concerning each proposed collection of information, including each new collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to adjudicate the claim for VA disability benefits related to a claimant's diagnosis of a back condition.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 16, 2013.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900—NEW (Collection (Back (Thoracolumbar Spine) Conditions Disability Benefits Questionnaire)'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or Fax (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

SUPPLEMENTARY INFORMATION:

Title: (Back (Thoracolumbar Spine) Conditions Disability Benefits Questionnaire, VA Form 21–0960M–14.

OMB Control Number: 2900–NEW (Back (Thoracolumbar Spine) Conditions Disability Benefits Questionnaire).

Type of Review: New data collection.

Abstract: The VA Form 21–0960M–14, *Back (Thoracolumbar Spine) Conditions Disability Benefits Questionnaire,* will be used for disability compensation or pension claims which require an examination and/or receiving private medical evidence that may potentially be sufficient for rating purposes. The form will be used to gather necessary information from a claimant's treating physician regarding the results of medical examinations and related to the claimant's diagnosis of a Thoracolumbar spine condition. VA will gather medical information related to the claimant that is necessary to adjudicate the claim for VA disability benefits.

Affected Public: Individuals or Households.

Estimated Annual Burden: 37,500.

Estimated Average Burden per Respondent: 45 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 50,000.

Dated: June 11, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–14198 Filed 6–14–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900—NEW]

Proposed Information Collection (Elbow and Forearm Conditions Disability Benefits Questionnaire) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection, and allow 60 days for

public comment in response to the notice. This notice solicits comments on information needed to adjudicate the claim for VA disability benefits related to a claimant's diagnosis of an elbow and forearm.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 16, 2013.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900—NEW (Elbow and Forearm Conditions Disability Benefits Questionnaire)'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or Fax (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

SUPPLEMENTARY INFORMATION:

Title: Elbow and Forearm Conditions Disability Benefits Questionnaire, VA Form 21–0960M–4.

OMB Control Number: 2900—NEW (Elbow and Forearm Conditions Disability Benefits Questionnaire).

Type of Review: New data collection.

Abstract: The VA Form 21–0960M–4, *Elbow and Forearm Conditions Disability Benefits Questionnaire,* will be used for disability compensation or pension claims which require an examination and/or receiving private medical evidence that may potentially be sufficient for rating purposes. The form will be used to gather necessary information from a claimant's treating physician regarding the results of medical examinations and related to the claimant's diagnosis of an elbow or forearm condition. VA will gather medical information related to the claimant that is necessary to adjudicate the claim for VA disability benefits.

Affected Public: Individuals or Households.

Estimated Annual Burden: 10,000.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 20,000.

Dated: June 11, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–14226 Filed 6–14–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Notice of Intent To Grant An Exclusive License

AGENCY: Office of Research and Development, Department of Veterans Affairs.

ACTION: Notice of Intent.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs (VA), Office of Research and Development (ORD), intends to grant TiSport, LLC, 2701 West Court Street, Pasco, WA 99301 an exclusive license to practice the following patent: U.S. Patent No. #6,892,421, ''Oblique Angled Suspension Caster Fork for Wheelchairs,'' issued May 17, 2005. Copies of the published patent may be obtained from the U.S. Patent and Trademark Office at *www.uspto.gov.*

DATES: Comments must be received within 15 days from the date of this published Notice.

ADDRESSES: Written comments may be submitted through *www.regulations.gov;* by mail or hand-delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Director, Technology Transfer Program, Office of Research and Development (10P9TT), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; (202) 443–5640. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: It is in the public interest to license these inventions to TiSport, LLC to facilitate the development and commercialization of new and useful medical equipment. 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 404.7. The prospective exclusive license may be granted, unless VA ORD receives written evidence and argument within 15 days from the date of this published Notice, which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Approved: June 4, 2013.

Jose D. Riojas,

Interim Chief of Staff, Department of Veterans Affairs.

[FR Doc. 2013–14290 Filed 6–14–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Research Advisory Committee on Gulf War Veterans' Illnesses, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App., that the Research Advisory Committee on Gulf War Veterans' Illnesses will meet on June 17 and 18, 2013, in room 230 at VA Central Office, 810 Vermont Avenue, Washington, DC. The meeting will start at 8 a.m. each day and adjourn at 5:30 p.m. on June 17 and at 12:30 p.m. on June 18. All sessions will be open to the public.

The purpose of the Committee is to provide advice and make recommendations to the Secretary of Veterans Affairs on proposed research studies, research plans and research strategies relating to the health consequences of military service in the Southwest Asia theater of operations during the Gulf War.

The Committee will review VA program activities related to Gulf War Veterans' illnesses and updates on relevant scientific research published since the last Committee meeting. The research presentations on June 17 will involve genomics, proteomics, and neuroimaging techniques currently being evaluated for diagnosing and treating Gulf War Veterans, and a drug treatment trial which is underway. On June 18, the Committee will receive updates on VA Gulf War research initiatives and ethics training. Both sessions will also include discussion of Committee business and activities.

The meeting will include time reserved for public comments on both days in the afternoon. A sign-up sheet for five-minute comments will be available at the meeting. Individuals who speak are invited to submit a 1–2 page summary of their comments at the time of the meeting for inclusion in the official meeting record. Members of the public may also submit written statements for the Committee's review to Dr. Roberta White, Scientific Director, at VA Boston Healthcare System, Environmental Hazards Research Center and Neuropsychology, 116B–4, 150 South Huntington Avenue, Boston, MA 02130 or email at *rwhite@bu.edu.*

Because the meeting is being held in a government building, a photo I.D. must be presented at the Guard's Desk as a part of the clearance process. Therefore, you should allow an additional 15 minutes before the meeting begins. Any member of the public seeking additional information should contact Dr. White at (617) 638–4620 or Dr. Victor Kalasinsky, Designated Federal Officer, at (202) 443–5682.

Dated: June 11, 2013.

By Direction of the Secretary.

Vivian Drake,

Committee Management Officer.

[FR Doc. 2013–14243 Filed 6–14–13; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 78 Monday,

No. 116 June 17, 2013

Part II

Office of Personnel Management

5 CFR Part 550

Flag Recognition Benefit for Fallen Federal Civilian Employees; Submission for Review: Application for U.S. Flag Recognition Benefit for Deceased Federal Civilian Employees, OPM 1825; Proposed Rule and Notice

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 550

RIN 3206–AM58

Flag Recognition Benefit for Fallen Federal Civilian Employees

AGENCY: Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The U.S. Office of Personnel Management (OPM) is issuing proposed regulations to implement the Civilian Service Recognition Act of 2011. The proposed regulations will assist agencies in administering a United States flag recognition benefit for fallen Federal civilian employees, and describe the eligibility requirements and procedures to request a flag.

DATES: OPM must receive comments on or before August 16, 2013.

ADDRESSES: You may submit comments, identified by ''RIN 3206–AM58,'' using any of the following methods:

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

Email: Send to *performance-management@opm.gov.* Include ''RIN 3206–AM58'' in the subject line of the message.

Fax: Send to (202) 606–4264.

Mail, Hand Deliver/Courier comments: Address comments to Mr. Stephen T. Shih, Deputy Associate Director, Senior Executive Service and Performance Management, Suite 7412, 1900 E Street NW., Washington, DC 20415–1000.

FOR FURTHER INFORMATION CONTACT: Nikki Johnson at (202) 606–2720, by fax at (202) 606–4264, or by email at *nikki.johnson@opm.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Office of Personnel Management, following coordination with the U.S. Department of Defense and the U.S. Department of Homeland Security, is issuing proposed regulations to implement the Civilian Service Recognition Act of 2011 (Pub. L. 112–73, December 20, 2011), hereafter referred to as the ''Act.'' Congress passed the Act to acknowledge that the Federal Government's unique mission requires some Federal civilian employees to be subjected to dangerous situations. For those civilian employees who die in the course of serving their country, the Act authorizes agency heads to give United States flags to beneficiaries as a way to formally express sympathy and gratitude on behalf of the Nation.

The Act, together with these proposed regulations, provides policies for recognizing deceased Federal civilian employees for their duty and sacrifice. Prior to this legislation, a few agencies had limited authority to do so. Under the Act, Executive agencies, the United States Postal Service, and the Postal Regulatory Commission may furnish flags on behalf of employees who die of injuries incurred in connection with their employment as a result of criminal acts, acts of terrorism, natural disasters, or other circumstances as determined by the President.

OPM is amending part 550 of title 5, Code of Federal Regulations, by adding a new subpart (subpart O) titled ''Flag Recognition Benefit for Fallen Federal Civilian Employees'' that establishes a comprehensive Governmentwide approach to honor Federal civilian employees who die of certain injuries incurred in connection with their employment. These regulations also provide agencies flexibility to develop additional procedures when honoring these employees.

Approach

OPM conferred with the Senior Executives Association, one of the principal supporters of the Act, to better understand the full intent behind this legislation. In addition, OPM talked with representatives from the U.S. Department of Veterans Affairs and the National Funeral Directors Association to determine how they administer similar benefits. Finally, OPM coordinated with the Department of Defense and the Department of Homeland Security, as specified by the Act, to obtain input in drafting this proposed regulation.

Regulation

The proposed regulations clarify that an agency may furnish a flag only for an employee who died on or after December 20, 2011, the effective date of the legislation authorizing the flag recognition benefit. The employee's death must be the result of injuries incurred in connection with his or her employment with the Federal Government under certain circumstances. Furnishing the flag is not limited to burial purposes or functions.

The regulations include the four circumstances specified by statute that may warrant such employee recognition—death resulting from a criminal act, an act of terrorism, a natural disaster, or other circumstances as determined by the President. To be eligible, the employee's injuries must occur because of the employee's status as a Federal employee, thereby excluding accidents that happen in the normal course of events.

The proposed regulations define various terms used and describe beneficiary and agency responsibilities. The beneficiary must request a flag from the employing agency. The request must be in a format specified by the employing agency, which often might be in writing (including electronic formats), and include any necessary documentation required by the agency. To assist beneficiaries and agencies with written requests, OPM will create an optional form for requesting a flag. In addition, agencies should reach out to survivors of employees who die of injuries incurred in connection with their employment to provide information and offer assistance in obtaining flags. Agencies will determine how to procure and distribute flags for this purpose in a manner that is most efficient and cost-effective for the agency while keeping in mind the meaningfulness of prompt delivery to beneficiaries. Agencies may choose to coordinate with other agencies or organizations to furnish flags.

E.O. 12866, Regulatory Review

This rule has been reviewed by the U.S. Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would apply only to Federal agencies and employees.

List of Subjects in 5 CFR Part 550

Administrative practice and procedure, Claims, Government employees, Wages.

U.S. Office of Personnel Management.

Elaine Kaplan,

Acting Director.

Accordingly, OPM is proposing to amend part 550 of title 5, Code of Federal Regulations, by adding a new subpart O to read as follows:

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart O—Flag Recognition Benefit for Fallen Federal Civilian Employees

Authority: 5 U.S.C. 5570 note; also issued under Sec. 2 of Pub. L. 112–73, 125 Stat. 784–785.

Sec.

550.1501 General.
550.1502 Coverage.
550.1503 Definitions.

550.1504 Eligibility.
550.1505 Order of precedence.
550.1506 Beneficiary responsibilities.
550.1507 Agency responsibilities.

§ 550.1501 General.

(a) *Statutory authority.* This subpart implements the note in section 5570 of title 5, United States Code, as added by the Civilian Service Recognition Act of 2011 (Public Law 112–73; December 20, 2011), which authorizes agencies to give a flag of the United States to the beneficiary of Federal civilian employees who die under specific circumstances.

(b) *Effective date.* Agencies may furnish a flag to the beneficiary (as defined in § 550.1503) of an eligible employee (as specified in § 550.1504) who died on or after December 20, 2011.

§ 550.1502 Coverage.

This subpart applies to—

(a) Executive agencies as defined in section 105 of title 5, United States Code, the United States Postal Service, and the Postal Regulatory Commission; and

(b) Employees as defined in section 2105 of title 5, United States Code; an officer or employee of the United States Postal Service; and an officer or employee of the Postal Regulatory Commission.

§ 550.1503 Definitions.

In this subpart—

Agency means an Executive agency as defined in 5 U.S.C. 105, the United States Postal Service, or the Postal Regulatory Commission.

Authorized agency official means the head of an agency or an official who is authorized to act for the head of the agency in the matter concerned.

Beneficiary means the eligible person who can request the flag following the order of precedence specified in § 550.1505.

Employee means an employee as defined in section 2105 of title 5, United States Code; an officer or employee of the United States Postal Service; and an officer or employee of the Postal Regulatory Commission.

Flag means a standard United States flag that is at least 3 feet by 5 feet.

§ 550.1504 Eligibility.

(a) An authorized agency official may, upon the request of a beneficiary, furnish one United States flag for an individual who—

(1) Was an employee of the agency at the time of death; and

(2) Died of injuries incurred in connection with such individual's employment with the Federal Government suffered as a result of—

(i) A criminal act;

(ii) An act of terrorism;

(iii) A natural disaster; or

(iv) Other circumstances, as determined by the President.

(b) An authorized agency official may not furnish a flag when the death is the result of—

(1) Unlawful or negligent action of the employee;

(2) Willful misconduct of the employee; or

(3) Activities unrelated to the employee's status as a Federal employee.

(c) The decision whether to furnish a flag to the beneficiary of an eligible employee is at the discretion of the agency. When an authorized agency official determines the agency will furnish a flag for a deceased eligible employee, the official must follow the order of precedence specified in § 550.1505.

§ 550.1505 Order of precedence.

Flags must be issued in the following order of precedence—

(a) The widow or widower;

(b) If none, to a child (including step, foster, or adopted child), according to age (i.e., oldest to youngest);

(c) If none, to a parent (including step, foster, or adoptive parent);

(d) If none, to a sibling (including step, half, or adopted sibling), according to age (i.e., oldest to youngest);

(e) If none, to any individual related by blood or close family affiliation.

§ 550.1506 Beneficiary responsibilities.

When requesting a flag for an eligible employee, a beneficiary must—

(a) Submit a request to the employing agency. The beneficiary will submit the request —

(1) In the format required by the agency, which is usually written and can include electronic submissions; and

(2) Within any timeframe the agency establishes, particularly as may be needed to adhere to the order of precedence established in § 550.1505;

(b) Establish his or her relationship to the deceased employee so that the authorized agency official can determine whether the beneficiary may receive the flag, consistent with the order of precedence under § 550.1505; and

(c) Provide any documentation on the date and nature of death of the employee requested by the authorized agency official to confirm the employee's eligibility.

§ 550.1507 Agency responsibilities.

To efficiently and effectively implement the provisions of the law and these regulations, the agency must—

(a) Establish procedures for procuring and furnishing a flag, including reaching out to survivors of known eligible employees to provide information and offer assistance on obtaining a flag;

(b) Notify its employees of the flag benefit and remind them annually, usually as part of the agency's regular benefits information sharing;

(c) Disclose information necessary to prove that a deceased individual is an eligible employee as described in § 550.1504 to the extent that such information is not classified and to the extent that such disclosure does not endanger the national security of the United States.

[FR Doc. 2013–14087 Filed 6–14–13; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Application for U.S. Flag Recognition Benefit for Deceased Federal Civilian Employees, OPM 1825

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day Notice and request for comments.

SUMMARY: The Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on new information collection request 3206–NEW, Application for U.S. Flag Recognition Benefit for Deceased Federal Civilian Employees. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of OPM, including whether the information will have practical utility;

2. Evaluate the accuracy of OPM's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until August 16, 2013. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to Senior Executive Service and Performance Management, Office of Personnel Management, 1900 E Street NW., Suite 7412, Washington, DC 20415, Attention: Mr. Stephen T. Shih, Deputy Associate Director, or send by email to *performance-management@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this Information Collection Request (ICR), with applicable supporting documentation, may be obtained by contacting Senior Executive Service and Performance Management, Office of Personnel Management, 1900 E Street NW., Suite 7412, Washington, DC 20415, Attention: Nikki Johnson or send by email to *nikki.johnson@opm.gov.*

SUPPLEMENTARY INFORMATION: The Civilian Service Recognition Act of 2011 (Pub. L. 112–73) authorizes an agency to furnish a United States flag on behalf of an employee who dies of injuries incurred in connection with his/her employment under specified circumstances. OPM is issuing guidance and proposed regulations to implement the Civilian Service Recognition Act of 2011. The guidance and proposed regulations will assist agencies in administering a United States flag recognition benefit for fallen Federal civilian employees. The guidance and proposed regulations describe the eligibility requirements and procedures to request a flag.

OPM Form OPM 1825, Application for U.S. Flag Recognition Benefit for Deceased Federal Civilian Employees, may be used to determine deceased Federal employee and beneficiary (e.g., family member of a deceased employee) eligibility for issuance of a U.S. flag. The form may be used by any Federal entity and use of the form is at agency discretion. Agencies equipped to accept electronic signatures may use an electronic version of the form.

Analysis

Agency: Office of Personnel Management.

Title: Application for U.S. Flag Recognition Benefit for Deceased Federal Civilian Employees.

OMB Number: 3260—NEW.

Frequency: Annually.

Affected Public: Individuals or households.

Number of Respondents: 10.

Estimated Time per Respondent: 10 minutes.

Total Burden Hours: 2 hours.

U.S. Office of Personnel Management.

Elaine Kaplan,

Acting Director.

[FR Doc. 2013–14083 Filed 6–14–13; 8:45 am]

BILLING CODE 6325–39–P

FEDERAL REGISTER

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Part III

Department of Energy

10 CFR Parts 429 and 430

Energy Conservation Program: Energy Conservation Standards for Standby Mode and Off Mode for Microwave Ovens; Final Rule

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[Docket Number EERE–2011–BT–STD–0048]

RIN 1904–AC07

Energy Conservation Program: Energy Conservation Standards for Standby Mode and Off Mode for Microwave Ovens

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: The Energy Policy and Conservation Act of 1975 (EPCA), as amended, prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment. Microwave ovens are covered products under EPCA, although there are no existing microwave oven standards. DOE has already previously determined that active mode standards are not warranted. The Energy Independence and Security Act of 2007 (EISA 2007) amended EPCA to require any final rule adopted after July 1, 2010 establishing or revising energy conservation standards for covered products, including microwave ovens, to address standby mode and off mode energy use. In this final rule, DOE is only adopting energy conservation standards for microwave oven standby mode and off mode. It has determined that the amended energy conservation standards for these products in standby mode and off mode would result in significant conservation of energy, and are technologically feasible and economically justified.

DATES: The effective date of this rule is August 16, 2013. Compliance with the amended standards established for microwave ovens in this final rule is June 17, 2016.

ADDRESSES: The docket for this rulemaking is available for review at *www.regulations.gov,* including **Federal Register** notices, framework documents, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

A link to the docket Web page can be found at: *http://www.regulations.gov/#!docketDetail;rpp=10;po=0;D=EERE-2011-BT-STD-0048*. 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:

Mr. John Cymbalsky, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1692. Email: *microwave_ovens@ee.doe.gov*.

Mr. Ari Altman, Esq., U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–6307. Email: *Ari.Altman@hq.doe.gov*.

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I. Summary of the Final Rule and Its Benefits

Title III, Part B [1] of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163 (42 U.S.C. 6291–6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles. Pursuant to EPCA, any new or amended energy conservation standard that DOE prescribes for certain products, such as microwave ovens, shall be designed to achieve the maximum improvement in energy efficiency that DOE determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, the new or amended standard must result in significant conservation of energy. (42 U.S.C. 6295(o)(3)(B)) In accordance with these and other statutory provisions discussed in this rulemaking, DOE is adopting amended energy conservation standards for microwave ovens to address standby mode and off mode energy use. The amended standards, which are the maximum allowable energy use when a product is in standby mode or off mode, are shown in Table I–1.[2] These amended standards apply to all products listed in Table I–1 and manufactured in, or imported into, the United States on or after June 17, 2016.

TABLE I–1—ENERGY CONSERVATION STANDARDS FOR MICROWAVE OVENS

[Compliance Starting June 17, 2016]

Product classes	Effective June 17, 2016
Microwave-Only Ovens and Countertop Convection Microwave Ovens	Maximum Standby Power = 1.0 watt.
Built-In and Over-the-Range Convection Microwave Ovens	Maximum Standby Power = 2.2 watts.

A. Benefits and Costs to Consumers

Table I–2 presents DOE's evaluation of the economic impacts of today's standards on consumers of microwave ovens, as measured by the average life-cycle cost (LCC) savings and the median payback period. The average LCC savings are positive for 88 percent of consumers of microwave-only ovens and countertop convection microwave ovens and for all consumers of built-in and over-the-range convection microwave ovens.

TABLE I–2—IMPACTS OF TODAY'S STANDARDS ON CONSUMERS OF MICROWAVE OVENS

Product class	Average LCC savings (*2011$*)	Median payback period (*years*)
Microwave-Only Ovens and Countertop Convection Microwave Ovens	11	3.5
Built-In and Over-the-Range Convection Microwave Ovens	12	3.3

Note: Average microwave oven lifetime is estimated at 10.9 years.

B. Impact on Manufacturers

The industry net present value (INPV) is the sum of the discounted cash flows to the industry from the base year through the end of the analysis period (2013 to 2045). Using a real discount rate of 8.0 percent, DOE estimates that the INPV for manufacturers of microwave ovens is $1.4 billion in 2011$. Under today's standards, DOE expects that manufacturers may lose up to 7.0 percent of their INPV, which is approximately $96.6 million. Additionally, based on DOE's interviews with the manufacturers of microwave ovens, DOE does not expect any plant closings or significant loss of employment.

C. National Benefits

DOE's analyses indicate that today's standards would save a significant amount of energy. The lifetime savings for microwave ovens purchased in the 30-year period that begins in the year of compliance with amended standards (2016–2045) amount to 0.48 quads. The average annual primary energy savings in 2016–2045 is equivalent to the annual primary energy use of 70,000 households.

The cumulative net present value (NPV) of total consumer costs and savings of today's standards in 2011$ ranges from $3.38 billion (at a 3-percent discount rate) to $1.53 billion (at a 7-percent discount rate) for microwave ovens. This NPV expresses the estimated total value of future operating-cost savings minus the estimated increased product costs for products purchased in 2016–2045, discounted to 2013.

In addition, today's standards would have significant environmental benefits. The energy savings would result in cumulative greenhouse gas emission reductions of approximately 38.11

[1] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

[2] DOE considered energy use in off mode for microwave ovens, but is not adopting a maximum allowable off mode power at this time because DOE is aware of less than 1 percent of microwave oven models in Product Class 1 and no models in Product Class 2 that are capable of operating in such a mode. DOE has already previously determined that active mode standards are not warranted. 74 FR 16040 (Apr. 8, 2009).

million metric tons (Mt)[3] of carbon dioxide (CO_2), 27.14 thousand tons of sulfur dioxide (SO_2), 32.67 thousand tons of nitrogen oxides (NO_X) and 0.095 tons of mercury (Hg).[4]

The value of the CO_2 reductions is calculated using a range of values per metric ton of CO_2 (otherwise known as the Social Cost of Carbon, or SCC) developed by an interagency process. The derivation of the SCC values is discussed in section IV.L of this rulemaking. Using the most recent (2013) SCC values from the interagency group, DOE estimates that the present monetary value of the CO_2 emissions reductions is between $255 million and $3,615 million, expressed in 2011$ and discounted to 2013. DOE estimates that the present monetary value of the NO_X emissions reductions, expressed in 2011$ and discounted to 2013, is $21.8 million at a 7-percent discount rate, and $44.5 million at a 3-percent discount rate.[5]

Table I–3 summarizes the national economic costs and benefits expected to result from today's standards for microwave ovens. The monetary value of the CO_2 emissions reductions using the previous (2010) SCC estimates, and the benefits using those estimates, are presented for information purposes. Using the updated 2013 social cost of carbon estimates, the net benefits from the microwave oven standby power rule, discounted at 3 percent, are projected to be $4.6 billion (2011 dollars). For comparison purposes, the net benefits, discounted at 3 percent, are projected to be $4.2 billion using the 2010 SCC estimates. When discounted at 7 percent, the net benefits of the rule are projected to be $2.7 billion using the 2013 SCC estimates, compared with $2.3 billion using the 2010 SCC estimates.

TABLE I–3—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF MICROWAVE OVEN ENERGY CONSERVATION STANDARDS

Category	Present value *(million 2011$)*	Discount rate (%)
Benefits		
Operating Cost Savings	2,306	7
	4,717	3
Using 2013 Social Cost of Carbon Values		
CO_2 Reduction Monetized Value ($12.6/t case) *	255	5
CO_2 Reduction Monetized Value ($41.1/t case) *	1,179	3
CO_2 Reduction Monetized Value ($63.2/t case) *	1,876	2.5
CO_2 Reduction Monetized Value ($119.1/t case) *	3,615	3
Total Benefits †	3,507	7
	5,941	3
Using 2010 Social Cost of Carbon Values		
CO_2 Reduction Monetized Value ($6.2/t case) **	150	5
CO_2 Reduction Monetized Value ($25.6/t case) **	740	3
CO_2 Reduction Monetized Value ($41.1/t case) **	1,243	2.5
CO_2 Reduction Monetized Value ($78.4/t case) **	2,257	3
NO_X Reduction Monetized Value (at $2,567/ton) **	21.8	7
	44.5	3
Total Benefits ††	3,069	7
	5,503	3
Costs		
Incremental Installed Costs	776	7
	1,341	3
Net Benefits (using 2013 SCC values)		
Including CO_2 and NO_X Reduction Monetized Value †	2,731	7
	4,600	3
Net Benefits (using 2010 SCC values)		
Including CO_2 and NO_X Reduction Monetized Value ††	2,293	7
	4,162	3

* The CO_2 values represent global values (in 2011$) of the social cost of CO_2 emissions in 2016 under several scenarios. The values of $12.6, $41.1, and $63.2 per ton are the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The value of $119.1 per ton represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The value for NO_X (in 2011$) is the average of the low and high values used in DOE's analysis.

[3] A metric ton is equivalent to 1.1 short tons. Results for NO_X and Hg are presented in short tons.

[4] DOE calculated emissions reductions relative to the *Annual Energy Outlook* (*AEO*) 2012 Reference case, which generally represents current legislation and environmental regulations, including recent government actions, for which implementing regulations were available as of December 31, 2011.

[5] DOE has not monetized SO_2 and Hg emissions in this rulemaking.

** The CO_2 values represent global values (in 2011$) of the social cost of CO_2 emissions in 2016 under several scenarios. The values of $6.2, $25.6, and $41.1 per ton are the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The value of $78.4 per ton represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The value for NO_X (in 2011$) is the average of the low and high values used in DOE's analysis.

† Total Benefits for both the 3% and 7% cases are derived using the series corresponding to SCC value of $41.1/t in 2016 (derived from the 3% discount rate value for SCC).

†† Total Benefits for both the 3% and 7% cases are derived using the series corresponding to SCC value of $25.6/t in 2016 (derived from the 3% discount rate value for SCC).

The benefits and costs of today's standards, for products sold in 2016–2045, can also be expressed in terms of annualized values. The annualized monetary values are the sum of (1) the annualized national economic value of the benefits from operating the product (consisting primarily of operating cost savings from using less energy, minus increases in equipment purchase and installation costs, which is another way of representing consumer NPV), plus (2) the annualized monetary value of the benefits of emission reductions, including CO_2 emission reductions.[6]

Although adding the value of consumer savings to the value of emission reductions provides a valuable perspective, two issues should be considered. First, the national operating cost savings are domestic U.S. consumer monetary savings that occur as a result of market transactions, while the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and CO_2 savings are performed with different methods that use different time frames for analysis. The national operating cost savings is measured for the lifetime of microwave ovens shipped in 2016–2045. The SCC values, on the other hand, reflect the present value of all future climate-related impacts resulting from the emission of one metric ton of carbon dioxide in each year. These impacts continue well beyond 2100.

Estimates of annualized benefits and costs of today's standards are shown in Table I–4. (All monetary values below are expressed in 2011$). The results under the primary estimate, using the 2013 SCC values from the interagency group, are as follows. Using a 7-percent discount rate for benefits and costs other than CO_2 reduction, for which DOE used a 3-percent discount rate along with the SCC series corresponding to a value of $41.1/ton in 2016, the cost of the standards in today's rule is $58.4 million per year in increased equipment costs, while the benefits are $174 million per year in reduced equipment operating costs, $58.4 million in CO_2 reductions, and $1.64 million in reduced NO_X emissions. In this case, the net benefit amounts to $175 million per year. Using a 3-percent discount rate for all benefits and costs and the SCC series corresponding to a value of $41.1/ton in 2016, the cost of the standards in today's rule is $66.4 million per year in increased equipment costs, while the benefits are $234 million per year in reduced operating costs, $58.4 million in CO_2 reductions, and $2.20 million in reduced NO_X emissions. In this case, the net benefit amounts to $228 million per year. The monetary value of the CO_2 emissions reductions using the previous (2010) SCC estimates, and the benefits using those estimates, are presented for information purposes.

TABLE I–4—ANNUALIZED BENEFITS AND COSTS OF AMENDED STANDARDS FOR MICROWAVE OVENS

	Million 2011$/year			
	Discount rate	Primary estimate *	Low net benefits estimate	High net benefits estimate
Benefits				
Operating Cost Savings	7%	174	162	191.
	3%	234	215	261.
Using 2013 Social Cost of Carbon Values				
CO_2 Reduction ($12.6/t case) **	5%	15.8	14.7	17.4.
CO_2 Reduction ($41.1/t case) **	3%	58.4	54.1	64.5.
CO_2 Reduction ($63.2/t case) **	2.5%	87.4	80.9	96.7.
CO_2 Reduction ($119/t case) **	3%	179	166	198.
Total Benefits †	7% plus CO_2 range	191 to 354	178 to 329	210 to 391.
	7%	234	218	258.
	3%	294	271	328.
	3% plus CO_2 range	252 to 415	232 to 383	281 to 462.
Using 2010 Social Cost of Carbon Values				
CO_2 Reduction ($6.2/t case) ***	5%	9.29	8.62	17.4.
CO_2 Reduction ($25.6/t case) ***	3%	36.7	34.0	40.6.
CO_2 Reduction ($41.1/t case) ***	2.5%	57.9	53.6	64.1.
CO_2 Reduction ($78.4/t case) ***	3%	111.8	103.5	123.6.
NO_X Reduction at $2,567/ton **	7%	1.64	1.54	1.79.
	3%	2.20	2.05	2.42.

[6] DOE used a two-step calculation process to convert the time-series of costs and benefits into annualized values. First, DOE calculated a present value in 2013, the year used for discounting the NPV of total consumer costs and savings, for the time-series of costs and benefits using discount rates of 3 and 7 percent for all costs and benefits except for the value of CO_2 reductions. For the latter, DOE used a range of discount rates, as shown in Table I–3. From the present value, DOE then calculated the fixed annual payment over a 30-year period (2016 through 2045) that yields the same present value. The fixed annual payment is the annualized value. Although DOE calculated annualized values, this does not imply that the time-series of cost and benefits from which the annualized values were determined is a steady stream of payments.

TABLE I–4—ANNUALIZED BENEFITS AND COSTS OF AMENDED STANDARDS FOR MICROWAVE OVENS—Continued

	Million 2011$/year			
	Discount rate	Primary estimate *	Low net benefits estimate	High net benefits estimate
Total Benefits †	7% plus CO_2 range	185 to 287	172 to 267	203 to 317.
	7%	212	198	234.
	3%	273	251	304.
	3% plus CO_2 range	245 to 348	226 to 321	274 to 388.
Costs				
Incremental Installed Costs	7%	58.4	59.6	57.5.
	3%	66.4	67.8	64.3.
Net Benefits (using 2013 SCC values)				
Total †	7% plus CO_2 range	133 to 296	119 to 270	153 to 334.
	7%	175	158	200.
	3%	228	203	264.
	3% plus CO_2 range	185 to 349	164 to 315	217 to 398.
Net Benefits (using 2010 SCC values)				
Total ††	7% plus CO_2 range	126 to 229	113 to 208	146 to 259.
	7%	154	138	176.
	3%	206	183	240.
	3% plus CO_2 range	179 to 281	158 to 253	210 to 323.

* This table presents the annualized costs and benefits associated with microwave ovens shipped in 2016–2045. These results include benefits to consumers which accrue after 2016 from the microwave ovens purchased from 2016–2045. Costs incurred by manufacturers, some of which may be incurred prior to 2016 in preparation for the rule, are not directly included, but are indirectly included as part of incremental equipment costs. The Primary, Low Benefits, and High Benefits Estimates utilize projections of energy prices and housing starts from the *AEO 2012* Reference case, Low Estimate, and High Estimate, respectively. In addition, incremental product costs reflect a medium decline rate for product prices in the Primary Estimate, constant product price in the Low Benefits Estimate, and a high decline rate for product prices in the High Benefits Estimate. The methods used to derive projected price trends are explained in section 0 of this rulemaking.

** The CO_2 values represent global monetized values of the SCC, in 2011$, in 2016 under several scenarios. The values of $12.6, $41.1, and $63.2 per metric ton are the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The value of $119/t represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series increase over time. The value for NO_X (in 2011$) is the average of the low and high values used in DOE's analysis.

*** The CO_2 values represent global monetized values of the SCC, in 2011$, in 2016 under several scenarios. The values of $6.2, $25.6, and $41.1 per metric ton are the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The value of $78.4/t represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series increase over time. The value for NO_X (in 2011$) is the average of the low and high values used in DOE's analysis.

† Total Benefits for both the 3-percent and 7-percent cases are derived using the series corresponding to SCC value of $41.1/t in 2016. In the rows labeled "7% plus CO_2 range" and "3% plus CO_2 range," the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

†† Total Benefits for both the 3-percent and 7-percent cases are derived using the series corresponding to SCC value of $25.6/t in 2016. In the rows labeled "7% plus CO_2 range" and "3% plus CO_2 range," the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

D. Conclusion

Based on the analyses culminating in this final rule, DOE found the benefits to the nation of the standards (energy savings, consumer LCC savings, positive NPV of consumer benefit, and emission reductions) (see section V.B.1.a. of this rulemaking) outweigh the burdens (loss of INPV and LCC increases for a very small percentage of users of these products) (see section V.B.2.a and section V.B.1.a.). DOE has concluded that the standards in today's final rule represent the maximum improvement in energy efficiency that is technologically feasible and economically justified, and would result in significant conservation of energy.

II. Introduction

The following section briefly discusses the statutory authority underlying today's final rule, as well as some of the relevant historical background related to the establishment of standards for microwave ovens.

A. Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163 (42 U.S.C. 6291–6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles,[7] a program covering most major household appliances (collectively referred to as "covered products"), which includes the types of microwave ovens that are the subject of this rulemaking. (42 U.S.C. 6292(a)(10)) The National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100–12, amended EPCA to establish prescriptive standards for cooking products, specifically gas cooking products. No standards were established for microwave ovens. DOE notes that under 42 U.S.C. 6295(m), the agency must periodically review its already established energy conservation standards for a covered product. Under this requirement, the next review that DOE would need to conduct must occur no later than 6 years from the issuance of a final rule establishing or amending a standard for a covered product.

Pursuant to EPCA, DOE's energy conservation program for covered

[7] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

products consists essentially of four parts: (1) Testing; (2) labeling; (3) the establishment of Federal energy conservation standards; and (4) certification and enforcement procedures. The Federal Trade Commission (FTC) is primarily responsible for labeling, and DOE implements the remainder of the program. Subject to certain criteria and conditions, DOE is required to develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of each covered product. (42 U.S.C. 6293) Manufacturers of covered products must use the prescribed DOE test procedure as the basis for certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA and when making representations to the public regarding the energy use or efficiency of those products. (42 U.S.C. 6293(c) and 6295(s)) Similarly, DOE must use these test procedures to determine whether the products comply with standards adopted pursuant to EPCA. *Id.* The DOE test procedures for microwave ovens currently appear at title 10 of the Code of Federal Regulations (CFR) part 430, subpart B, appendix I.

DOE must follow specific statutory criteria for prescribing amended standards for covered products. As indicated above, any amended standard for a covered product must be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, DOE may not adopt any standard that would not result in the significant conservation of energy. (42 U.S.C. 6295(o)(3)) Moreover, DOE may not prescribe a standard: (1) for certain products, including microwave ovens, if no test procedure has been established for the product, or (2) if DOE determines by rule that the amended standard is not technologically feasible or economically justified. (42 U.S.C. 6295(o)(3)(A)–(B)) In deciding whether an amended standard is economically justified, DOE must determine whether the benefits of the standard exceed its burdens. (42 U.S.C. 6295(o)(2)(B)(i)) DOE must make this determination after receiving comments on the proposed standard, and by considering, to the greatest extent practicable, the following seven factors:

1. The economic impact of the standard on manufacturers and consumers of the products subject to the standard;

2. The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products that are likely to result from the imposition of the standard;

3. The total projected amount of energy, or as applicable, water, savings likely to result directly from the imposition of the standard;

4. Any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard;

5. The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

6. The need for national energy and water conservation; and

7. Other factors the Secretary of Energy (Secretary) considers relevant. (42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

EPCA, as codified, also contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6295(o)(1)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States of any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6295(o)(4))

Further, EPCA, as codified, establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure. *See* 42 U.S.C. 6295(o)(2)(B)(iii).

Additionally, 42 U.S.C. 6295(q)(1) specifies requirements when promulgating a standard for a type or class of covered product that has two or more subcategories. DOE must specify a different standard level than that which applies generally to such type or class of products for any group of covered products that have the same function or intended use if DOE determines that products within such group (A) consume a different kind of energy from that consumed by other covered products within such type (or class); or (B) have a capacity or other performance-related feature which other products within such type (or class) do not have and such feature justifies a higher or lower standard. (42 U.S.C. 6295(q)(1)) In determining whether a performance-related feature justifies a different standard for a group of products, DOE must consider such factors as the utility to the consumer of such a feature and other factors DOE deems appropriate. *Id.* Any rule prescribing such a standard must include an explanation of the basis on which such higher or lower level was established. (42 U.S.C. 6295(q)(2))

Federal energy conservation requirements generally supersede State laws or regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a)–(c)) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions set forth under 42 U.S.C. 6297(d)).

Finally, pursuant to the amendments contained in section 310(3) of EISA 2007, any final rule for new or amended energy conservation standards promulgated after July 1, 2010, are required to address standby mode and off mode energy use. (42 U.S.C. 6295(gg)(3)) Specifically, when DOE adopts a standard for a covered product after that date, it must, if justified by the criteria for adoption of standards under EPCA (42 U.S.C. 6295(o)), incorporate standby mode and off mode energy use into the standard, or, if that is not feasible, adopt a separate standard for such energy use for that product. (42 U.S.C. 6295(gg)(3)(A)–(B)) DOE's current test procedure for microwave ovens addresses standby mode and off mode energy use, as do the amended standards adopted in this final rule.

DOE has also reviewed this regulation pursuant to Executive Order 13563, issued on January 18, 2011. 76 FR 3281 (Jan. 21, 2011). EO 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, agencies are required by Executive Order 13563 to: (1) Propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in

choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

DOE emphasizes as well that Executive Order 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in section I of this rulemaking, DOE determines that today's final rule is consistent with these principles, including the requirement that, to the extent permitted by law, benefits justify costs and that net benefits are maximized. Consistent with EO 13563, and the range of impacts analyzed in this rulemaking, the energy efficiency standard adopted herein by DOE achieves maximum net benefits.

B. Background

1. Current Standards

Currently, there are no DOE energy conservation standards for microwave oven active mode, standby mode, or off mode energy consumption. Based on analyses and comments from interested parties, DOE decided in 2009 not to adopt energy conservation standards for microwave oven energy factor (microwave oven operation in active mode), but to develop a separate energy use metric for standby mode and off mode. 74 FR 16040 (Apr. 8, 2009).[8] As discussed in section II.A of this rulemaking, if DOE adopts amended standards for microwave ovens after July 1, 2010, it must, if justified by the criteria for adoption of standards under EPCA (42 U.S.C. 6295(o)), incorporate standby mode and off mode energy use into the standard, or, if that is not feasible, adopt a separate standard for such energy use for that product. (42 U.S.C. 6295(gg)(3)(A)–(B)) Because there is currently no test procedure or standard for microwave oven active mode, DOE has determined that proposing a combined metric for standby and active mode energy use is not feasible at this time. If DOE amends the test procedure to incorporate measurement of microwave oven active mode energy use, DOE will consider whether it is technically feasible to incorporate active mode, standby mode, and off mode energy use into a single metric for future energy conservation standards.

2. History of Standards Rulemaking for Microwave Ovens

On March 15, 2006, DOE published on its Web site a document titled, ''Rulemaking Framework for Commercial Clothes Washers and Residential Dishwashers, Dehumidifiers, and Cooking Products'' (Framework Document).[9] 71 FR 15059. The Framework Document described the procedural and analytical approaches that DOE anticipated using to evaluate energy conservation standards for these products, and identified various issues to be resolved in conducting the rulemaking. On December 4, 2006, DOE posted on its Web site two spreadsheet tools for this rulemaking.[10] The first tool calculates LCC and payback periods (PBPs). The second tool—the national impact analysis (NIA) spreadsheet—calculates the impacts on shipments and the national energy savings (NES) and NPV at various candidate standard levels. DOE subsequently published the advance notice of proposed rulemaking (ANOPR) for this rulemaking (72 FR 64432 (Nov. 15, 2007)), the November 2007 ANOPR) and on December 13, 2007, held a public meeting to present and seek comment on the analytical methodology and results in the ANOPR (the December 2007 Public Meeting).

At the December 2007 Public Meeting, DOE invited comment in particular on the following issues concerning microwave ovens: (1) Incorporation of the International Electrotechnical Commission (IEC) test standard IEC Standard 62301[11] into DOE's microwave oven test procedure to measure standby mode and off mode power; (2) IEC Standard 62301 test conditions; and (3) a requirement that if the measured standby mode power varies as a function of the time displayed, the standby mode power test would run for 12 hours, with an initial clock setting of 12:00.

Interested parties' comments presented during the December 2007 Public Meeting and submitted in response to the November 2007 ANOPR addressed the standby mode and off mode energy use of microwave ovens and the ability to combine that energy use into a single metric with cooking energy use. Those concerns lead DOE to thoroughly investigate standby mode, off mode, and active mode power consumption of microwave ovens.

On October 17, 2008, DOE published a NOPR (the October 2008 NOPR) for cooking products and commercial clothes washers in the **Federal Register** proposing amended energy conservation standards. 73 FR 62034. In the October 2008 NOPR, DOE tentatively concluded that a standard for microwave oven standby mode and off mode energy use would be technologically feasible and economically justified. *Id.* at 62120. Therefore, concurrent with the standards NOPR, DOE published in the **Federal Register** a test procedure NOPR for microwave ovens to incorporate a measurement of standby mode and off mode power and to consider inclusion of such power as part of the energy conservation standards rulemaking. 73 FR 62134 (Oct. 17, 2008). DOE concluded, however, that, ''although it may be mathematically possible to combine energy consumption into a single metric encompassing active (cooking), standby, and off modes, it is not technically feasible to do so at this time . . . .'' 73 FR 62034, 62043 (Oct. 17, 2008). The separate prescriptive standby mode and off mode energy conservation standards proposed in the October 2008 NOPR for microwave ovens are shown in Table II–1.

TABLE II–1—OCTOBER 2008 NOPR PROPOSED ENERGY CONSERVATION STANDARDS FOR MICROWAVE OVEN STANDBY MODE AND OFF MODE

Product class	Proposed energy conservation standard
Microwave Ovens.	Maximum Standby Power = 1.0 watt.

[8] DOE repealed the microwave oven active mode provisions from its test procedure on July 22, 2010, after determining that the active mode methodology did not produce repeatable and representative results. 75 FR 42579.

[9] This document is available on the DOE Web site at: *http://www.regulations.gov/#!docketBrowser;rpp=25;po=0;D=EERE-2006-STD-0127.* (Last accessed December 2012.)

[10] These spreadsheets are available on the DOE Web site at: *http://www.regulations.gov/#!docketBrowser;rpp=25;po=0;D=EERE-2006-STD-0127.* (Last accessed December 2012.)

[11] IEC standards are available for purchase at: *http://www.iec.ch/.*

In the October 2008 NOPR, DOE described and sought further comment on the analytical framework, models, and tools (*e.g.,* LCC and NIA spreadsheets) it was using to analyze the impacts of energy conservation standards for this product. DOE held a public meeting in Washington, DC, on November 13, 2008 (the November 2008 Public Meeting), to present the methodologies and results for the October 2008 NOPR analyses.

Multiple interested parties commented in response to the October 2008 NOPR that insufficient data and information were available to complete this rulemaking, and requested that it be postponed to allow DOE to gather such inputs on which to base its analysis. DOE agreed with these commenters that additional information would improve its analysis and, in April 2009, it concluded that it should defer a decision regarding amended energy conservation standards that would address standby mode and off mode energy use for microwave ovens pending further rulemaking. 74 FR 16040, 16042 (Apr. 8, 2009). In the interim, DOE proceeded with consideration of energy conservation standards for microwave oven active mode energy use based on its proposals in the October 2008 NOPR, and its analysis determined that no new standards for microwave oven active mode (as to cooking efficiency) were technologically feasible and economically justified. Therefore, in a final rule published on April 8, 2009, DOE maintained the ''no standard'' standard for microwave oven active mode energy use. *Id.* at 16087. The final rule is available on DOE's Web site at: *www1.eere.energy.gov/buildings/appliance_standards/residential/pdfs/74fr16040.pdf.*

After continuing its analysis of microwave oven standby mode and off mode through additional testing, research, and consideration of an updated version of IEC Standard 62301, DOE published an SNOPR on February 14, 2012 (77 FR 8526) (hereafter referred to as the February 2012 SNOPR) to enable interested parties to comment on revised product class definitions and standby power levels proposed for microwave oven standby mode and off mode energy use. As discussed further in section IV.B of this rulemaking, DOE determined that built-in and over-the range convection microwave ovens incorporate features required to handle the thermal loads associated with their installation and to provide consumer utility, thereby resulting in higher standby power consumption than for other microwave oven product types. DOE's product testing and reverse-engineering analysis additionally determined that over-the-range microwave-only ovens did not require features with higher standby power consumption than countertop microwave-only units, and thus DOE proposed the following two product classes and standby power levels for microwave oven energy conservation standards:

TABLE II–2—FEBRUARY 2012 SNOPR PROPOSED ENERGY CONSERVATION STANDARDS FOR MICROWAVE OVEN STANDBY MODE AND OFF MODE

Product class	Proposed energy conservation standard
Microwave-Only Ovens and Countertop Convection* Microwave Ovens	Maximum Standby Power = 1.0 watt.
Built-In and Over-the-Range Convection* Microwave Ovens	Maximum Standby Power = 2.2 watts.

* In earlier stages of this rulemaking, DOE referred to microwave ovens that incorporate convection features and any other means of cooking in a single compartment as ''combination microwave ovens''. In the final rule for DOE's microwave oven test procedure (78 FR 4015, 4017–4018 (Jan. 18, 2013), DOE defined such products as ''convection microwave ovens'', and DOE accordingly uses this terminology consistently in today's final rule rulemaking and amended microwave oven standards.

The compliance date for the amended energy conservation standards for microwave ovens is June 17, 2016.

III. General Discussion

A. Test Procedures

Section 310 of EISA 2007 amended EPCA to require DOE to amend the test procedures for covered products to address energy consumption of standby mode and off mode. If technically infeasible, DOE must prescribe a separate standby mode and off mode energy use test procedure. (42 U.S.C. 6295(gg)(2)(A))

In the final rule published on January 18, 2013 (hereafter referred to as the January 2013 TP Final Rule), DOE amended the microwave oven test procedure to incorporate by reference certain provisions of IEC Standard 62301 Edition 2.0 2011–01 (IEC Standard 62301 (Second Edition)), along with clarifying language, for the measurement of standby mode and off mode energy use. In the narrow case of microwave ovens with power consumption that varies as a function of the time displayed, DOE maintained the existing use of IEC Standard 62301 (First Edition) for measuring standby mode power to minimize manufacturer burden. DOE also determined that microwave ovens combined with other appliance functionality are covered under the definition of ''microwave oven'' at 10 CFR 430.2, but due to a lack of data and information, did not adopt provisions in the microwave oven test procedure to measure the standby mode and off mode energy use of the microwave component. 78 FR 4015 (Jan. 18, 2013).

The Association of Home Appliance Manufacturers (AHAM) and GE Consumer & Industrial (GE) commented that they support incorporation by reference of IEC Standard 62301 (Second Edition) in the DOE microwave oven test procedure, but stated that DOE cannot determine appropriate standard levels in this rulemaking without testing based on the final test procedure to be used to determine compliance. (AHAM, No. 16 at p. 4;[12] GE, No. 19 at p. 1)

DOE reviewed its testing that it had conducted in support of various stages of the microwave oven test procedure rulemaking, and determined that there were six microwave oven models that had been tested according to both the First and Second Editions of IEC Standard 62301. In order to supplement this sample, DOE additionally tested eight more microwave ovens as part of its final rule analysis so that a comparison could be made between the standby power consumption measurements obtained with the First Edition and Second Edition for various installation configurations, display types, and manufacturers/brands. Table

[12] A notation in the form ''AHAM, No. 16 at p. 4'' identifies a written comment that DOE has received and has included in the docket of the standards rulemaking for microwave ovens (Docket No. EERE–2011–BT–STD–0048). This particular notation refers to a comment (1) submitted by the Association of Home Appliance Manufacturers (AHAM), (2) recorded in document number 16 in the docket of this rulemaking, and (3) which appears on page 4 of document number 16.

III–1 presents the results of the comparison between testing to the First Edition and the Second Edition, which showed results for the two methodologies varying by no more than 5.5 percent, which DOE concludes demonstrates close enough agreement that manufacturers could apply the same design option pathways (see section IV.C.3 of this rulemaking) to achieve the varying standby power levels when measuring according to IEC Standard 62301 (Second Edition) as DOE's analysis identified based on testing to IEC Standard 62301 (First Edition).

TABLE III–1—COMPARISON OF STANDBY POWER MEASUREMENTS ACCORDING TO IEC STANDARD 62301 (FIRST EDITION) AND IEC STANDARD 62301 (SECOND EDITION)

Configuration	Display *	Standby power (*W*), first edition	Standby power (*W*), second edition	Percent difference
Countertop Microwave-Only	Backlit LCD	3.84	3.66	−4.7
Countertop Microwave-Only	Backlit LCD	2.18	2.18	−0.3
Countertop Microwave-Only	Backlit LCD	3.81	3.78	−1.0
Countertop Microwave-Only	LED	1.06	1.07	0.3
Countertop Microwave-Only	LED	1.76	1.77	0.8
Countertop Microwave-Only	LED	1.27	1.27	−0.4
Countertop Microwave-Only	VFD	3.44	3.42	−0.6
Countertop Microwave-Only	VFD	3.14	3.12	−0.7
Countertop Convection Microwave	LED	1.20	1.24	3.2
Countertop Convection Microwave	VFD	4.14	4.13	−0.1
Countertop Convection Microwave	VFD	3.23	3.05	−5.5
Over-the-Range Microwave-Only	VFD	1.66	1.67	0.4
Over-the-Range Microwave-Only	LED	0.78	0.78	0.0
Over-the-Range Convection Microwave	VFD	4.50	4.48	−0.4

* LCD = Liquid Crystal Display, LED = Light Emitting Diode, VFD = Vacuum Fluorescent Display.

B. Technological Feasibility

1. General

In each standards rulemaking, DOE conducts a screening analysis based on information gathered on all current technology options and prototype designs that could improve the efficiency of the products or equipment that are the subject of the rulemaking. As the first step in such an analysis, DOE develops a list of technology options for consideration in consultation with manufacturers, design engineers, and other interested parties. DOE then determines which of those means for improving efficiency are technologically feasible. DOE considers technologies incorporated in commercially available products or in working prototypes to be technologically feasible. 10 CFR part 430, subpart C, appendix A, section 4(a)(4)(i).

After DOE has determined that particular technology options are technologically feasible, it further evaluates each technology option in light of the following additional screening criteria: (1) Practicability to manufacture, install, or service; (2) adverse impacts on product utility or availability; and (3) adverse impacts on health or safety. 10 CFR part 430, subpart C, appendix A, section 4(a)(3) and (4). All technologically feasible design options that pass the three additional screening criteria are candidates for further assessment in the engineering and subsequent analyses in the NOPR stage. DOE may amend the list of retained design options in SNOPR analyses based on comments received on the NOPR and on further research. Section 0 of this rulemaking discusses the results of the screening analysis for microwave ovens, particularly the designs DOE considered, those it screened out, and those that are the basis for the trial standard levels (TSLs) in this rulemaking. For further details on the screening analysis for this rulemaking, see chapter 4 of the final rule TSD.

DOE published a list of evaluated microwave oven technologies in the November 2007 ANOPR. 72 FR 64432 (Nov. 15, 2007). DOE identified lower-power display technologies, improved power supplies and controllers, and alternative cooking sensor technologies as options to reduce standby power. DOE conducted this research when it became aware of the likelihood of EISA 2007 being signed, which DOE understood was to contain provisions pertaining to standby mode and off mode energy use. Therefore, DOE presented details of each design option to interested parties at the December 2007 Public Meeting even though the results were not available in time for publication in the November 2007 ANOPR. DOE determined that all of these options were technologically feasible, and in the ANOPR invited comment on technology options that reduce standby power in microwave ovens. 72 FR 64432, 64513 (Nov. 15, 2007).

For the October 2008 NOPR, DOE conducted additional research on several microwave oven technologies that significantly affect standby power, including cooking sensors, display technologies, and control strategies and associated control boards. DOE determined that control strategies are available that enable manufacturers to make design tradeoffs between incorporating features that consume standby power (such as displays or cooking sensors) and including a function to turn power off to those components during standby mode. 73 FR 62034, 62052 (Oct. 17, 2008).

DOE received comments on each of these technology options in response to the October 2008 NOPR, and determined through additional research conducted for the February 2012 SNOPR and today's final rule that each of these technologies and control strategies are feasible means to reduce standby power for both product classes of microwave ovens. 77 FR 8526, 8537–40 (Feb. 14, 2012). For more details of these technology options and comments from interested parties, see chapter 3 of the final rule TSD and section 0 of this rulemaking.

2. Maximum Technologically Feasible Levels

When DOE proposes to adopt an amended standard for a type or class of covered product, it must determine the

maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for such product. (42 U.S.C. 6295(p)(1)) Using the design parameters that lead to creation of the highest available product efficiencies, in the engineering analysis DOE determined the maximum technologically feasible (''max-tech'') standby power levels [13] for microwave ovens, as shown in Table III–2. The max-tech microwave oven standby power level corresponds to a unit equipped with a default automatic power-down function that disables certain power-consuming components after a specified period of user inactivity. The max-tech microwave oven standby power level was determined in the October 2008 NOPR to be 0.02 watts (W). 73 FR 62052 (Oct. 17, 2008). Based upon additional analyses for the February 2012 SNOPR, DOE determined that this max-tech level is applicable to the product class of microwave-only ovens and countertop convection microwave ovens. For built-in and over-the-range convection microwave ovens, DOE identified, based on its analysis, a max-tech standby power level of 0.04 W. 77 FR 8526, 8541–42 (Feb. 14, 2012). DOE has retained these max-tech levels for today's final rule. For more details of the max-tech levels, see chapter 5 of the final rule TSD and section IV.D.2 of this rulemaking.

TABLE III–2—MAX-TECH MICROWAVE OVEN STANDBY POWER LEVELS

Product class	Max-tech standby power level
Microwave-Only Ovens and Countertop Convection Microwave Ovens.	0.02 watts.
Built-In and Over-the-Range Convection Microwave Ovens.	0.04 watts.

C. Energy Savings

1. Determination of Savings

For each TSL, DOE projected energy savings from the products that are the subject of this rulemaking purchased in the 30-year period that begins in the year of compliance with amended standards (2016–2045). The savings are measured over the entire lifetime of products purchased in the 30-year period.[14] DOE quantified the energy savings attributable to each TSL as the difference in energy consumption between each standards case and the base case. The base case represents a projection of energy consumption in the absence of amended mandatory efficiency standards, and considers market forces and policies that affect demand for more efficient products.

DOE used its NIA spreadsheet model to estimate energy savings from amended standards for the products that are the subject of this rulemaking. The NIA spreadsheet model (described in section IV.F of this rulemaking) calculates energy savings in site energy, which is the energy directly consumed by products at the locations where they are used. DOE reports national energy savings on an annual basis in terms of the source (primary) energy savings, which is the savings in the energy that is used to generate and transmit the site energy. To convert site energy to source energy, DOE derived annual conversion factors from the model used to prepare the Energy Information Administration's (EIA) *Annual Energy Outlook 2012* (*AEO 2012*).

2. Significance of Savings

As noted above, 42 U.S.C. 6295(o)(3)(B) prevents DOE from adopting a standard for a covered product unless such standard would result in ''significant'' energy savings. Although the term ''significant'' is not defined in the Act, the U.S. Court of Appeals, in *Natural Resources Defense Council* v. *Herrington,* 768 F.2d 1355, 1373 (D.C. Cir. 1985), indicated that Congress intended ''significant'' energy savings in this context to be savings that were not ''genuinely trivial.'' The energy savings for all of the TSLs considered in this rulemaking (presented in section V.C of this rulemaking) are nontrivial, and, therefore, DOE considers them ''significant'' within the meaning of section 325 of EPCA.

D. Economic Justification

1. Specific Criteria

EPCA provides seven factors to be evaluated in determining whether a potential energy conservation standard is economically justified. (42 U.S.C. 6295(o)(2)(B)(i)) The following sections discuss how DOE has addressed each of those seven factors in this rulemaking.

a. Economic Impact on Manufacturers and Consumers

In determining the impacts of an amended standard on manufacturers, DOE first uses an annual cash-flow approach to determine the quantitative impacts. This step includes both a short-term assessment—based on the cost and capital requirements during the period between when a regulation is issued and when entities must comply with the regulation—and a long-term assessment over a 30-year period. The industry-wide impacts analyzed include the INPV, which values the industry on the basis of expected future cash flows; cash flows by year; changes in revenue and income; and other measures of impact, as appropriate. Second, DOE analyzes and reports the impacts on different types of manufacturers, including impacts on small manufacturers. Third, DOE considers the impact of standards on domestic manufacturer employment and manufacturing capacity, as well as the potential for standards to result in plant closures and loss of capital investment. Finally, DOE takes into account cumulative impacts of various DOE regulations and other regulatory requirements on manufacturers. For more details on the manufacturer impact analysis (MIA), see section IV.H of this rulemaking and chapter 12 of the final rule TSD.

For individual consumers, measures of economic impact include the changes in LCC and PBP associated with new or amended standards. The LCC, which is specified separately in EPCA as one of the seven factors to be considered in determining the economic justification for a new or amended standard, 42 U.S.C. 6295(o)(2)(B)(i)(II), is discussed in the following section. For consumers in the aggregate, DOE also calculates the national net present value of the economic impacts applicable to a particular rulemaking.

b. Life-Cycle Costs

The LCC is the sum of the purchase price of a product (including its installation) and the operating expense (including energy, maintenance, and repair expenditures) discounted over the lifetime of the product. The LCC savings for the considered efficiency levels are calculated relative to a base case that reflects projected market trends in the absence of amended standards. The LCC analysis requires a variety of inputs, such as product prices, product energy consumption, energy prices, maintenance and repair costs, product lifetime, and consumer

[13] As noted elsewhere in today's final rule, DOE is aware of fewer than 1 percent of microwave oven models currently available that can operate in off mode. Therefore, efficiency levels for the purposes of evaluating standby mode and off mode energy use in microwave ovens are defined on the basis of standby power only at this time.

[14] In the past DOE presented energy savings results for only the 30-year period that begins in the year of compliance. In the calculation of economic impacts, however, DOE considered operating cost savings measured over the entire lifetime of products purchased in the 30-year period. DOE has chosen to modify its presentation of national energy savings to be consistent with the approach used for its national economic analysis.

discount rates. For its analysis, DOE assumes that consumers will purchase the considered products in the first year of compliance with amended standards.

To account for uncertainty and variability in specific inputs, such as product lifetime and discount rate, DOE uses a distribution of values, with probabilities attached to each value. DOE identifies the percentage of consumers estimated to receive LCC savings or experience an LCC increase, in addition to the average LCC savings associated with a particular standard level. DOE also evaluates the LCC impacts of potential standards on identifiable subgroups of consumers that may be affected disproportionately by a national standard. See section IV.E of this rulemaking for more details on the LCC and PBP analysis.

c. Energy Savings

Although significant conservation of energy is a separate statutory requirement for imposing an energy conservation standard, EPCA requires DOE, in determining the economic justification of a standard, to consider the total projected energy savings that are expected to result directly from the standard. (42 U.S.C. 6295(o)(2)(B)(i)(III)) As discussed in section IV.F of this rulemaking, DOE uses the NIA spreadsheet to project national energy savings. See chapter 10 of the final rule TSD for more details on this analysis.

d. Lessening of Utility or Performance of Products

In establishing classes of products, and in evaluating design options and the impact of potential standard levels, DOE evaluates standards that would not lessen the utility or performance of the considered products. (42 U.S.C. 6295(o)(2)(B)(i)(IV)) The standards adopted in today's final rule will not reduce the utility or performance of the products under consideration in this rulemaking.

e. Impact of Any Lessening of Competition

EPCA directs DOE to consider any lessening of competition that is likely to result from standards. It also directs the Attorney General of the United States (Attorney General) to determine the impact, if any, of any lessening of competition likely to result from a proposed standard and to transmit such determination to the Secretary within 60 days of the publication of a direct final rule and simultaneously published proposed rule, together with an analysis of the nature and extent of the impact. (42 U.S.C. 6295(o)(2)(B)(i)(V) and (B)(ii)) DOE received the Attorney General's determination, dated December 16, 2008, on standards proposed in the October 2008 NOPR. The Attorney General's determination for October 2008 NOPR did not mention microwave oven standards. To assist the Attorney General in making a determination for microwave oven standards, DOE provided the Department of Justice (DOJ) with copies of the SNOPR and the TSD for review. DOJ concluded that the energy conservation standards for microwave standby power as proposed were unlikely to have a significant adverse impact on competition.

f. Need for National Energy Conservation

The energy savings from amended standards are likely to provide improvements to the security and reliability of the nation's energy system. Reductions in the demand for electricity also may result in reduced costs for maintaining the reliability of the nation's electricity system. DOE conducts a utility impact analysis to estimate how standards may affect the nation's needed power generation capacity.

The amended standards also are likely to result in environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases associated with energy production. DOE reports the emissions impacts from today's standards, and from each TSL it considered, in chapter 15 of the final rule TSD. (42. U.S.C. 6295(o)(2)(B)(i)(VI)) See section IV.K of this rulemaking for more details on this analysis. DOE also reports estimates of the economic value of emissions reductions resulting from the considered TSLs.

g. Other Factors

EPCA allows the Secretary of Energy, in determining whether a standard is economically justified, to consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6295(o)(2)(B)(i)(VII)) In considering amended standards for today's rulemaking, the Secretary found no relevant factors other than those identified elsewhere in today's final rule.

2. Rebuttable Presumption

As set forth in 42 U.S.C. 6295(o)(2)(B)(iii), EPCA creates a rebuttable presumption that an energy conservation standard is economically justified if the additional cost to the consumer of a product that meets the standard is less than three times the value of the first year's energy savings resulting from the standard, as calculated under the applicable DOE test procedure. DOE's LCC and PBP analyses generate values used to calculate the effect potential amended energy conservation standards would have on the payback period for consumers. These analyses include, but are not limited to, the 3-year payback period contemplated under the rebuttable-presumption test. In addition, DOE routinely conducts an economic analysis that considers the full range of impacts to consumers, manufacturers, the nation, and the environment, as required under 42 U.S.C. 6295(o)(2)(B)(i). The results of this analysis serve as the basis for DOE's evaluation of the economic justification for a potential standard level (thereby supporting or rebutting the results of any preliminary determination of economic justification). The rebuttable presumption payback calculation is discussed in section IV.E.10 of this rulemaking and chapter 8 of the final rule TSD.

IV. Methodology and Revisions to the Analyses Employed in the February 2012 Proposed Rule

In weighing the benefits and burdens of amended standards for microwave oven standby mode and off mode energy use, DOE used economic models to estimate the impacts of each TSL. The LCC spreadsheet calculates the LCC impacts and payback periods for potential amended energy conservation standards. DOE used the engineering spreadsheet to develop the relationship between cost and efficiency and to calculate the simple payback period for purposes of addressing the rebuttable presumption that a standard with a payback period of less than 3 years is economically justified. The NIA spreadsheet provides shipments forecasts and then calculates NES and NPV impacts of potential amended energy conservation standards. DOE also assessed manufacturer impacts, largely through use of the Government Regulatory Impact Model (GRIM).

Additionally, DOE estimated the impacts of potential amended energy conservation standards on utilities and the environment. DOE used a version of the EIA's National Energy Modeling System (NEMS) for the utility and environmental analyses. The EIA has developed the NEMS model, which simulates the energy economy of the United States, over several years primarily for the purpose of preparing the *AEO.* The NEMS produces forecasts for the United States energy situation that are available in the public domain. The version of NEMS used for appliance standards analysis is called NEMS–

BT.[15] The NEMS–BT offers a sophisticated picture of the effect of standards, because it accounts for the interactions among the various energy supply and demand sectors and the economy as a whole.

A. Covered Products

At the time of the October 2008 NOPR, DOE's regulations codified at 10 CFR 430.2 defined a microwave oven as a class of kitchen ranges and ovens which is a household cooking appliance consisting of a compartment designed to cook or heat food by means of microwave energy. In the October 2008 NOPR, DOE proposed a single product class for microwave ovens that would encompass microwave ovens with and without browning (thermal) elements, but would not include microwave ovens that incorporate convection systems. 73 FR 62034, 62048 (Oct. 17, 2008).

As part of its microwave oven test procedure rulemaking, DOE reassessed what products would be considered microwave ovens under the regulatory definition, and whether multiple product classes would be appropriate. As discussed in the test procedure interim final rule that published on March 9, 2011 (the March 2011 TP Interim Final Rule), DOE amended the definition of microwave oven in 10 CFR 430.2 to clarify that it includes microwave ovens with or without thermal elements designed for surface browning of food and combination ovens (which at the time was the term DOE used to designate convection microwave ovens). DOE also determined that all ovens equipped with microwave capability would be considered a covered product, regardless of which cooking mode (*i.e.,* radiant heating or microwave energy) is primary. Based on the preliminary analysis it conducted, DOE observed that the typical standby mode and off mode operation for microwave ovens that also incorporate other means of cooking food does not differ from that of microwave-only units. As a result, DOE amended the microwave oven test procedure in the March 2011 TP Interim Final Rule to require that the same standby mode and off mode testing methods be used for all microwave ovens. 76 FR 12825, 12828–30 (Mar. 9, 2011).

DOE received comments on the topic of covered products in response to the February 2012 SNOPR on microwave oven energy conservation standards. AHAM and GE stated that DOE should clarify the applicability of the proposed standards to products using both microwave energy and radiant heating. AHAM and GE also commented that the definition of ''combination oven'' as established by the March 2011 TP Interim Final Rule and proposed to be maintained in the February 2012 SNOPR should be revised to be sufficiently broad to include, generally, ''other means of cooking'' in order to account for current and future cooking technologies. According to AHAM and GE, DOE's definition was too vague and would lead to confusion as to which products are covered. These commenters further stated that DOE's proposal that, for products with multiple oven compartments but no integral cooking top, the compartment(s) that cook by means of microwave energy in combination with any other cooking or heating means would be classified as microwave ovens while the compartment(s) that cook or heat food by means of a gas flame or electric resistance heating without the use of microwave energy would be classified as conventional ovens, is contradictory, adds complexity, and is confusing. AHAM and GE agreed with DOE that a free-standing range with microwave capability should be excluded from coverage as a microwave oven, but stated that a built-in range with microwave capability should not be classified as a microwave oven either because the installation configuration does not affect how the product is used. AHAM, GE, and Whirlpool Corporation (Whirlpool) commented that the primary use should determine how the product is characterized, such that a built-in product with two separate cavities, one that uses microwave energy and one that uses conventional thermal energy, should be classified as a conventional range, not a microwave oven. AHAM and GE stated that this would be consistent with the exclusion of free-standing ranges with microwave capability. These commenters, therefore, recommended that DOE define a combination oven as ''a microwave oven that incorporates means of cooking other than microwave energy, and does not mean free-standing or built-in conventional cooking tops, conventional ovens, or conventional ranges that include microwave ovens in separate cavities.'' (AHAM, No. 16 at pp. 1, 3–4; GE, No. 19 at p. 1; Whirlpool, No. 15 at p. 1) Whirlpool commented that not all manufacturers produce a built-in cooking product with two separate cavities, one which uses microwave energy and one which uses conventional thermal energy, and which are controlled by a single control panel. Some of Whirlpool's competitors have such built-in products with two separate control panels. Whirlpool stated that if DOE maintains the definition of combination oven, Whirlpool and other product manufacturers with similar product lines will be placed at a competitive disadvantage to those with separate control panels. (Whirlpool, No. 15 at p. 1)

DOE maintained in the January 2013 TP Final Rule that the definition of microwave oven also includes all products that combine a microwave oven with other appliance functionality. To aid in distinguishing such other ''combined products'' from the type of microwave oven that incorporates convection features and any other means of cooking, DOE adopted the term ''convection microwave oven'' to more accurately describe the latter, and provided a definition of convection microwave oven in 10 CFR 430.2. In this definition, DOE clarified that the microwave capability, convection features, and any other cooking means are incorporated in a single cavity. 78 FR 4015, 4017–4018 (Jan. 18, 2013).

In the January 2013 TP Final Rule, DOE further confirmed that all products that combine a microwave oven with other appliance functionality would be considered covered products, including microwave/conventional ranges, microwave/conventional ovens, microwave/conventional cooking tops, and other combined products such as microwave/refrigerator-freezer/charging stations. Regarding microwave/conventional ranges, DOE clarified that an appliance need not be free-standing to be covered as a microwave/conventional range. DOE, therefore, added a definition of ''microwave/conventional cooking top'' in 10 CFR 430.2 to state that it is a class of kitchen ranges and ovens that is a household cooking appliance consisting of a microwave oven and a conventional cooking top. Similarly, DOE added a definition in 10 CFR 430.2 of a ''microwave/conventional oven'' as a class of kitchen ranges and ovens which is a household cooking appliance consisting of a microwave oven and a conventional oven in separate compartments. DOE also clarified in the definition of microwave/conventional range that the microwave oven and

[15] The EIA approves the use of the name NEMS to describe only an *AEO* version of the model without any modification to code or data. Because the present analysis entails some minor code modifications and runs the model under various policy scenarios that deviate from *AEO* assumptions, the model used here has been named NEMS–BT. (''BT'' stands for DOE's Building Technologies Program.) For more information on NEMS, refer to *The National Energy Modeling System: An Overview,* DOE/EIA–0581 (98) (Feb. 1998) (available at: *http://tonto.eia.doe.gov/FTPROOT/forecasting/058198.pdf*). (Last accessed November 10, 2012.)

conventional oven are incorporated as separate compartments. 78 FR 4015, 4018 (Jan. 18, 2013).

DOE determined in the January 2013 TP Final Rule that the microwave oven component of these combined products would meet the statutory requirements as a covered product for the purposes of measuring standby mode and off mode energy use under EPCA. (42 U.S.C. 6295(gg)(2)(B)(vi)) DOE stated that it does not believe that the presence of additional appliance functionality would eliminate the statutory requirement to evaluate standby mode and off mode energy use in the microwave oven component. DOE also concluded in the January 2013 TP Final Rule that the provisions related to the measurement of standby mode and off mode energy use in the test procedure should only measure such energy use associated with the microwave oven portion of combined products, and for that reason the amendments from the January 2013 TP Final Rule do not require any determination as to which appliance function of a combined product with a microwave oven component represents the primary usage of the product. *Id.* DOE notes that there are currently no active mode provisions for microwave ovens in its test procedure, although it has initiated a separate rulemaking to consider such amendments.

In the microwave oven standby mode and off mode test procedure rulemaking, DOE confirmed that the microwave oven portion of a combined product is covered under the definition of microwave oven, but due to a lack of data and information at the time, did not amend its test procedures in the January 2013 TP Final Rule to measure standby mode and off mode energy use for the microwave portion of combined products. *Id.* Therefore, DOE is not establishing amended energy conservation standards for standby mode and off mode energy use for these products in today's final rule. DOE may choose to initiate a separate rulemaking at a later date that would address standby and off mode energy use of combined products.

B. Product Classes

In general, when evaluating and establishing energy conservation standards, DOE divides covered products into classes by the type of energy used, capacity, or other performance-related features that affect consumer utility and efficiency. (42 U.S.C. 6295(q); 6316(a)) Different energy conservation standards may apply to different product classes. *Id.*

In order to determine whether specific types of microwave ovens should be separated into different product classes, DOE investigated whether there are any performance related features that would justify the establishment of a separate energy conservation standard. As discussed in the October 2008 NOPR, DOE tested a sample of 32 countertop microwave-only units and measured standby mode power ranging from 1.2 W to 5.8 W. 73 FR 62034, 62042 (Oct. 17, 2008). None of these units were capable of operation in off mode, nor was DOE aware at that time of any other microwave ovens capable of such operation. In the February 2012 SNOPR, DOE noted that standby power consumption for microwave-only units largely depended on the presence of a cooking sensor, the display technology, the power supply and control board, and implementation of a power-down feature. With regards to display technologies, DOE noted that microwave-only units incorporated Light Emitting Diode (LED) displays, Liquid Crystal Displays (LCDs), and Vacuum Fluorescent Displays (VFDs).

Based on comments received in response to the October 2008 NOPR, DOE conducted a survey of over-the-range microwave-only units available on the U.S. market. DOE determined that the display technologies used are similar to those used in countertop microwave-only units (*i.e.,* LED displays, LCDs, and VFDs). DOE also conducted in-store standby mode testing on a limited sample of over-the-range microwave-only units which showed similar standby power consumption as countertop microwave-only units. For these reasons, DOE tentatively concluded in the February 2012 SNOPR that over-the-range microwave-only units would not warrant a separate product class. DOE understands that over-the-range microwave-only units may have additional components that are energized during active mode operation (*i.e.,* exhaust fan motors). However, DOE's testing showed that the presence of such features did not increase the standby power consumption to warrant establishing a separate product class. 77 FR 8526, 8536 (Feb. 14, 2012).

DOE also conducted standby power testing on a sample of 13 representative convection microwave ovens, including 5 countertop convection microwave ovens, 6 over-the-range convection microwave ovens, and 2 built-in convection microwave ovens. DOE's testing showed that the countertop convection microwave ovens use similar display technologies as countertop microwave-only units, and had standby power consumption ranging from 1.2 W to 4.7 W, which is similar to the standby power consumption for countertop microwave-only units. As a result, DOE tentatively concluded in the February 2012 SNOPR that countertop convection microwave ovens would not warrant a product class separate from microwave-only ovens. *Id.*

DOE's testing of built-in and over-the-range convection microwave ovens for the February 2012 SNOPR showed that the standby power consumption for these products ranged from 4.1 W to 8.8 W, which was higher than the standby power consumption for other microwave oven product types (*i.e.,* countertop microwave-only, over-the-range microwave-only, and countertop convection microwave ovens). DOE's reverse-engineering analysis suggested that the additional features in built-in and over-the-range convection microwave ovens required to handle the thermal loads associated with their installation and to provide consumer utility, such as additional exhaust fan motors, convection fan motors and heaters, and additional lights, require a significant number of additional relays on the control board, and thus require a larger power supply for the control of such relays. While the relays themselves do not consume power in standby mode, they increase the total power supply requirements of the control board and thus increase the standby losses of the power supply. As a result, DOE determined that a separate product class should be established for built-in and over-the-range convection microwave ovens. DOE recognized that built-in and over-the-range microwave-only units may similarly require some additional relays for exhaust fans and lights, and that countertop convection microwave ovens would require some additional relays for convection fans and heaters. However, DOE's product testing and reverse-engineering analyses indicated that these product types use similar-sized power supplies as those found in countertop microwave-only units, and as a result would not warrant a separate product class from countertop microwave-only units. *Id.*

Thus, for the February 2012 SNOPR, DOE determined that separate product classes for the purposes of setting energy conservation standards addressing standby mode and off mode energy use were warranted on the basis of different standby power performance. DOE did not evaluate whether the same product class distinction would also be appropriate for any active mode energy use standards because DOE eliminated the regulatory provisions establishing the cooking efficiency test procedure for

microwave ovens in the final rule published on July 22, 2010 (the July 2010 TP Final Rule). 75 FR 42579. If DOE adopts amendments to the microwave oven test procedure to include provisions for measuring active mode cooking efficiency, DOE may reevaluate these product classes as part of a future microwave oven energy conservation standards rulemaking. At that time, DOE may consider dividing countertop convection microwave ovens and over-the-range/built-in microwave-only units into separate product classes to account for the energy performance of heating components other than the microwave portion. In the February 2012 SNOPR, DOE proposed to establish the following two product classes for microwave ovens (77 FR 8526, 8536 (Feb. 14, 2012)):

TABLE IV–1—FEBRUARY 2012 SNOPR PROPOSED MICROWAVE OVEN PRODUCT CLASSES

Product class
1. Microwave-Only Ovens and Countertop Convection Microwave Ovens.
2. Built-in and Over-the-Range Convection Microwave Ovens.

The Appliance Standards Awareness Project, Natural Resources Defense Council, National Consumer Law Center, Northwest Energy Efficiency Alliance, and Northwest Power Conservation Council, (hereafter referred to as the Joint Commenters), jointly supported the inclusion of all microwave-only and countertop convection microwave ovens in a single product class, stating that over-the-range microwave-only ovens do not have features that necessitate additional standby mode energy use. (Joint Comment, No. 17 at p. 2)

AHAM, GE, and Whirlpool objected to the lack of product class differentiation between countertop and over-the-range microwave-only ovens in Product Class 1. According to these commenters, there are significant differences in energy consumption and consumer utility between countertop and over-the-range microwave ovens. They stated that a countertop microwave oven is typically designed to operate at room temperature, whereas an over-the-range microwave oven is subject to higher temperatures. AHAM, GE, and Whirlpool further stated that certain features of over-the-range microwave ovens, such as a VFD display that can reliably withstand higher temperatures while still providing consumer utility, consumes more energy in standby mode than a countertop microwave oven display, which can use lower-power LED and LCD technologies. Whirlpool also noted that electronic controls for over-the-range microwave ovens must be constructed of materials which can operate in this environment. (AHAM, No. 16 at pp. 1–2; GE, No. 19 at p. 1; Whirlpool, No. 15 at p. 2)

In addition to standby mode considerations, AHAM, GE, and Whirlpool commented that the proposed product classes failed to consider the effects of active mode differences on a future microwave oven active mode test procedure or standard. These commenters noted that over-the-range units have energy consuming features such as air venting and circulation, forced cooling, and cooktop lighting that are not found in countertop units. (AHAM, No. 16 at p. 2; GE, No. 19 at p. 1; Whirlpool, No. 15 at pp. 2–3) AHAM and GE concluded that over-the-range microwave-only ovens should be included in Product Class 2. (AHAM, No. 16 at p. 2; GE, No. 19 at p. 1)

DOE agrees with commenters that over-the-range microwave ovens must operate under conditions that are harsher than countertop microwave ovens are typically exposed to, in terms of elevated temperatures and humidity levels. For the components that are associated with standby mode and off mode energy use, these conditions have the most effect on the displays. Under long-term exposure, displays may degrade in illuminance over time, resulting in a consumer's perception of reduced brightness, a significant element of consumer utility. As discussed further in section IV.C.2 of this rulemaking, DOE conducted accelerated lifetime testing of different microwave oven display types by subjecting a limited sample of microwave ovens to high temperatures and humidity levels for an extended period of operation in standby mode. The results of this testing demonstrated that the illuminance of each display tended to decrease over time to varying degrees, but did not reveal any correlation between display type and rate of illuminance reduction. In addition, DOE observed in its test sample a unit with an LED display that exhibited illuminance that was comparable to that of the VFD on another unit. Based on this lifetime testing, and the existence of multiple over-the-range microwave oven models on the market with each type of display technology, DOE concludes that over-the-range microwave ovens would not require certain display technologies (*i.e.,* VFD) that have inherently higher power consumption than other display types that provide similar consumer utility. In addition, DOE is not aware of, nor did commenters provide information on, different standby power consumption that would be associated with controls that have the same functionality but different material selection.

In its final rule engineering analysis, DOE also examined more closely whether combinations of design options are available that would allow over-the-range microwave-only ovens to meet the same standby power levels as countertop microwave ovens. These ''design pathways'' are discussed in more detail in section 0 of this rulemaking. From its analysis, DOE concluded that design pathways exist for all over-the-range microwave-only ovens with LED displays and LCDs to meet a 1.0 W standard, so that none of these would warrant classification into Product Class 2 on the basis of energy use characteristics in standby mode. DOE further concludes that the range of these display technologies allows manufacturers to design over-the-range products with comparable consumer utility and durability of the display as for over-the-range microwave ovens with VFDs. Therefore, DOE is maintaining in today's final rule the two product classes that were proposed in the February 2012 SNOPR.

As noted in the February 2012 SNOPR, DOE acknowledges that over-the-range microwave ovens contain additional relays for components that are not found in countertop units, such as exhaust or cooling fans and cooktop lighting. However, these components were not found in DOE's analysis to require larger power supplies that would affect standby power consumption, and thus would not support the definition of a separate product class for over-the-range microwave-only ovens from countertop microwave ovens. In the future, if DOE establishes a test procedure that measures microwave oven active mode energy use and considers whether active mode energy conservation standards are warranted, it may consider redefining the product classes according to utility and energy use for both active mode and standby mode. Such revised product classes would not be precluded by the definition of product classes for standby mode considerations in today's final rule.

C. Technology Assessment

Product teardowns performed by DOE for this and past rulemakings gave DOE an insight into the strategies a manufacturer could adopt to achieve higher energy conservation standards. In

the October 2008 NOPR, DOE presented information on several microwave oven technologies that significantly affect standby power, including cooking sensors, display technologies, and control strategies and associated control boards. 73 FR 62034, 62052 (Oct. 17, 2008). In the February 2012 SNOPR, DOE determined that the standby power characteristics for countertop convection microwave ovens and over-the-range microwave-only units are similar to that of counter-top microwave-only units, and therefore, the same technology options would apply to these products. Additional testing on over-the-range convection microwave ovens conducted by DOE also showed that standby power in these products depends largely on the same factors. 77 FR 8526, 8536–37 (Feb. 14, 2012). DOE determined in the screening analysis for the final rule that all of the technology options identified in the February 2012 SNOPR meet the screening criteria and thus were considered as design options in the engineering analysis. The following sections discuss these technology options and additional analysis conducted for today's final rule.

1. Cooking Sensors

In the October 2008 NOPR, DOE reported that its teardown analysis had revealed one cooking sensor technology with no standby power consumption used in microwave ovens on the U.S. market: A piezoelectric steam sensor. DOE also found that infrared and weight sensors, which require little to no warm-up time or standby power, had been applied successfully in Japanese-market microwave ovens. Furthermore, DOE identified relative humidity sensors with no standby power consumption as a feasible microwave oven cooking sensor technology, but found no microwave ovens using these sensors at the time. Finally, DOE learned that a major microwave oven supplier to the U.S. market was preparing to introduce microwave ovens using a new type of absolute humidity sensor with no standby power requirement and no cost premium over that of a conventional absolute humidity sensor. 73 FR 62034, 62051 (Oct. 17, 2008).

In the February 2012 SNOPR, DOE noted that it was not aware of any intellectual property or patent infringement issues for infrared sensors, weight sensors, piezoelectric sensors, or relative humidity sensors. With respect to the accuracy and reliability of low- and zero-standby power cooking sensors, DOE noted that a significant number of microwave oven models using the alternate cooking sensor technologies discussed above are available on the international market, and have been available for a number of years. As discussed above, DOE was also aware of one zero-standby power cooking sensor technology used in microwave ovens on the U.S. market. DOE noted in the February 2012 SNOPR that it was not aware of any data indicating that the reliability and accuracy associated with these low- and zero-standby power cooking sensors significantly differs from that of the absolute humidity sensors currently employed in microwave ovens on the U.S. market. DOE was also unaware of data showing that fouling of infrared cooking sensors would significantly differ from that of absolute humidity sensors, or data on the decreased accuracy due to fouling as compared to the fouling of absolute humidity sensors. DOE stated that because it was not aware of any relative humidity cooking sensors used in microwave ovens currently on the market, it was also not aware of any data regarding the accuracy of these sensors for detecting the state of the cooking load to adjust the cooking time. However, DOE noted that multiple other cooking sensor technology options exist that have been employed in microwave ovens in place of an absolute humidity cooking sensor. Based on this information, DOE tentatively concluded in the February 2012 SNOPR that the low- and zero-standby-power cooking sensor technologies discussed above are viable design options. 77 FR 8526, 8537 (Feb. 14, 2012).

DOE requested data and information on the accuracy and reliability of low- and zero-standby power cooking sensors as compared to absolute humidity cooking sensors currently used in microwave ovens on the U.S. market, and whether these technologies would affect how consumers use their microwave ovens or their satisfaction in using them due to any lessening of the utility or the performance of microwaves imposed by the standard. DOE also sought information on the current commercial availability of this technology, the likelihood of future adoption, and the potential impact on the lessening of competition amongst manufacturers. DOE also requested comment on whether any intellectual property or patent infringement issues are associated with the cooking sensor technologies discussed above. 77 FR 8526, 8537–38 (Feb. 14, 2012).

The Joint Commenters stated that sensor cooking has previously relied on the use of absolute humidity sensors that require a warm-up time after a period in a lower-power state, which is typically avoided by maintaining constant power to the sensor. The Joint Commenters stated that placing this type of cooking sensor into a lower power state could affect the consumer experience as a result of the necessary warm-up time. Based on DOE's findings regarding the availability of zero or near-zero standby power cooking sensors without such warm-up times, the Joint Commenters supported DOE's conclusion that such technologies can be used without impacting consumer utility. (Joint Comment, No. 17 at pp. 1–2)

GE stated that:

- Zero-standby power cooking sensors, while limited in use at that time, had not been fully tested and evaluated as appropriate alternatives;
- DOE should provide data on the availability, reliability, and functionality of these sensors;
- Absolute humidity sensors with standby power consumption offer greater resolution than relative humidity sensors with no standby power consumption and therefore offer consumer utility;
- Some of the sensor technologies, such as infrared and weight sensors, are not feasible alternatives to the absolute humidity sensors used today; and
- DOE should provide further information about absolute humidity sensors with no standby power consumption and no cost premium over that of a conventional absolute humidity sensor. (GE, No. 19 at p. 3)

GE further commented that industry's experience and research do not support considering the same sensor technologies for all microwave oven platforms, and that different technologies are required for a countertop versus over-the-range application. GE stated that if evidence to support this conclusion is not available, DOE should determine that absolute humidity sensors provide consumers with utility that cannot be matched by zero-standby power cooking sensors. (GE, No. 19 at pp. 1–2) GE also commented that DOE should preserve the use of absolute humidity sensors for over-the-range microwave ovens. (GE, No. 19 at p. 3)

Whirlpool commented that most of its new microwave ovens use a humidity sensor that can be de-energized in standby mode and off mode. According to Whirlpool, these absolute humidity sensors use the same technology as older types of absolute humidity sensors and maintain similar performance. Whirlpool also stated that, unlike the older sensors that require a few minutes to stabilize after activation, the newer sensors are operational after a wake-up

time of approximately 10 seconds, which is not noticeable to the consumer. Whirlpool commented that its products with this type of sensor have been on the market in Europe for almost 3 years, and there have been no issues with them. However, Whirlpool also commented that there are limited suppliers of these absolute humidity sensors and capacity is currently limited due to flooding in late 2011 in Thailand that destroyed the equipment and factory that had been producing sensors for Whirlpool. Whirlpool stated that adequate lead time and access to capital will be required for these suppliers to add sufficient capacity if such sensors are mandated. (Whirlpool, No. 15 at pp. 3–4) Whirlpool commented that a simple circuit with several transistors to shut down a cooking sensor would cost approximately $0.10. (Whirlpool, No. 15 at p. 4)

DOE contacted multiple cooking sensor manufacturers to further evaluate zero-standby power absolute humidity sensors. DOE identified one sensor manufacturer that supplies absolute humidity sensors to multiple microwave oven manufacturers that comprise a significant portion of the market (over 50 percent). This sensor manufacturer noted that all of its sensors are capable of short warm-up times (5–10 seconds). This sensor manufacturer also noted that the control circuits would only need to be modified to add transistors to de-energize the cooking sensors while in standby mode. Because these zero-standby power absolute humidity sensors can be energized in a period of time that is small compared to the duration of a cooking cycle in which they would be used, these sensors provide the same utility to consumers as absolute humidity sensors that must remain energized in standby mode. This sensor manufacturer also indicated that there are no patents on these short warm-up time humidity sensors that would restrict other sensor manufacturers from supplying similar products to microwave oven manufacturers.

The absolute humidity sensor manufacturer indicated that it has plans to expand manufacturing capacity and could expand further if market demands increase. DOE also determined, based on discussions with microwave oven manufacturers, that the cooking sensor manufacturing facility flooding issue discussed above has been resolved. As a result, DOE does not believe there are any issues limiting the supply of these zero-standby power absolute humidity sensors.

Based on microwave oven manufacturer interviews, DOE determined that reliability of these zero-standby power absolute humidity sensors has not been an issue. One manufacturer noted that the reliability is expected to be improved compared to previous sensor types because the zero-standby power absolute humidity sensors are only energized during the cooking cycle, whereas the previous sensors are energized continuously for the lifetime of the product.

Additionally, DOE's research confirms that multiple zero-standby power cooking sensors other than absolute humidity sensors are available at a similar cost to zero-standby power absolute humidity sensors. These include different methods for determining the state of the food load being cooked, using either piezoelectric steam, infrared, or weight sensors. As discussed above, DOE notes that piezoelectric steam sensors are currently used by one microwave oven manufacturer.

Based on this information, DOE has determined that zero-standby power cooking sensors with equivalent reliability and accuracy as the existing absolute humidity cooking sensors will be available on the scale necessary to serve the U.S. microwave oven market at the time of new standards. DOE concludes, therefore, that zero-standby power cooking sensors are a viable design option for reducing microwave oven standby power consumption.

2. Display Technologies

DOE stated in the October 2008 NOPR that it would consider three display technologies for reducing microwave oven standby power consumption: LED displays, LCDs with and without backlighting, and VFDs. DOE stated that LED displays and LCDs consume less power than VFDs. DOE also stated that each identified display technology provides acceptable consumer utility, including brightness, viewing angle, and ability to display complex characters. 73 FR 62034, 62051 (Oct. 17, 2008).

In response to comments received in the October 2008 NOPR, DOE researched microwave oven display technologies and found that multiple over-the-range microwave ovens with low-power displays, including the LED and LCD types, are currently available on the U.S. market. DOE also found that manufacturer temperature ratings for the three types of displays are comparable. Furthermore, DOE found that LED displays and LCDs in both countertop and over-the-range microwave ovens offer acceptable consumer utility features, including brightness, viewing angle, and ability to display complex characters. DOE found no microwave oven display technologies with intermittent backlighting or other features that impair consumer utility. As a result, DOE stated in the February 2012 SNOPR that LED displays and LCDs can be integrated into any countertop or over-the-range microwave oven, with proper heat shielding and without significant loss of consumer utility. 77 FR 8526, 8538 (Feb. 14, 2012).

AHAM and GE disagreed that LED displays and LCDs can be integrated into all countertop or over-the-range microwave ovens with proper heat shielding and without significant loss of consumer utility. (AHAM, No. 16 at p. 4; GE, No. 19 at p. 1) GE commented that DOE should preserve the use of VFDs in over-the-range microwave ovens. GE stated that DOE did not consider the reliability of low-power displays. According to GE, non-VFD displays deteriorate when exposed to high heat by darkening and becoming unreadable. GE stated that this is a serious deficiency in components that must be included in millions of products that operate in the extreme heat environments found in most over-the-range applications. GE stated that DOE should provide data from life testing under high-heat conditions before adopting a standard that would require low-power displays. (GE, No. 19 at pp. 2, 3)

Whirlpool commented that it uses LCD, VFD, and LED displays in microwave ovens, but that LCDs require more attention to cooling than the others. (Whirlpool, No. 15 at p. 4) Whirlpool also noted that the user appearance of LCD, VFD, and LED displays is different, and Whirlpool uses that to help brand appearance and differentiation. According to Whirlpool, VFDs allow for the display of bright text at a cost and performance level that is preferable to the other technologies. Whirlpool stated that the power used by VFDs is a function of the size of the display, and that a typical midrange over-the-range microwave oven with a VFD with a graphical area of 2 inches by 1 inch could meet the 2.2 W standby level. Whirlpool commented that very large VFDs that can be found in some built-in products will have issues reaching these levels. Whirlpool noted that there is technology available for VFDs that allows part of the display area to be shut down, while leaving a small area (*e.g.,* the clock) to remain on. However, Whirlpool also noted that use of this technology would place other design restrictions on the display, such as restrictions on pattern design. Whirlpool stated that these restrictions would increase costs beyond DOE's

estimate and/or reduce consumer functionality. (Whirlpool, No. 15 at p. 4)

Whirlpool commented that LCDs face more challenges in larger sizes, and the backlight intensity may need dimming or limiting of the available intensity setting. Whirlpool stated that the added functions needed to manage the power can range from a few cents to dollars, depending on the size and technology of the display. (Whirlpool, No. 15 at p. 4)

DOE conducted additional review of products available on the U.S. market and identified 25 over-the-range microwave oven models from multiple manufacturers that incorporated LCD or LED displays. To further evaluate the reliability and consumer utility of LED displays, LCDs, and VFDs in over-the-range environments, DOE contacted display manufacturers to discuss these issues. Display manufacturers indicated that most LED displays and VFDs have maximum operating temperatures of 85 degrees Celsius (°C), while most LCDs have maximum operating temperatures of 70 °C. DOE also noted that display reliability testing is generally conducted at 90-percent relative humidity (RH). According to display manufacturers, the rated lifetime (*i.e.,* the time at which the display brightness will have decreased by 50 percent) for most LED displays is approximately 50,000 hours, whereas the lifetime for VFDs is between 35,000 and 50,000 hours. Display manufacturers also noted that LED displays and VFDs can achieve similar levels of brightness. For LCDs with LED backlighting, display manufacturers stated that the lifetime of approximately 50,000 hours is based on the LED backlights, because the LED backlighting will fail before the LCD itself as long as the display is operated within the rated temperature and humidity conditions. According to display manufacturers, if LED displays, LCDs, and VFDs are operated below their maximum rated operating temperature and humidity, the lifetime would not be affected.

To further investigate reliability under the conditions experienced in over-the-range installations, DOE conducted testing on a sample of over-the-range microwave ovens with different display types. DOE selected 2 LED, 2 LCD, and 3 VFD over-the-range microwave oven models for testing. For each model, DOE purchased two identical units to evaluate the reliability under two separate temperature and humidity conditions. Prior to the start of testing, the illuminance for each display was measured from a fixed distance under dark room conditions. In order to obtain consistent and comparable measurements, each clock display was set to 12:00 prior to the illuminance measurements. Because some displays may dim after a period of user inactivity, the illuminance for each unit was measured again after a period of 10 minutes of inactivity.

One set of the six microwave oven models were then operated in standby mode in an environmental chamber for twelve 20-hour periods at 82.5 ± 2.5 °C and 90 ± 5 percent RH, and the other set of six microwave ovens was operated in standby mode for twelve 20-hour periods at 67.5 ± 2.5 °C and 90 ± 5 percent RH. The temperature conditions were selected based on the maximum rated operating conditions for the different display types. After each 20-hour period at elevated temperature and humidity, the environmental chamber and microwave ovens were cooled to ambient room temperature (23 ± 5 °C), at which point the illuminance of each display was measured before and after a 10-minute period of inactivity using the same method described above. Each set of microwave ovens was exposed to the elevated temperature and humidity conditions for a total of 240 hours. DOE selected this number of hours based on its review of available information on the duration of lifetime testing under similar ambient conditions that display manufacturers conduct. The number of hours manufacturers used ranged from 48 to 240, and DOE selected the maximum 240 hours for its testing. The illuminance was measured twice at ambient room conditions after each 20-hour cycle. In addition, power consumption and current were measured throughout each 20-hour cycle and subsequent 10-minute illuminance measurement period for each test unit.

The test results showed that display illuminance tended to degrade over time at these elevated conditions for most of the units tested, but the data did not reveal a correlation between the rate of degradation and display type. VFDs in DOE's test sample degraded both more and less rapidly than the LED displays under both temperature/humidity conditions, including an LED display with illuminance comparable to the VFDs in the test sample. DOE notes that the test units for one of the models with a backlit LCD failed after 20 hours at 82.5 °C and after 60 hours at 67.5 °C. Other backlit LCD model had similar illuminance levels as two of the VFD models and showed little to no degradation. Based on these test data, DOE concludes that all display types can be used in over-the-range microwave oven applications without a loss in consumer utility. For further details on the display reliability testing, see chapter 5 of the final rule TSD.

3. Power Supply and Control Boards

In the October 2008 NOPR, DOE discussed several technologies available to increase power supply and control board efficiency that would reduce microwave oven standby power consumption. DOE found some microwave ovens on the U.S. market using switch-mode power supplies with up to 75-percent conversion efficiencies and 0.2 W or less no-load standby losses, though these models came with a higher cost, higher part count, and greater complexity. DOE stated that switch-mode power supplies were, at the time, unproven in long-term microwave oven applications, and the greater complexity of these power supplies could also lower overall reliability. DOE was also aware of options to improve the energy efficiency of linear power supplies, such as low-loss transformers or unregulated voltages closer to the voltages used for logic and control, but these were not found on commercially available microwave ovens at the time. 73 FR 62034, 62051 (Oct. 17, 2008).

In response to the October 2008 NOPR, some commenters stated that certain switch-mode power supplies used in computers have efficiencies greater than 90 percent, while others questioned the reliability of switch-mode power supplies for use in microwave ovens, and that electromechanical controls will be needed to meet standby power requirements. In its analysis for the February 2012 SNOPR, DOE observed that switch-mode power supplies are found in products such as computers, battery chargers, clothes washers, and clothes dryers, suggesting that the reliability and durability of switch-mode power supplies has been proven in residential appliance applications. DOE also noted that microwave ovens incorporating switch-mode power supplies have been available for multiple years and are still used, as evidenced by such power supplies observed in DOE's most recent test sample of convection microwave ovens. DOE's research suggested that switch-mode power supplies for appliance applications in power capacities similar to those utilized in microwave ovens achieve no greater than 75-percent efficiency,[16] and DOE was unaware of data indicating that the reliability of

[16] Information on the design and efficiency of switch-mode power supplies can be found at *http://www.powerint.com/en/applications/major-appliances.* (Last accessed December 2012.)

switch-mode power supplies is significantly worse than conventional linear power supplies over the lifetime of the product. DOE was also not aware at that time of any microwave ovens on the market at that time with electromechanical controls. As a result, in the February 2012 SNOPR, DOE proposed considering only microwave ovens with electronic controls in determining standby power levels, and determined that electromechanical controls would not be required to achieve any of the standby power levels proposed in the February 2012 SNOPR. 77 FR 8526, 8538–39 (Feb. 14, 2012).

Whirlpool commented that it uses switch-mode power supplies in many of its microwave ovens. According to Whirlpool, such power supplies will cost more than conventional linear power supplies with traditional transformers, depending on the particular design and product features. For a new design optimized for low standby power consumption, Whirlpool believes that the cost increase would be in the range of DOE's SNOPR analysis for both countertop and built-in/over-the-range microwave ovens. Whirlpool also commented, however, that if an existing design needs to be modified, the incremental manufacturing cost will exceed DOE's estimates for both product classes. Whirlpool stated that DOE underestimates the impact on manufacturers, which will either incur greater costs in designing new control systems or added product cost to adapt existing control systems. Whirlpool further stated that although it has not investigated the use of solid state relays to reduce the power requirements for power supplies, it believes that the reduction in power consumption would be minimal. (Whirlpool, No. 15 at p. 5)

In response to these comments, DOE expanded the scope of its microwave oven power supply analysis. First, DOE conducted an updated, comprehensive survey of microwave oven brands and models available on the U.S. market. The database contains 459 entries for Product Class 1 and 81 for Product Class 2. The database categorizes each microwave oven by installation configuration (*i.e.,* built-in, over-the-range, or counter-top), heating technology (*i.e.,* microwave-only, microwave plus thermal heating elements, or microwave plus convection), magnetron power supply type (*i.e.,* conventional or inverter), and display type (*i.e.,* LED, LCD, backlit LCD, VFD, or none).

As part of this research, DOE identified four countertop microwave-only models produced by two manufacturers that have electromechanical rotary dial controls and no displays, and which, therefore, are capable of operation in off mode. Because these units represent less than 1 percent of the models in Product Class 1 and because their power consumption is already low due to the lack of a display, any energy savings associated with off mode energy conservation standards for microwave ovens would be trivial. For these reasons, DOE is not adopting standards for microwave oven off mode at this time.

DOE conducted further standby power testing on a representative sample of built-in and over-the-range units from both Product Class 1 and Product Class 2 to supplement the existing inputs into the analysis. DOE determined the portion of overall product standby power consumption that is associated with baseline power supply and control board configurations for each product type based on these laboratory measurements.

DOE then identified options for reducing power supply and control board power consumption, which include low-loss transformers, switch-mode power supplies, and three different relay options of varying energy efficiency.[17] Based on this new set of standby power and design option information, DOE identified 39 different power supply design pathways for the various microwave oven configurations that could be used to achieve the standby power levels analyzed in this final rule. Each pathway comprises the combination of power supply and control board design options that would decrease standby power requirements.

For each standby power level analyzed, DOE took into consideration the specific power consumption needs for the product type being analyzed. For example, DOE confirmed in each case that the power supply could power at least three 3 ampere (A)-rated relays and one 16 A-rated relay concurrently, in addition to the other microwave oven base loads. MWO control boards may contain more relays than that, but DOE research suggests that not all relays will be active at the same time. The 16 A-rated relay is typically used to control the power input into the magnetron assembly, while the 3 A-rated relays are typically used for other functions, such as controlling a blower fan, turntable motor, or interior light.

DOE research also suggests that power supplies inside microwave ovens typically feature multiple direct current (DC) voltages with varying levels of line regulation. The voltages used to drive relays are usually the highest and the least regulated, as relays do not need very stable voltages. In a microwave oven with a linear power supply, unregulated power is the result of the line voltage being converted to a lower voltage by a transformer, rectified via a bridge rectifier, and smoothed somewhat with a capacitor. On control boards with linear power supplies, a linear regulator and additional capacitors provide a very smooth power supply suitable for microprocessors at even lower voltages than the unregulated supply. Boards featuring switch-mode power supplies will produce the two DC voltages with similar regulation characteristics through the use of integrated circuits directly from rectified line power.

Switch-mode power supplies differ from linear regulators in conversion efficiency. Linear regulators produce a constant output voltage by dissipating the difference between the target voltage and the input voltage times the current drawn into heat. Thus, the higher the input voltage or the lower the target voltage, the higher the power dissipation and the lower the power supply efficiency. Switch-mode power supplies, however, turn line power on and off as needed, thus avoiding a significant portion of the energy losses associated with linear power supplies. While switch-mode power supplies typically offer higher conversion efficiencies, they are more complicated and difficult to design, and still not widespread in microwave oven applications.

DOE research suggests that inverter-based microwave ovens consume, on average, 0.9 W more in standby mode than non-inverter microwave ovens featuring the same display technology and installation configuration. All inverter-driven units that DOE reverse-engineered originated from one manufacturer and featured linear regulators supplied by an unregulated bus voltage of 18 volts (V). Based on the above discussion, one likely contributing factor to the higher standby power of these units is the high unregulated bus voltage. Additionally, the inverter board powering the magnetron contained a number of microprocessors and other components that appear to be powered continuously. DOE research suggests that the standby power requirements of these microwave ovens could be reduced substantially by reducing the unregulated bus voltage and fitting a disconnect relay/transistor for the inverter control board. For such systems, DOE's design pathways include a relay option to shut down the

[17] Please see: *http://orbit.dtu.dk/fedora/objects/orbit:56806/datastreams/file_4175071/content.* (Last accessed November 28, 2012).

power to the inverter board altogether when in standby mode. Similarly, the manufacturer could redesign the units to feature a lower unregulated bus voltage of 9 V or 12 V, potentially doubling the efficiency of the linear power supply.

Since the sample of microwave ovens reverse-engineered by DOE research only included two units with a switch-mode power supply, DOE chose to use reference designs published by a major power supply manufacturer instead. The reference power supplies selected by DOE are intended to be drop-in replacements for the current linear power supplies assumed for the baseline. All switch-mode power supplies used in the analysis feature two typical output voltage options (12 V and 5 V) to allow manufacturers to continue using the same relay and microprocessor families as in their present designs.

DOE research suggests that a small percentage of microwave ovens would not be able to achieve baseline standby power levels without incorporating switch-mode power supplies. For example, DOE tore down two microwave ovens in Product Class 2 which featured switch-mode power supplies for which average standby power consumption ranged from 4.1–4.3 W. DOE research suggests that the same microwave oven using a linear power supply would draw about twice as much standby power. For the purpose of the analysis and the potential design pathways, the standby requirements were adjusted accordingly, and the adjusted measurements became an input into the average for all standby measurements of this particular microwave oven sub-type (back-lit LCD, over-the-range, with cooking sensor).

DOE also developed updated costs for power supply options that were based on additional review of past teardowns, inputs from subject matter experts, and analysis of reference designs by a major supplier of switch-mode power supplies. DOE research suggests that the component prices for switch-mode power supplies and traditional linear power supplies are currently nearly equivalent. However, DOE concludes that the industry will likely transition to switch-mode power supplies as it gains more experience with them, causing switching component prices to fall further as volumes increase. Additionally, the adoption of switch-mode power supplies would facilitate standardized control boards for world-wide use, thereby reducing testing and development costs.

For each design pathway for the different product types that can be used to achieve the various standby power levels, DOE determined the corresponding manufacturing cost based on the cost of the components and the typical markups that printed circuit board manufacturers charge for the manufacture and testing of the control boards. Details of the costs at each standby power level are presented in the engineering analysis in section 0 of this rulemaking, and in chapter 5 of the final rule TSD.

4. Power-Down Options

In the October 2008 NOPR, DOE determined that control strategies are available to allow microwave oven manufacturers to make design tradeoffs between incorporating power-consuming features such as displays or cooking sensors and including a function to cut power to those components during standby mode. DOE found at that time that a large number of microwave ovens incorporating this automatic power-down feature were available in other markets such as Japan. 73 FR 62034, 62051–52 (Oct. 17, 2008).

In response to the October 2008 NOPR, interested parties commented that: (1) The industry lacks data on control board circuitry to allow for a function to cut off power during standby mode, (2) such features must be reliable in high-temperature environments, and (3) DOE had allowed no time for manufacturers to evaluate the viability or feasibility of the proposed technologies. In the February 2012 SNOPR, DOE noted that its research had not identified any technical barrier that would prevent microwave oven manufacturers from successfully integrating such control board circuitry with proper heat shielding and other design elements. DOE stated it was also aware of similar automatic power-down control technologies incorporated in products such as clothes washers and clothes dryers, which utilize an additional transformer-less power supply to provide just enough power to maintain the microcontroller chip while the unit is powered down, resulting in very low standby power levels. Therefore, DOE determined in the February 2012 SNOPR that an automatic power-down feature is technically feasible in microwave applications. 77 FR 8526, 8539 (Feb. 14, 2012).

Commenters on the October 2008 NOPR also requested clarification on whether an on/off switch, particularly a consumer-activated one, would be considered a design option for the purpose of standby mode energy use. Under the mode definitions adopted by the amended microwave oven test procedure from the March 2011 TP Interim Final Rule (76 FR 12825, 12834–37 (Mar. 9, 2011)), a product for which an on/off switch has turned off the display would be considered to be in off mode, unless other energy consuming features associated with standby mode remain energized (*i.e.,* features to facilitate the activation of other modes by remote switch, internal sensor, or timer; or continuous functions, including other information or status displays or sensor-based features). In the latter case, the microwave oven would remain in standby mode even with the display turned off. DOE was not aware at the time of the February 2012 SNOPR of any products incorporating a user-activated control to turn the display on or off, and did not have information to evaluate how often consumers might make use of such a feature. Therefore, DOE determined in the February 2012 SNOPR that it was unable to analyze such a control as a design option. DOE however agreed that such a feature, if provided, could result in decreased energy usage in standby mode or off mode, and noted that manufacturers would not be precluded from incorporating such a feature in their products under the proposed standards. 77 FR 8526, 8539–40 (Feb. 14, 2012). As part of the latest market survey, DOE noted several microwave ovens which allow consumers to turn the display off. DOE notes, however, that the power savings are highly dependent on the type of display, the mechanism by which the display is turned off, and the power supply.

Whirlpool commented that certain features for the microwave oven may not be available if a relay is used to turn off a secondary power supply. Whirlpool provided an example in which the oven cavity light may not turn on if the door is opened while the control is in standby mode. In this scenario, a user may have to press a button to wake up part of the control first or put food in with the light off. According to Whirlpool, consumers would likely find this unacceptable. Whirlpool commented that the cost of adding the relay is under $1 if it is added early in the design process, or as much as $4 if added to existing designs. Whirlpool also commented that monitoring only certain keys on the keypad or monitoring them at a slower rate, especially on glass touch interfaces, can reduce standby mode energy consumption, although a user may have to press an ''on'' key first before pressing other keys. Whirlpool stated that the additional cost for this feature is approximately $0.25. (Whirlpool, No. 15 at p. 5)

For today's final rule, DOE further examined automatic power-down strategies. DOE notes that there are many design pathways available to implement automatic power-down and re-awakening feature. For example, the microwave oven could be designed to return to a fully-on state every time a consumer opens the door, as there are at least three micro-switches that monitor the state of the door. DOE determined that achieving the max-tech standby power levels would likely require a relay-driven disconnect between line power and the power filtration board typically incorporated in microwave ovens. The automatic power-down module that DOE included for this design option features a 1.5 W switch-mode power supply that can respond to a simple switch signal to power up and enable microwave oven operation via a relay on the power filtration board.[18] If the existing door switches do not suffice, an additional door switch could provide the necessary signal to enable this power supply, for which power consumption is otherwise nearly 0 W. Thus, the microwave oven would power up, enabling a light to be energized, with a delay short enough to be perceived as instantaneous when the consumer opens the door. For such an approach, the costs for automatic power-down increased slightly compared to the costs that were included in the analysis for the February 2012 SNOPR. Details of the costs for this design option are included in the engineering analysis in section 0 of this rulemaking and in chapter 5 of the final rule TSD.

D. Engineering Analysis

The purpose of the engineering analysis is to characterize the relationship between the energy use and the cost of standby mode features of microwave ovens. DOE used this standby power/cost relationship as input to the payback period, LCC, and NIA analyses. The engineering analysis provides data that can be used to establish the manufacturer selling price of more efficient products. Those data include manufacturing costs and manufacturer markups.

DOE has identified three basic methods for generating manufacturing costs: (1) The design-option approach, which provides the incremental costs of adding to a baseline model design options that will improve its efficiency (*i.e.,* lower its energy use in standby mode and off mode); (2) the efficiency-level approach, which provides the incremental costs of moving to higher energy efficiency levels (in this case, levels of reduced standby power), without regard to the particular design option(s) used to achieve such increases; and (3) the cost-assessment (or reverse-engineering) approach, which provides ''bottom-up'' manufacturing cost assessments for achieving various levels of increased efficiency, based on detailed data on costs for parts and material, labor, shipping/packaging, and investment for models that operate at particular efficiency levels. DOE conducted the engineering analysis for this rulemaking using the efficiency-level approach. For this analysis, DOE relied on laboratory testing of representative microwave ovens. DOE supplemented the standby power data with data gained through reverse-engineering analysis and primary and secondary research, as appropriate. To identify microwave oven design options, DOE performed a reverse-engineering analysis on a representative sample of microwave ovens, and presented the details of the engineering analysis in chapter 5 of the February 2012 SNOPR TSD. DOE updated this analysis for today's final rule through additional teardowns and testing that are detailed in chapter 5 of the final rule TSD.

1. Energy Use Metric

In the October 2008 NOPR, DOE explored whether it would be technically feasible to combine the existing measure of energy efficiency during the cooking cycle per use (*i.e.,* active mode) with standby mode and off mode energy use over time to form a single metric, as required by EISA 2007. (42 U.S.C. 6295(gg)(2)(A)) DOE tentatively concluded that, although it may be mathematically possible to combine energy consumption into a single metric encompassing active, standby, and off modes, it is not technically feasible to do so due to the high variability in the cooking efficiency measurement based on the microwave oven test procedure at that time and because of the significant contribution of standby power to overall microwave oven energy use. Therefore, DOE proposed a separate metric to measure standby power as provided by EISA 2007. 73 FR 62034, 62042–43 (Oct. 17, 2008).

Interested parties agreed with DOE's determination that it is not technically feasible to integrate standby mode and off mode energy use into a single efficiency metric with the active mode energy use for microwave ovens, or stated that it would not be practical to do so. One commenter questioned if there were any legal prohibition on establishing a prescriptive standby power standard for microwave ovens, especially since DOE was at that time also proposing a prescriptive standard for other cooking products (*i.e.,* standing pilots in gas cooking products). DOE eliminated the active mode cooking efficiency provisions in the July 2010 TP Final Rule after it determined that those provisions did not produce accurate and repeatable results. 75 FR 42579 (July 22, 2010). Therefore, in the February 2012 SNOPR, DOE determined that the absence of active mode provisions results in a *de facto* separate energy use descriptor for microwave oven standby mode and off mode energy use. 77 FR 8526, 8540 (Feb. 14, 2012).

DOE did not receive any comments in response to the February 2012 SNOPR regarding the use of a metric for measuring standby mode and off mode energy use separate from any active mode energy use metric for microwave ovens. For the reasons discussed above, DOE is adopting energy conservations based on maximum allowable standby power levels in today's final rule.

2. Standby Power Levels

DOE considered standby mode and off mode standards based on a maximum allowable standby power, in W, for microwave ovens. For the reasons noted previously, the standards do not include off mode power. As discussed in section IV.A, in the October 2008 NOPR, DOE proposed a single product class for microwave ovens that would encompass microwave ovens with and without browning (thermal) elements, but would not include microwave ovens that incorporate convection systems. For the October 2008 NOPR, DOE's analysis estimated the incremental manufacturing cost for microwave ovens having standby power consumption less than the baseline level of 4 W. For the purposes of that analysis, a baseline microwave oven was considered to incorporate an absolute humidity cooking sensor. To analyze the cost-energy use relationship for microwave oven standby power, DOE defined standby power levels expressed as a maximum allowable standby power in W. To analyze the impacts of standards, DOE defined the following four standby power levels for analysis: (1) The Federal Energy Management Program (FEMP) procurement efficiency recommendation; (2) the International Energy Agency's (IEA's) 1-Watt Plan; (3) a standby power level as a gap-fill between the FEMP Procurement Efficiency Recommendation and IEA 1-Watt Plan; and (4) the current maximum microwave oven standby technology

[18] Please see: *http://powerintegrations.com/sites/default/files/PDFFiles/der260.pdf.*

(max-tech; *i.e.,* lowest standby power) that DOE determines is or could be commercially available when the energy conservation standards become effective, based on a review of microwave ovens currently on the market worldwide. Table IV–2 provides the microwave oven standby power levels and the reference source for each level that DOE analyzed for the October 2008 NOPR. Due to the definition of only four standby power levels, a TSL was defined for each standby power level and thus standby power levels may also be referred to as TSLs.

TABLE IV–2—OCTOBER 2008 NOPR PROPOSED MICROWAVE OVEN STANDBY POWER LEVELS

Standby power level (TSL)	Source	Standby power (*W*)
Baseline	Baseline	4.0
1	FEMP Procurement Efficiency Recommendation	2.0
2	Gap Fill	1.5
3	IEA 1-Watt Program	1.0
4	Max Tech	0.02

In response to the October 2008 NOPR, interested parties commented that while the microwave oven standby power TSLs were appropriate, over-the-range microwave ovens that use VFDs would not be able to meet the 1.0 W standard (TSL 3) proposed in the October 2008 NOPR, and that use of other display technologies for over-the-range microwave ovens would reduce consumer utility. Commenters also stated that DOE should conduct additional testing of over-the-range microwave ovens with VFDs, and that manufacturers should be allowed a variety of pathways to reduce standby power consumption to each TSL. 77 FR 8526, 8541 (Feb. 14, 2012).

DOE research for the February 2012 SNOPR established that multiple over-the-range microwave ovens are currently available on the market that incorporate low-power display technologies, including LED displays and LCDs. DOE also determined that manufacturer temperature ratings for the three types of displays are comparable, and that LED displays and LCDs in both countertop and over-the-range microwave ovens offer acceptable consumer utility features, including brightness, viewing angle, and ability to display complex characters. Based on these findings, DOE determined for the February 2012 SNOPR that the TSLs and the associated analyses from the October 2008 NOPR were still valid and would apply to the revised product class encompassing microwave-only ovens (including countertop, built-in, and over-the-range units) and countertop convection microwave ovens. DOE also determined that multiple pathways exist to reach each TSL, based on the selection of the display technology, power supply/control boards, and cooking sensors, and the possible incorporation of algorithms to automatically reduce standby power after a period of inactivity, as stated in the October 2008 NOPR. *Id.*

Based on the October 2008 NOPR, interested parties also requested additional information about the functionality associated with a microwave oven that meets the max-tech level, including response time from power-down, and whether such a model has as many display features and included all the features of the baseline models. In the February 2012 SNOPR, DOE stated that the max-tech microwave oven standby power level of 0.02 W corresponds to a unit equipped with a default automatic power-down function that disables certain power-consuming components after a specified period of user inactivity. The standby power at max-tech was obtained from a microwave oven on the market at that time in Korea, which incorporated such a feature. 73 FR 62034, 62045 (Oct. 17, 2008). Although DOE did not have operational information on this specific model, DOE analyzed the components necessary to achieve an automatic power-down function, and determined that such a feature would not limit the selection of display technologies or other features that provide consumer utility. DOE analysis suggested that response times for startup would be short enough (less than 1 second) to be acceptable to consumers. 77 FR 8526, 8541 (Feb. 14, 2012).

As noted previously, DOE proposed a separate product class for built-in and over-the-range convection microwave ovens in the February 2012 SNOPR, and therefore also separately analyzed these microwave ovens in the engineering analysis. DOE's analysis estimated the incremental manufacturing cost for built-in and over-the-range convection microwave ovens having standby power consumption less than a baseline value of 4.5 W. To determine that baseline level, DOE measured the standby power consumption of a representative sample of built-in and over-the-range convection microwave ovens on the market at that time. For the purpose of that standby power analysis, a baseline built-in/over-the-range convection microwave oven was considered to incorporate an absolute humidity cooking sensor. In order to analyze the cost-energy use relationship for this product class, DOE defined each standby power level as a maximum allowable standby power in watts. *Id.*

To determine the maximum allowable standby power at each level in Product Class 2, DOE reverse-engineered a representative sample of built-in and over-the-range convection microwave ovens to analyze the various components that contributed to the standby power consumption of the unit. DOE also measured the standby power consumed by these components individually. In its analysis, DOE observed that the absolute humidity cooking sensors used in these convection microwave ovens on average consume 0.9 W of standby power. For Standby Power Level (SL) 1, DOE determined that standby power can be reduced by incorporating a zero-standby cooking sensor. For SL 2, DOE analyzed potential improvements to the power supply design. DOE noted that microwave ovens at the baseline standby energy use incorporate a linear power supply. DOE measured the standby power consumption of the power supply and found that the transformer used to step down the line input voltage contributes most significantly to the standby power consumption. DOE then performed a power budget analysis to determine the size of the transformer needed to operate a microwave at full load, and the results suggested that replacing the conventional linear power supply with a more efficient switch-mode power supply would reduce the standby power associated with the power supply. DOE

thus estimated the standby power for SL 2 based on the improvement associated with changing from a conventional linear power supply with an efficiency of 55 percent to a switch-mode power supply with an efficiency of 75 percent DOE developed this estimate for the efficiency of a switch-mode power supply based on research of such power supply designs for appliance applications. For SL 3, DOE analyzed the impact relays have in determining the size of a power supply. DOE compared the power budget of a control board with electromechanical relays to that with solid state relays, and observed that the power requirement of a control board, with similar input and load, was lower with solid state relays than with electromechanical relays. Therefore, DOE estimated the standby power at SL 3 based on design improvements associated with using more efficient components in a switch-mode power supply that incorporates solid state relays. For SL 4, DOE analyzed an automatic function that turns off power to standby power-consuming components after a certain period of inactivity and that uses a transformer-less power supply to maintain the microcontroller chip while the microwave oven is not powered on. DOE estimated the standby power at SL 4 based on the standby power requirements of the microcontroller chip. 77 FR 8526, 8541–42 (Feb. 14, 2012).

In light of the above analysis, DOE proposed in the February 2012 SNOPR the standby power levels for the two product classes shown in Table IV–3.

TABLE IV–3—FEBRUARY 2012 SNOPR PROPOSED MICROWAVE OVEN STANDBY POWER LEVELS

Standby power level	Standby power (*W*)	
	Microwave-only and countertop convection	Built-in and over-the-range convection
Baseline	4.0	4.5
1	2.0	3.7
2	1.5	2.7
3	1.0	2.2
4	0.02	0.04

DOE did not receive comments on these standby power levels in response to the February 2012 SNOPR. Whirlpool, however, submitted information regarding an off mode power level. Whirlpool stated that it is technically possible to achieve off mode power consumption below 0.1 W, but that it would add significant cost, as well as restrict design choices and product functionality, both of which would be unacceptable to the consumer. Whirlpool commented that it has been complying with a 1 W microwave oven off mode limit in Europe for several years, which will be reduced to 0.5 W in 2013. According to Whirlpool, most of its European built-in microwave ovens currently consume 0.6–0.9 W in off mode. Whirlpool expects to reduce this power consumption to 0.3–0.45 W by the end of 2012, noting the following contributors that prevent off mode power consumption from being 0 W:

- Certain circuitry must be powered at all times to ''wake up'' the product (power supply circuits, keyboard scanning, and micro controller(s)).
- A mains filter is required to comply with electromagnetic interference (EMI) regulations. Such filters include certain capacitors that must be discharged to prevent electric shock if the user touches the terminals of the mains plug after unplugging the appliance from the wall. There is normally a ''bleed resistor'' in the filter design to discharge the capacitors, which consumes power as soon as the appliance is connected to the mains.
- The filter itself has certain losses, and normally it is not possible to disconnect the filter in standby mode or off mode, as that would impact product function in active mode.

(Whirlpool, No. 15 at p. 3)

DOE considered these comments, but noted that Whirlpool's inclusion of circuitry that is powered at all times to sense a user input and ''wake up'' indicates that the product is operating in standby mode, as these components comprise a sensor to activate other mode(s). Furthermore, DOE concludes that this particular operating state is equivalent to the automatic power-down function associated with SL 4. DOE research suggests that the filter circuitry referenced by Whirlpool serves primarily to reduce the interference caused by the magnetron and its power supply, and that the power supply for at least some logic components inside a microwave oven do not necessarily have to be placed 'behind' the filtration board. Instead, these logic components could derive their inputs directly from line power and disconnect the filtration board and the rest of the microwave oven from line power until a need arises. Additionally, DOE notes that at least one microchip manufacturer has commercialized a product to eliminate power losses associated with bleed resistors using a single component that isolates the bleed resistor(s) as long as line power is connected.

Past reverse-engineering by DOE has uncovered several strategies to minimize standby power requirements. One option is to have a drop-capacitor power supply feeding a low-power circuit whose sole function is to sense user interaction and to then activate the (much higher-capacity) regular linear power supply for the logic components as needed. Thus, the transformer losses of the linear power supply are avoided. Another option is to have a switch-mode power supply that normally is 'asleep' wake and activate the rest of the controls when the door is opened. The automatic power-down approach at SL 4 chosen by DOE consists of such a 1.5 W-capable power supply, a door switch, assorted wiring, and a relay that isolates the microwave filtration board (and hence the rest of the microwave oven) from line power whenever it is deep sleep mode.

In addition, DOE's current research indicates that conventional linear power supplies have efficiencies of 40 percent or less, as compared to the 55-percent efficiency that was estimated for the February 2012 SNOPR. DOE accounted for this relative increase in efficiency improvement when changing to a switch-mode power supply by considering different design pathways to reach the standby power levels associated with this design option.

Therefore, for the reasons discussed above for the standby power levels proposed in the February 2012 SNOPR, DOE has retained the same levels for the final rule analysis.

3. Manufacturing Costs

In this rulemaking, DOE determined the estimated manufacturing cost for microwave ovens at each standby power level. The manufacturing costs are the basis of inputs for other analyses, including the LCC, national impact, and GRIM analyses.

For microwave oven standby mode and off mode energy use, DOE estimated a cost-energy use relationship (or ''curve'') in the form of the incremental manufacturing costs associated with incremental reductions in baseline standby power. In the October 2008 NOPR, DOE determined that microwave oven standby power depends on, among other factors, the display technology used, the associated power supplies and controllers, and the presence or lack of a cooking sensor. From testing and reverse engineering, DOE observed correlations between (1) specific components and technologies, or combinations thereof, and (2) measured standby power. DOE obtained preliminary incremental manufacturing costs associated with standby power

levels by considering combinations of those components as well as other technology options identified to reduce standby power. In the October 2008 NOPR, DOE presented manufacturing cost estimates based on quotes obtained from suppliers, interviews with manufacturers, interviews with subject matter experts, research and literature review, and numerical modeling. 73 FR 62034, 62055 (Oct. 17, 2008). They are shown in Table IV–4. As noted above, for the October 2008 NOPR, DOE analyzed a single product class for microwave ovens encompassing microwave ovens with and without browning (thermal) elements, but not including microwave ovens that incorporate convection systems.

TABLE IV–4—OCTOBER 2008 NOPR PROPOSED MICROWAVE OVEN STANDBY POWER INCREMENTAL MANUFACTURING COSTS

Standby power level	Standby power (*W*)	Incremental cost (2007$)
Baseline	4.0	NA
1	2.0	$0.30
2	1.5	0.67
3	1.0	1.47
4	0.02	5.13

DOE noted that it had observed several different cooking sensor technologies. Follow-on testing after the December 2007 public meeting showed that some sensors were zero-standby (relative humidity) cooking sensors. During the MIA interview for the October 2008 NOPR, one manufacturer indicated that its supplier of cooking sensors had developed zero-standby absolute humidity cooking sensors that would have the same manufacturing cost as the higher-standby power devices they would replace. Based on the number of available approaches to zero-standby cooking sensors from which manufacturers can choose, DOE concluded at that time that all manufacturers can and likely would implement zero-standby cooking sensors by the effective date of standby mode and off mode energy conservation standards, and maintain the consumer utility of a cooking sensor without affecting unit cost. DOE also concluded that a standard at standby power levels of 1 or 2 W would not affect consumer utility, because all display types could continue to be used. At SL 3 for VFDs and SL 4 for all display technologies, DOE analysis suggested the need for a separate controller (automatic power-down) that automatically turns off all other power-consuming components during standby mode. Such a feature would affect the consumer utility of having a clock display only if the consumer could not opt out of auto power-down. 73 FR 62034, 62055 (Oct. 17, 2008).

In response to the October 2008 NOPR, interested parties questioned the source of the incremental cost data associated with each standby power level, the need for incremental manufacturing costs to reflect both a one-time cost as well as the possibility of multiple paths to achieve each TSL, and questioned the cost associated with upgrading power supplies to reach TSL 3.

In the February 2012 SNOPR, DOE noted that it had developed incremental cost estimates for each standby power level using the design-option approach, and that one-time costs are evaluated as part of the MIA. DOE estimated costs for each of the components and technologies based on quotes from component suppliers, interviews with manufacturers, interviews with subject matter experts, research and literature review, and numerical modeling. The incremental manufacturing costs for each standby power level were determined by considering different combinations of these components as well as other technology options identified to reduce standby power. DOE stated that it was aware that manufacturers may employ a number of strategies to achieve the different standby power levels. The estimated manufacturing costs for each standby power level represent the approach DOE determined manufacturers would most likely use to achieve the standby power at each level. For each level, DOE assumed manufacturers would implement design options with the lowest associated manufacturing cost. If DOE determined there were multiple paths with similar costs to reach a certain level, it assumed manufacturers would be equally likely to choose either strategy. 77 FR 8526, 8543 (Feb. 14, 2012).

Interested parties also commented that the analysis did not consider consumer education costs on proper operation of microwave ovens with automatic power-down features, and that the manufacturing costs did not include cost implications on appliance manufacturers for including variables such as component readability and/or utility. DOE observed that it had considered the potential conversion costs associated with changes to consumer utility and reliability in the MIA. However, as previously discussed, DOE found no reliability or consumer utility concerns with switching from VFD to LCD or LED displays. Through discussions with manufacturers and OEMs, DOE determined that zero-standby cooking sensors could be implemented with no effect on consumer utility or reliability. DOE noted that an automatic power-down feature required at SL 3 for VFDs and at SL 4 for all display types could affect consumer utility, and considered these impacts in the selection of the proposed standards. *Id.*

Therefore, in the February 2012 SNOPR, DOE determined that the standby power levels and corresponding incremental manufacturing costs presented in the October 2008 NOPR remained fundamentally valid for the microwave-only and countertop convection microwave oven product class. DOE was unaware of any technologies that became available after the October 2008 NOPR that would alter the incremental cost for any standby power level. However, the costs presented in the October 2008 NOPR were in 2008 dollars. DOE scaled these costs to 2010 dollars using the producer price index (PPI) to reflect more current values.[19] The relevant PPI for microwave ovens is a subset of the household cooking appliance manufacturing industry, specifically for electric (including microwave) household ranges, ovens, surface cooking units, and equipment. Thus, DOE revised the incremental costs for each standby power level for Product Class 1, scaled to 2010 dollars, as presented in Table IV–5.

TABLE IV–5—FEBRUARY 2012 SNOPR PROPOSED MICROWAVE OVEN PRODUCT CLASS 1 STANDBY POWER INCREMENTAL MANUFACTURING COSTS

Standby power level	Standby power (*W*)	Incremental cost (*2010$*)
Baseline	4.0	NA
1	2.0	$0.27
2	1.5	0.60
3	1.0	1.31
4	0.02	4.58

DOE conducted additional analyses on a test sample of 13 convection microwave ovens for the February 2012 SNOPR to evaluate the built-in and over-the-range convection microwave oven product class. DOE again used the design-option approach to determine the incremental manufacturing costs of

[19] Information on the PPI databases can be found at *http://www.bls.gov/ppi/data.htm.* (Last accessed December 2012.)

convection microwave ovens for each standby power level.

As discussed in the February 2012 SNOPR, DOE estimated the incremental cost associated with reductions in baseline standby power of built-in and over-the-range convection microwave ovens. DOE performed engineering teardowns and control board cost analyses to determine the cost of the baseline control board used in these units. DOE estimated the cost associated with each standby power level by using quotes from various component suppliers to determine the cost of the components used in each design option. 77 FR 8526, 8543 (Feb. 14, 2012).

For SL 1, DOE estimated that the manufacturing cost of a zero-standby cooking sensor would be the same as that of the cooking sensor with high standby power. To estimate the manufacturing cost for SL 2, DOE used reverse engineering to determine the cost of the components used in a design of a switch-mode power supply capable of delivering the same output power as the baseline conventional linear power supply. In its analysis for the manufacturing cost of SL 3, DOE determined the cost of the components used to design a control board with a switch-mode power supply and solid state relays capable of driving the same loads as the electromechanical relays. DOE estimated the manufacturing cost for SL 4 based on the cost of the components needed to design an automatic power-down function that uses a transformer-less power supply. The results of these analyses for the February 2012 SNOPR are presented in Table IV–6.

TABLE IV–6—FEBRUARY 2012 SNOPR PROPOSED MICROWAVE OVEN PRODUCT CLASS 2 STANDBY POWER INCREMENTAL MANUFACTURING COSTS

Standby power level	Standby power (*W*)	Incremental cost (*2010$*)
Baseline	4.5	NA
1	3.7	$0
2	2.7	2.29
3	2.2	9.44
4	0.04	5.18

Whirlpool stated that the incremental manufacturing costs for SL 3 would consist only of component costs and would not require additional processing and labor costs. Whirlpool estimated the total incremental cost at SL 3 as the sum of the costs it provided for each of the design options it had commented on, and stated that the largest contributor would be the cost of changing to a switch-mode power supply for those microwave ovens that don't currently have them. (Whirlpool, No. 15 at pp. 5–6) DOE observes that Whirlpool did not provide estimated costs for a implementing a zero-standby power cooking sensor or a switch-mode power supply, although, as noted previously in section 0 of this rulemaking, Whirlpool agreed with DOE's estimate for the cost associated with a switch-mode power supply for a new product design but stated that the cost would be too low for existing designs. The sum of the upper range of estimated costs which Whirlpool did provide were approximately $5.00, which is greater than the costs DOE estimated at SL 3 for Product Class 1 and approximately half DOE's estimate for Product Class 2.

DOE, therefore, expanded its evaluation of manufacturing costs to consider all of the design pathways it had identified for each product type and class. DOE aggregated and weighted the cost results from the design pathway studies using the distribution of features by stock-keeping-units (SKUs). For example, about 22 percent of microwave oven SKUs in Product Class 1 incorporate a VFD and a cooking sensor. DOE also conducted additional research and interviews with suppliers to update the component costs for the individual design options. The resulting updated incremental manufacturing costs for both product classes are presented in Table IV–7 and Table IV–8. Because DOE's analysis for today's final rule was based on a more comprehensive model database, the greater sample size combined with the updated component cost estimates and significantly more design pathways affected the manufacturing cost results. For example, at the higher efficiency levels, the pathway for some product types requires automatic power-down at SL 3 rather than SL 4. In addition, DOE determined that for several product types in Product Class 2, the baseline model already incorporates a switch-mode power supply. As a result, the weighted average cost at SL 3 is lower than proposed in the February 2012 SNOPR. For more details of the manufacturing costs developed as part of the engineering analysis, see chapter 5 of the final rule TSD.

TABLE IV–7—FINAL RULE MICROWAVE OVEN PRODUCT CLASS 1 STANDBY POWER INCREMENTAL MANUFACTURING COSTS

Standby power level	Standby power (*W*)	Incremental cost (*2011$*)
Baseline	4.0	NA
1	2.0	$0.26
2	1.5	0.38
3	1.0	3.28
4	0.02	6.23

TABLE IV–8—FINAL RULE MICROWAVE OVEN PRODUCT CLASS 2 STANDBY POWER INCREMENTAL MANUFACTURING COSTS

Standby power level	Standby power (*W*)	Incremental cost (*2011$*)
Baseline	4.5	NA
1	3.7	$0.06
2	2.7	0.08
3	2.2	5.01
4	0.04	5.86

E. Life Cycle Cost and Payback Period Analysis

In response to the requirements of section 325(o)(2)(B)(i) of the Act, DOE conducted LCC and PBP analyses to evaluate the economic impacts of possible amended energy conservation standards for consumers of microwave ovens having standby mode and off mode features. (42 U.S.C. 6295(o)(2)(B)(i)) DOE conducted the analyses using a spreadsheet model, which is described in chapter 8 of the final rule TSD.)

The LCC represents the total consumer expense over the life of a product, including purchase and installation expenses and operating costs (energy expenditures, repair costs, and maintenance costs). The PBP is the number of years it would take for the consumer to recover the increased costs of a higher efficiency product through energy savings. To calculate the LCC, DOE discounts future operating costs to the time of purchase and sums them over the lifetime of the product. DOE forecasts the change in LCC and the change in PBP associated with a given efficiency level relative to the base-case product efficiency. The base-case forecast reflects the market in the absence of amended mandatory energy conservation standards. As part of the LCC and PBP analyses, DOE develops data that it uses to establish product prices, annual energy consumption, energy prices, maintenance and repair

costs, product lifetime, and discount rates.

For the February 2012 SNOPR, DOE developed a consumer sample for microwave ovens having standby mode and off mode features from EIA's 2005 Residential Energy Consumption Survey (RECS). For today's final rule, it developed a consumer sample from the 2009 RECS. It used this sample to establish the variability and uncertainty in microwave oven electricity use.

The variability in electricity pricing was characterized by incorporating regional energy prices. DOE calculated the LCC associated with a baseline microwave oven having standby mode and off mode features. To calculate the LCC savings and PBP associated with products that could meet potential amended energy conservation standards, DOE substituted the baseline unit with more efficient designs.

Table IV–9 summarizes the approaches and data DOE used to derive the inputs to the LCC and PBP calculations for the October 2008 NOPR, and the changes it made for today's final rule. DOE did not introduce changes to the LCC and PBP analysis methodology described in the October 2008 NOPR. As the following sections discuss in more detail, however, DOE revised some of the inputs to the analysis. Chapter 8 of the final rule TSD contains a detailed discussion of the methodology utilized for the LCC and PBP analysis as well as the inputs developed for the analysis.

TABLE IV–9—SUMMARY OF INPUTS AND KEY ASSUMPTIONS IN LCC AND PBP ANALYSES

Inputs	October 2008 NOPR	Changes for the SNOPR	Changes for the final rule
Affecting Installed Costs			
Product Cost ..	Derived by multiplying manufacturer cost by manufacturer, distributor markups and sales tax.	Used experience curve fits to forecast a price scaling index to forecast product costs.	Increased the geographic resolution of sales tax data.
Affecting Operating Costs			
Annual Energy Use.	Annual energy use determined from the annual usage (average daily use cycles).	No change	No change.
Energy Prices	Electricity: Updated using EIA's 2006 Form 861 data. Variability: Regional energy prices determined for 13 regions.	Electricity: Updated using EIA's 2009 Form 861 data. Variability: No change	Electricity: Updated using EIA's 2010 Form 861 data. Variability: Energy prices determined by RECS Reportable Domain (27 individual States or State groupings).
Energy Price Trends.	Energy: Forecasts updated with EIA's *Annual Energy Outlook 2008* (*AEO 2008*).	Reference Case, High Growth, and Low Growth forecasts updated with EIA's *AEO 2010* May Release.	Reference Case, High Growth, and Low Growth forecasts updated with EIA's *AEO 2012* June Release.
Repair and Maintenance Costs.	Assumed no repair or maintenance costs.	No change	No change.
Affecting Present Value of Annual Operating Cost Savings			
Product Lifetime.	Estimated using survey results from RECS (1990, 1993, 1997, 2001, 2005) and the U.S. Census American Housing Survey (2005, 2007), along with historic data on appliance shipments.	No change	Updated LCC lifetime methodology to reflect methodology used in the NIA.
Discount Rates.	Variability: Characterized using Weibull probability distributions.	No change	No change.
Affecting Installed and Operating Costs			
Compliance Date of New Standard.	2012	2014	2016.

1. Product Costs

To calculate the product costs paid by microwave oven purchasers, DOE multiplied the manufacturing product costs (MPCs) developed from the engineering analysis by industry markups to derive manufacturers' selling prices (MSPs). The MSPs in turn are multiplied by supply chain markups (along with sales taxes) to estimate the initial cost to the consumer. DOE used the same supply chain markups for today's final rule that were developed for the October 2008 NOPR. These include separate markups on the baseline MSP and the incremental cost of each higher efficiency level considered.

AHAM submitted an attachment to its comment in which Shorey Consulting argues against using a lower incremental retail markup on the added costs of higher-efficiency products. (AHAM, No. 16, Attachment 1; GE, No. 19 at p. 1) Shorey Consulting claims that DOE ignores relevant, consistent and reliable data and attempts to apply pure, unconfirmed theory (whose validity and applicability Shorey Consulting questions). Shorey used retail industry data to measure competition in appliance retailing and argues that DOE's approach requires a level of competition that does not exist. Stating that several decades of experience provide information about what actually happens at the retail level, Shorey argues that DOE should base its analyses on actual practices rather than theory. It notes that retailers have experience with the markups on products in the post-standards situation. It states that to the

extent that manufacturers are aware of the markup practices at the retail level, those practices seem consistent with the long-term pattern of stable gross margins.

DOE continues to believe that microwave oven retail markets are reasonably competitive, so that an increase in the manufacturing cost of microwave ovens is not likely to contribute to a proportionate rise in retail profits, as would be expected to happen without incremental markups. DOE believes that Shorey's measure of competition is inaccurate for microwave ovens, primarily because it assumes that the market shares for major appliances adequately represent the market shares for microwave ovens. Microwave ovens are sold in some retail channels not included in Shorey's list of the major appliance retailers (*e.g.,* drugstores), as well as on the Internet.

In response to Shorey's comments regarding the lack of empirical evidence underlying DOE's markup analysis, DOE has previously examined historical retail price data for several appliances.[20] The data do not support the use of a constant markup. DOE acknowledges that detailed information on actual retail practices would be helpful in evaluating markups on products after appliance standards take effect. DOE currently is collecting information that would shed more light on actual practices by retailers selling microwave ovens and other appliances. To date, the limited evidence DOE has collected provides no clear answer, but it does not support the idea that retail profits rise as a result of efficiency standards. Thus, DOE continues to use an approach to markups that is consistent with economic theory of firm behavior in competitive markets. See chapter 6 of the final rule TSD for additional information.

In the February 2012 SNOPR, DOE examined historical PPIs for electric cooking equipment generally and microwave ovens specifically and found a consistent, long-term declining real price trend. Consistent with the method used in other rulemakings, DOE used experience curve fits to develop a price scaling index to project product costs for this rulemaking. For the LCC and PBP analysis, the experience rate (defined as the fractional reduction in price expected from each doubling of cumulative production) is based on historical PPI data for electric cooking products from the Bureau of Labor Statistics,[21] along with a time-series of annual shipments for 1969–2009 for electric household cooking products.

AHAM and GE continue to oppose the use of experience curves. (AHAM, No. 16 at p. 4; GE, No. 19 at p. 1) AHAM submitted an attachment prepared by Shorey Consulting that presents arguments against using experience curves to project product costs. Shorey states that DOE has not rebutted the comments on the lack of theoretical foundation for its experience curve analysis made by Shorey Consulting and AHAM in response to DOE's Notice of Data Availability (NODA) and Request for Comment Regarding Equipment Price Forecasting in Energy Conservation Standards Analysis. 76 FR 9696 (Feb. 22, 2011). It claims that DOE has identified some data (whose reliability and relevance Shorey Consulting continues to question) and tries to apply it even though its own sources question the theoretical underpinnings of such usage. Shorey recommends that DOE substitute a sensitivity analysis for experience curve costing in the national impact analysis. (AHAM, No. 16, Attachment 1)

DOE responded to the comments on the NODA by AHAM and other interested parties in the final rule for energy conservation standards for refrigerators, refrigerator-freezers, and freezers. 76 FR 57549 (Sep. 15, 2011). There is an extensive literature, spanning several decades, supporting the use of experience curves for a broad range of products. As discussed in a recent publication by researchers at Lawrence Berkeley National Laboratory,[22] the approach used by DOE is consistent with the experience curves that have been empirically demonstrated in numerous studies. In addition, well-known energy models such as NEMS already incorporate experience curves. DOE is not aware of the sources to which Shorey refers. DOE believes that the specific sensitivity analysis proposed by Shorey would be impractical. It also seems unnecessary because DOE incorporates sensitivity analysis in its current methodology.

Shorey also suggests that DOE not use the experience effect for the period preceding the compliance date of standards because the engineering analysis uses cost projections that already have some effects of production cost reductions built into them. The costs DOE developed in the engineering analysis for microwave ovens through teardowns and cost modeling reflect the year of analysis, not the year of compliance. (AHAM, No. 16, Attachment 1) DOE estimated costs for each of the components and technologies that contribute to standby power based on quotes from suppliers, interviews with manufacturers, interviews with subject matter experts, review of research and literature, and numerical modeling. Preliminary incremental manufacturing costs associated with various standby levels then were obtained by considering combinations of those components as well as other technology options identified to reduce standby power. Manufacturer interviews were conducted also to obtain greater insight into design strategies and the associated costs for improving efficiency. Based on the incremental manufacturing costs at various standby power levels, DOE developed cost-efficiency curves. DOE did not specifically solicit information regarding manufacturing costs at the time of the compliance date of any standby power standards. Furthermore, the AHAM data requests and manufacturer interview guides used in recent energy conservation standards rulemakings for other residential products, such as dishwashers, dehumidifiers, clothes washers, clothes dryers, and room air conditioners, reveal that incremental costs were solicited from manufacturers in a manner consistent with the approach taken in the microwave oven standby power standards rulemaking. Because the costs estimated in the engineering analysis are based on the year of analysis, DOE believes it is appropriate to apply the derived experience rate beginning the following year, as was done for the February 2012 SNOPR and today's final rule.

Shorey also questioned DOE's use of the PPI for electric cooking equipment in the experience curve derivation for microwave ovens. Shorey notes that the PPI for electric cooking equipment does not measure a significant number of microwave ovens, since microwave ovens represent only 2 to 3 percent of the shipments and value of electric cooking products. In addition, approximately 99 percent of microwave ovens are imported and thus excluded from the PPI. (AHAM, No. 16, Attachment 1)

[20] Larry Dale, et al. ''Retrospective Evaluation of Appliance Price Trends,'' *Energy Policy* 37 (2009). pp. 597–605.

[21] Although electric cooking products represent a higher level of aggregation than microwave ovens only, because no PPI data specific to microwave ovens were available, DOE used PPI data for electric cooking products as representative of microwave ovens. Additionally, shipments of microwave ovens have become a significant part of total shipments of electric household cooking products since 1975.

[22] Desroches, L.-B., K. Garbesi, C. Kantner, R. Van Buskirk, H.-C. Yang (2012), ''Incorporating Experience Curves in Appliance Standards Analysis,'' accepted to *Energy Policy. http://dx.doi.org/10.1016/j.enpol.2012.09.066.*

In response, DOE acknowledges that there is no PPI category specific to microwave ovens. DOE investigated an experience rate using price data specific to microwave ovens, but did not use that as the default case because the estimate is not particularly robust given the limited data. Instead, DOE used the most disaggregated category that includes microwave ovens, which is electric cooking equipment. Although this approach may introduce some inaccuracy, it more closely reflects real price trends (as indicated by the price data specific to microwave ovens) than an assumption of no price trend. The paper cited above explores the role of imports and how the PPI compares to retail prices have been explored for several appliances. It found that PPI data track retail prices in a manner that lends confidence to the use of PPI data when constructing experience curves. Although the PPI does not include imports, the trend does not appear to be systematically biased compared to retail prices (for either imports or domestically produced products) for the appliances analyzed.

In summary, DOE believes that its use of the experience curve approach to estimate a future price trend for microwave ovens is reasonable and appropriate. For the final rule, DOE made minor changes to its calculation method to match the approach used in other recent rulemakings. A more detailed discussion of DOE's price trend modeling and the various sensitivity analyses is provided in appendix 8–C of the final rule TSD.

For the October 2008 NOPR, DOE analyzed only countertop models of microwave ovens and considered installation costs to be zero. For today's final rule, DOE analyzed both countertop and over-the-range microwave ovens and considered both installation and incremental installation costs to be zero.

2. Annual Energy Consumption

DOE determined the annual energy consumption of the standby mode and off mode of microwave ovens by estimating the number of hours of operation throughout the year and assuming that the unit would be in standby mode or off mode the rest of the time. In the October 2008 NOPR, DOE determined the average hours of operation for microwaves to be 71 hours per year. DOE has no reason to believe that this number has changed.

To estimate variability in microwave oven hours of operation for each household in the RECS sample, DOE calculated a relative usage factor (with an average of 1.0) for each household. DOE multiplied the reported number of hot meals by the frequency of microwave oven usage and then normalized the result as an index value. DOE then multiplied the relative usage factor for each household by the average of 71 hours per year.

Finally, DOE subtracted the number of calculated operating hours from the total number of hours in a year and multiplied that difference by the standby mode and off mode power usage at each efficiency level to determine annual standby mode and off mode energy consumption.

AHAM and GE continue to strongly oppose DOE's reliance on RECS for these analyses, noting that it is difficult to compare the results to the energy use measured in a controlled test procedure situation. (AHAM, No. 16 at p. 4; GE, No. 19 at p. 1) Whirlpool claimed that use of the RECS data in calculation of the LCC and PBP is highly suspect because the sample size would be too small to be statistically valid. (Whirlpool, No. 15 at p. 2)

The purpose of the energy use analysis is to estimate the range of product energy use in the field, not the energy use in a controlled test procedure situation. By so doing, DOE is able to estimate how the energy savings would vary among households for each considered efficiency level. This allows DOE to develop a more accurate characterization of the impacts of potential standards on consumers, as required by EPCA. (42 U.S.C. 6295(o)(2)(B)(i)(I)) The sample that DOE used contained 11,616 records and is large enough to provide statistically valid results for microwave oven utilization.

3. Energy Prices

DOE estimated residential electricity prices for each of the 27 geographic areas used in RECS 2009 based on data from EIA Form 861, ''Annual Electric Power Industry Report.'' DOE calculated an average residential electricity price by first estimating an average residential price for each utility, and then calculating an average price by weighting each utility having customers in a region by the number of residential customers served in that region. The calculations for today's final rule used the most recent available data (2010).

To estimate trends in electricity prices for the supplemental notice, DOE used the price forecasts in EIA's *AEO 2010.* For today's final rule, DOE used the forecasts in *AEO 2012.* To arrive at prices in future years, DOE multiplied the average prices described above by the forecast of annual average price changes in *AEO 2012.* Because the *AEO* forecasts prices only to 2035, DOE followed past guidelines that EIA provided to the Federal Energy Management Program and used the average rate of change during 2020–2035 to estimate price trends beyond 2035.[23]

AHAM, GE, and Whirlpool objected to the inclusion of cap-and-trade program impacts in the energy price forecasts in the February 2012 SNOPR because there are no tangible facts upon which to base an analysis. (AHAM, No. 16 at p. 4; GE, No. 19 at p. 1; Whirlpool, No. 15, p. 2) The electric power sector module in the NEMS used for *AEO 2012* Reference Case accounts for estimated impacts of the Northeast Regional Greenhouse Gas Initiative and the cap-and-trade program being implemented in California as a result of California Assembly Bill 32. DOE believes that, given the known constraints on CO_2 emissions associated with these programs, the electric power sector module in NEMS provides a reasonable estimate of how electricity providers would behave with respect to power plant construction and dispatch, which in turn would affect electricity prices in a small way. Thus, DOE believes that the energy price forecasts used for the final rule are appropriate.

4. Repair and Maintenance Costs

Repair costs are those associated with repairing or replacing components that have failed in an appliance; maintenance costs are associated with maintaining the operation of the product. For the October 2008 NOPR, DOE did not include repair or maintenance costs in its analyses by assuming higher efficient products do not warrant increased costs for repair or maintenance. DOE maintained the same approach for this final rule.

5. Product Lifetime

Because the lifetime of appliances varies depending on utilization and other factors, DOE develops a distribution of lifetimes from which specific values are assigned to the appliances in the samples. DOE conducted an analysis of microwave oven lifetimes in the field based on a combination of shipments data and RECS data on the ages of the microwave ovens reported in the household stock. The analysis yielded an estimate of mean age for microwave ovens of approximately 10.9 years. It also yielded

[23] The spreadsheet tools used to conduct the LCC and PBP analysis allow users to select energy price forecasts for either the *AEO*'s High economic growth case or Low economic growth case to estimate the sensitivity of the LCC and PBP to different energy price forecasts.

a survival function that DOE incorporated as a probability distribution in its LCC analysis. See chapter 8 of the final rule TSD for further details on the method and sources DOE used to develop microwave oven lifetimes.

6. Discount Rates

In the calculation of LCC, DOE applies discount rates to estimate the present value of future operating costs. DOE estimated a distribution of residential discount rates for microwave ovens. See chapter 8 in the final rule TSD for further details on the development of consumer discount rates.

To establish residential discount rates for the LCC analysis in the October 2008 NOPR and today's final rule, DOE identified all debt or asset classes that consumers might use to purchase household appliances, including household assets that might be affected indirectly. It estimated average percentage shares of the various debt or asset classes for the average U.S. household using data from the Federal Reserve Board's ''Survey of Consumer Finances'' (SCF) for 1989, 1992, 1995, 1998, 2001, 2004, and 2007. Using the SCF and other sources, DOE then developed a distribution of rates for each type of debt and asset to represent the rates that may apply in the year in which new standards would take effect. DOE assigned each sample household a specific discount rate drawn from one of the distributions. The average rate across all types of household debt and equity, weighted by the shares of each class, is 5.1 percent. DOE used the same approach for today's final rule.

7. Compliance Date of New Standards

The compliance date is the future date when parties subject to the requirements of a new energy conservation standard must begin compliance. For the October 2008 NOPR, DOE assumed that any new standards adopted in this rulemaking would become effective in March 2012, 3 years after the month when it expected the final rule would be published in the **Federal Register.** Today's final rule is being published with new standards requiring compliance 3 years later. Thus, DOE calculated the LCC for appliance consumers as if they would purchase new products in 2016.

8. Product Energy Efficiency in the Base Case

For the LCC and PBP analysis, DOE analyzes higher efficiency levels relative to a base case (*i.e.,* the case without new energy conservation standards). However, some consumers may already purchase products having efficiencies greater than the baseline product levels. Thus, to accurately estimate the percentage of consumers that would be affected by a particular standard level, DOE estimates the distribution of product efficiencies that consumers are expected to purchase under the base case. DOE refers to this distribution of product energy efficiencies as a base-case efficiency distribution. For the October 2008 NOPR and today's final rule, DOE used recent shares of available models at specific standby power levels to establish the base-case efficiency distributions. Table IV–10 presents the market shares of the standby power levels in the base case for standby mode and off mode energy use of microwave ovens.

TABLE IV–10—MICROWAVE OVENS: BASE-CASE EFFICIENCY MARKET SHARES

Level	Product Class 1		Product Class 2	
	Standby power (W)	Share (%)	Standby power (W)	Share (%)
Baseline	4.00	46.2	4.50	100.0
TSL1*	2.00	34.6	3.70	0.0
TSL 2	1.50	19.2	2.70	0.0
TSL 3	1.00	0.0	2.20	0.0
TSL 4	0.02	0.0	0.04	0.0

*TSL = Trial Standard Level.

9. Inputs to Payback Period Analysis

The PBP is the amount of time (expressed in years) it takes the consumer to recover the additional installed cost of a more efficient product through operating cost savings, compared to the baseline product. The simple payback period does not account for changes in operating expenses over time or the time value of money. The inputs to the PBP calculation are the total installed cost of the product to the consumer for each efficiency level and the annual (first-year) operating expenditures for each efficiency level. For the October 2008 NOPR and today's final rule, the PBP calculation uses the same inputs as the LCC analysis, except that energy price trends and discount rates are not needed.

10. Rebuttable-Presumption Payback Period

As noted above, EPCA, as amended (42 U.S.C. 6295(o)(2)(B)(iii)) establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the test procedure in place for that standard. For each TSL, DOE determined the value of the first year's energy savings by calculating the quantity of those savings in accordance with DOE's test procedure, and multiplying that amount by the average energy price projection for the year in which a new standard first would be effective—in this case, 2016.

F. National Impact Analysis—National Energy Savings and Net Present Value Analysis

1. General

DOE's NIA assesses the national energy savings, as well as the national NPV, of total consumer costs and savings expected to result from new or amended standards at specific efficiency levels. DOE applied the NIA spreadsheet to calculate energy savings and NPV, using the annual energy consumption and total installed cost data from the LCC analysis. DOE forecasted the energy savings, energy cost savings, product costs, and NPV for the two product classes from 2016 to 2045. The forecasts provide annual and cumulative values for all four parameters. In addition, DOE incorporated into its NIA spreadsheet the capability to analyze sensitivity of the results to forecasted energy prices

and product efficiency trends. Table IV–11 summarizes the approach and data DOE used to derive the inputs to the NES and NPV analyses for the October 2008 NOPR, February 2012 SNOPR, and the changes made in the analyses for today's final rule. A discussion of the 2008 inputs and the changes follows. (See chapter 10 of the final rule TSD for further details.)

TABLE IV–11—APPROACH AND DATA USED TO DERIVE INPUTS TO THE NATIONAL ENERGY SAVINGS AND NPV ANALYSES

Inputs	2008 NOPR description	Changes for the 2012 SNOPR	Changes for the Final Rule
Shipments	Annual shipments from shipments model.	See Table IV.12	See Table IV-12.
Compliance Date of Standard.	2012	2014	2016.
Base-Case Forecasted Efficiencies.	Shipment-weighted efficiency (SWEF) determined in 2005. SWEF held constant over forecast period.	No change	No change.
Standards-Case Forecasted Efficiencies.	Analyzed as one product class. Roll-up scenario used for determining SWEF in the year that standards become effective for each standards case. SWEF held constant over forecast period.	Analyzed as two product classes. Roll-up scenario used for determining SWEF in the year that standards become effective for each standards case. SWEF held constant over forecast period.	No change.
Annual Energy Consumption per Unit.	Annual weighted-average values as a function of SWEF.	No change	No change.
Total Installed Cost per Unit.	Annual weighted-average values as a function of SWEF.	Incorporated learning rate to forecast product prices.	Product price forecasting updated to reflect most current methodology.
Energy Cost per Unit.	Annual weighted-average values as a function of the annual energy consumption per unit and energy (and water) prices.	No change	No change.
Repair Cost and Maintenance Cost per Unit.	Incorporated changes in repair costs as a function of standby power.	No change	No change.
Escalation of Energy Prices.	*AEO 2008* forecasts (to 2030); extrapolated to 2042.	Updated to *AEO 2010* May release forecasts (to 2035); extrapolated to 2043.	Updated to *AEO 2012* June release forecasts (to 2035); extrapolated to 2045.
Energy Site-to-Source Conversion.	Conversion varies yearly and is generated by DOE/EIA's NEMS program (a time-series conversion factor; includes electric generation, transmission, and distribution losses).	No change	No change.
Discount Rate	3 and 7 percent real	No change	No change.
Present Year	Future expenses discounted to 2007	Future expenses discounted to 2011	Future expenses discounted to 2013.

2. Shipments

The shipments portion of the NIA spreadsheet is a model that uses historical data as a basis for projecting future shipments of the products that are the subject of this rulemaking. In projecting microwave oven shipments, DOE accounted for two market segments: (1) new construction; and (2) replacement of failed products. Because shipments for new construction and replacements were not enough to account for all product shipments, DOE developed another market segment to calibrate its shipments model. In addition to normal replacements, DOE's shipments model also assumed that a small fraction of the stock would be replaced early. It also considered retired units not replaced. DOE used the non-replacement market segment to calibrate the shipments model to historical shipments data.

To estimate the impacts of prospective standards on product shipments (*i.e.,* to forecast standards-case shipments), DOE considered the combined effects of changes in purchase price, annual operating cost, and household income on the magnitude of shipments.

Table IV–12 summarizes the approach and data DOE used to derive the inputs to the shipments analysis for the October 2008 NOPR, the February 2012 SNOPR, and the changes it made for today's final rule. The general approach for forecasting microwave shipments for today's final rule remains unchanged from the October 2008 NOPR.

TABLE IV–12—APPROACH AND DATA USED TO DERIVE INPUTS TO THE SHIPMENTS ANALYSIS

Inputs	2008 NOPR description	Changes for the 2012 SNOPR	Changes for the final rule
Number of Product Classes.	One product class. Market share data provided by AHAM.	Two product classes: (1) all microwave oven-only and countertop convection microwave oven; (2) over-the-range convection microwave oven. Market share data provided by AHAM; 99% product class #1 and 1% product class #2. Product class market shares held constant over forecast period.	No change.
New Construction Shipments.	Housing forecasts updated with EIA *AEO 2008* April release forecasts for the Reference case, High growth case, and Low growth case.	No change in approach. Housing forecasts updated with EIA *AEO 2010* forecasts for the Reference case, High growth case, and Low growth case.	No change in approach. Housing forecasts updated with EIA *AEO 2012* forecasts for the Reference case, High growth case, and Low growth case.
Replacements	Determined by tracking total product stock by vintage and establishing the failure of the stock using retirement functions from the LCC and PBP analysis. Retirement functions revised to be based on Weibull lifetime distributions.	No change	No change.
Retired Units not Replaced (*i.e.,* non-replacements).	Used to calibrate shipments model to historical shipments data.	No change	No change.
Historical Shipments.	Data sources include AHAM data submittal and *Appliance* magazine.	No change	No change.
Purchase Price, Operating Cost, and Household Income Impacts due to Efficiency Standards.	Developed ''relative price'' elasticity, which accounts for the purchase price and the present value of operating cost savings divided by household income. Used purchase price and efficiency data specific to residential refrigerators, clothes washers, and dishwashers between 1980 and 2002 to determine a ''relative price'' elasticity of demand of −0.34.	No change	No change.
Fuel Switching	Not applicable	No change	No change.

a. New Construction Shipments

To estimate shipments for new construction, DOE used forecasts of housing starts coupled with microwave oven saturation data. In other words, to forecast the shipments for new construction in any given year, DOE multiplied the housing forecast by the forecasted saturation of microwave ovens for new housing.

New housing comprises single- and multi-family units (also referred to as ''new housing completions'') and mobile home placements. For the final rule, DOE forecasted new housing based on EIA's *AEO 2012* for 2009–2035. *AEO 2012* provides three sets of forecasts: the Reference case, the High economic growth case, and the Low economic growth case. DOE used the forecasts from the Reference case for the NIA results reported in this rulemaking. For 2035–2045, DOE kept completions at the level in 2035.

b. Replacements and Non-replacements

To determine shipments for the replacement market, DOE used an accounting method that tracks the total stock of units by vintage. DOE estimated a stock of microwave ovens by vintage by integrating historical shipments starting from 1972. Over time, some units are retired and removed from the stock, triggering the shipment of a replacement unit. Depending on the vintage, a certain percentage of each type of unit will fail and need to be replaced. To determine when a microwave oven fails, DOE used data from RECS and American Housing Survey (AHS) to estimate a product survival function. This function was modeled as a Weibull distribution. Based on this method, the average calculated microwave oven lifetime is 9.3 years. For a more complete discussion of microwave lifetimes, refer to chapter 8 of the final rule TSD.

3. Purchase Price, Operating Cost, and Income Impacts

To estimate the combined effects of increases in product purchase price and decreases in product operating costs on microwave oven shipments, for the October 2008 NOPR DOE used a literature review and a statistical analysis on a limited set of appliance price, efficiency, and shipments data. DOE used purchase price and efficiency data specific to microwave ovens between 1980 and 2002 to conduct regression analyses. DOE's analysis suggested that the relative short-run price elasticity of demand is −0.34.

Because DOE's forecast of shipments and national impacts attributable to standards spans more than 30 years, DOE also considered how the relative price elasticity is affected once a new standard takes effect. After the purchase price changes, price elasticity becomes more inelastic over the years until it reaches a terminal value. For the October 2008 NOPR and today's final rule, DOE incorporated a relative price elasticity change that resulted in a terminal value of approximately one-third of the short-run elasticity. In other words, DOE determined that consumer purchase decisions, in time, become less sensitive to the initial change in the

product's relative price. See chapter 9 of the final rule TSD for further discussion.

4. Other Inputs

a. Forecasted Efficiencies

A key input to the calculations of NES and NPV are the energy efficiencies that DOE forecasts for the base case (without new standards). The forecasted efficiencies represent the annual shipment-weighted energy efficiency (SWEF) of the product under consideration during the forecast period (*i.e.,* from the estimated effective date of a new standard to 30 years after that date). Because DOE had no data to reasonably estimate how microwave oven standby power levels might change during the next 30 years, it assumed that forecasted efficiencies will stay at the 2016 standby power levels until the end of the forecast period.

For its determination of the cases under alternative standard levels (''standards cases''), DOE used a ''roll-up'' scenario in the October 2008 NOPR to establish the SWEF for 2012. For today's final rule, DOE established the SWEF for 2016 and assumed that the market share of products in the base case that do not meet the standard level under consideration (*i.e.* are less efficient than the standard) would shift to products that meet the new standard level. DOE assumed that all product efficiencies in the base case that are above the standard level under consideration would remain the same in the standard case.

DOE made the same assumption regarding forecasted standards-case efficiencies as for the base case; namely, that efficiencies will remain at the 2016 standby power level until the end of the forecast period. By maintaining the same rate of increase for forecasted efficiencies in the standards case as in the base case (*i.e.,* no change), DOE retained a constant efficiency difference between the two cases throughout the forecast period. Although the no-change trends may not reflect what would happen to base-case and standards-case product efficiencies in the future, DOE believes that maintaining a constant efficiency difference between the base case and each standards case provides a reasonable estimate of the impact that standards would have on product efficiency. It is more important to accurately estimate the efficiency difference between the standards case and base case than to accurately estimate the actual product efficiencies in the standards and base cases. DOE retained the approach used in the October 2008 NOPR for today's final rule. Because the effective date of the standard is now assumed to be 2016, DOE applied the ''roll-up'' scenario in 2016 to establish the SWEF for each standards case.

b. Annual Energy Consumption

The annual energy consumption per unit depends directly on product efficiency. For the October 2008 NOPR and today's final rule, DOE used the SWEFs associated with the base case and each standards case, in combination with the annual energy use data, to estimate the shipment-weighted average annual per-unit energy consumption under the base case and standards cases. The national energy consumption is the product of the annual energy consumption per unit and the number of units of each vintage, which depends on shipments.

As noted above, DOE used a relative price elasticity to estimate standards-case shipments for microwave ovens. To avoid the inclusion of energy savings from any reduction in shipments attributable to a standard, DOE used the standards-case shipments projection and the standards-case stock to calculate the annual energy consumption in the base case. For microwave ovens, DOE assumed that any drop in shipments caused by standards would result in the purchase of used machines. DOE retained the use of the base-case shipments to determine the annual energy consumption in the base case for today's final rule.

c. Site-to-Source Energy Conversion

To estimate the national energy savings expected from appliance standards, DOE uses a multiplicative factor to convert site energy consumption (energy use at the location where the appliance is operated) into primary or source energy consumption (the energy required to deliver the site energy). For the October 2008 NOPR, DOE used annual site-to-source conversion factors based on the version of NEMS that corresponds to *AEO 2008.* For today's final rule, DOE used *AEO 2012.* For electricity, the conversion factors vary over time because of projected changes in generation sources (*i.e.,* the types of power plants projected to provide electricity to the country). Because the *AEO* does not provide energy forecasts beyond 2035, DOE used conversion factors that remain constant at the 2035 values throughout the rest of the forecast.

d. Total Installed Costs and Operating Costs

The increase in total annual installed cost is equal to the difference in the per-unit total installed cost between the base case and standards case, multiplied by the shipments forecasted in the standards case.

As discussed in section 0 of this rulemaking, DOE applied an experience rate to project the prices of microwave ovens sold in each year in the forecast period (2016–2045). The experience rate expresses the change in price associated with a doubling in cumulative production. The price in each year is a function of the learning rate and the cumulative production of microwave ovens forecast in each year. DOE applied the same values to forecast prices for each product class at each considered efficiency level.

To evaluate the impact of the uncertainty of the price trend estimates, DOE performed price trend sensitivity calculations in the national impact analysis. DOE considered three experience rate sensitivities, which are described in appendix 8–C of the final rule TSD.

The annual operating cost savings per unit include changes in energy, repair, and maintenance costs. DOE forecasted energy prices for the February 2012 SNOPR based on *AEO 2010;* it updated the forecasts for the final rule using data from *AEO 2012.* For the February 2012 SNOPR and today's final rule, DOE assumed no increases in repair and maintenance costs for more efficient standby mode and off mode features of microwave ovens.

e. Discount Rates

DOE multiplies monetary values in future years by a discount factor to determine their present value. DOE estimated national impacts using both a 3-percent and a 7-percent real discount rate, in accordance with guidance provided by the Office of Management and Budget (OMB) to Federal agencies on the development of regulatory analysis (OMB Circular A–4 (Sept. 17, 2003), section E, ''Identifying and Measuring Benefits and Costs'').

An individual commenter objected to DOE's use of 3-percent and a 7-percent discount rates. The comment stated that, according to a holding in *NRDC* v. *Herrington* (NRDC v. Herrington, 768 F.2d 1355, 1367 (D.C. Cir. 1985)), DOE cannot rely on the OMB alone to justify its choice to use 3-percent and 7-percent discount rates. (Private Citizen, No. 10 at pp. 3–4) In response, DOE notes that the 7-percent discount rate is an estimate of the average before-tax rate of return to private capital in the U.S. economy. It approximates the opportunity cost of capital, and it is the appropriate discount rate whenever the main effect of a regulation is to displace or alter the use of capital in the private

sector. When regulation primarily and directly affects private consumption (*e.g.,* through higher consumer prices for goods and services), a lower discount rate is appropriate. The alternative most often used is sometimes called societal rate of time preference, which is the rate at which society discounts future consumption flows to their present value. The real rate of return on long-term government debt may provide a fair approximation of the societal rate of time preference. Over the last 30 years, this rate has averaged around 3 percent in real terms on a pre-tax basis.

G. Consumer Subgroup Analysis

In analyzing the potential impact of new or amended standards on consumers, DOE evaluates the impact on identifiable subgroups of consumers that may be disproportionately affected by a national standard. In the October 2008 NOPR, DOE analyzed the potential effects of microwave oven standby mode and off mode standards on two subgroups: (1) Low-income consumers, and (2) consumers living in senior-only households. DOE used the same approach for today's final rule.

H. Manufacturer Impact Analysis

In determining whether an amended energy conservation standard for microwave ovens subject to this rulemaking is economically justified, DOE is required to consider the economic impact of the standard on the manufacturers and consumers of the products subject to the standards. (42 U.S.C. 6295(o)(2)(B)(i)(I)) The statute also calls for an assessment of the impact of any lessening of competition as determined by the Attorney General that is likely to result from the adoption of a standard. (42 U.S.C. 6295(o)(2)(B)(i)(V)) DOE conducted the MIA to estimate the financial impact of standby mode and off mode energy conservation standards on microwave oven manufacturers, and to calculate the impact of such standards on domestic employment and manufacturing capacity.

The MIA has both quantitative and qualitative aspects. The quantitative part of the MIA primarily relies on the GRIM—an industry-cash-flow model customized for this rulemaking. The GRIM inputs are data characterizing the industry cost structure, shipments, and revenues. The key output is the INPV. Different sets of assumptions (scenarios) will produce different results. The qualitative part of the MIA addresses factors such as product characteristics, characteristics of particular firms, as well as market and product trends. It also includes an assessment of the impacts of standards on subgroups of manufacturers. DOE outlined its methodology for the MIA in the February 2012 SNOPR. 77 FR 8526, 8550–52 (Feb. 14, 2012). The complete MIA is presented in chapter 12 of the final rule TSD.

For today's final rule, DOE updated the MIA results in the February 2012 SNOPR based on several changes to other analyses that impact the MIA. DOE revised the analysis to account for the impacts on manufacturers resulting from standby mode and off mode standards for Product Class 1 (Microwave-Only Ovens and Countertop Convection Microwave Ovens) and Product Class 2 (Built-In and Over-the-Range Convection Microwave Ovens). As discussed in section IV.D.3 of this rulemaking, based on additional research for the engineering analysis, DOE included updated MPCs in 2011$ for both Product Class 1 and Product Class 2. DOE also incorporated updated price trends into the analysis rather than assuming prices remain fixed in real terms throughout the analysis period. DOE used the same price trends in the NIA starting in the base year of the analysis (2013) and continuing through the end of the analysis period (2045). DOE also assumed that MPCs and MSPs were similarly impacted by price trends in both the base case and standards cases. See section IV.F of this rulemaking for a description of how DOE implemented price trends into the analysis.

The total shipments and efficiency distributions were updated using the new estimates described in the final rule NIA. The MIA also uses the new analysis period in the NIA (2016–2045) and has updated the base year of analysis to 2013. See section IV.F of this rulemaking for a description of the changes to the NIA.

As was done for the February 2012 SNOPR MIA, DOE considered product and capital conversion costs associated with the analyzed TSLs in today's final rule. Product conversion costs are one-time investments in research, development, testing, and marketing, focused on ensuring product designs comply with new energy conservation standards. DOE investigated available product information to update the estimated number of product platforms that would need to be altered at each TSL to determine conversion costs for the entire industry. DOE also used information provided in manufacturer interviews to verify the estimates used to determine product conversion costs. For each TSL, DOE assumed that most of the product conversion costs would be used for product development expenses. To account for the majority of the cost to upgrade the designs of product platforms that did not meet the standby power requirements at each TSL, DOE estimated a per-platform cost for engineering time, reliability testing, and product development that varied depending on the complexity of the design options.

To allocate total product and capital conversion costs across Product Class 1 and Product Class 2 for the final rule MIA, DOE used the same ratio between these two product classes as used in the final rule NIA. DOE used the same per-platform costs at each standby power level for both product classes as developed in the February 2012 SNOPR, but converted these product and capital conversion costs to 2011$ using the PPI.

DOE received comments pertaining to the manufacturer impact analysis in the February 2012 SNOPR from a private citizen, who commented that the loss in INPV would disproportionally and negatively impact small business microwave oven manufacturers around the world (Private Citizen, No.10 at pp. 2, 10). DOE did not identify any manufacturers classified as a small business selling microwave ovens in the United States. Additionally, the INPV figure in the February 2012 SNOPR is industry-wide, and does not represent the impact on any one manufacturer.

The private citizen also commented that small and medium-size businesses would have a difficult time complying with a standard with a compliance date in 2014 or 2015, and that some could go out of business (Private Citizen, No. 10 at p. 7). In addition to the fact that DOE identified no small microwave oven manufacturers, DOE points out that the compliance date is 3 years from the publication of today's final rule, which is consistent with other new standards. DOE also notes that no manufacturers objected to the compliance date as part of this rulemaking.

I. Employment Impact Analysis

DOE considers employment impacts in the domestic economy as one factor in selecting a proposed standard. Employment impacts include direct and indirect impacts. Direct employment impacts are any changes in the number of employees of manufacturers of the products subject to standards, their suppliers, and related service firms. The MIA addresses those impacts. Indirect employment impacts from standards consist of the net jobs created or eliminated in the national economy, other than in the manufacturing sector being regulated, caused by: (1) Reduced spending by end users on energy; (2) reduced spending on new energy supply

by the utility industry; (3) increased spending on new products to which the new standards apply; and (4) the effects of those three factors throughout the economy.

One method for assessing the possible effects on the demand for labor of such shifts in economic activity is to compare sector employment statistics developed by the Labor Department's Bureau of Labor Statistics (BLS).[24] The BLS regularly publishes its estimates of the number of jobs per million dollars of economic activity in different sectors of the economy, as well as the jobs created elsewhere in the economy by this same economic activity. Data from BLS indicate that expenditures in the utility sector generally create fewer jobs (both directly and indirectly) than expenditures in other sectors of the economy.[25] There are many reasons for these differences, including wage differences and the fact that the utility sector is more capital-intensive and less labor-intensive than other sectors. Energy conservation standards have the effect of reducing consumer utility bills. Because reduced consumer expenditures for energy likely lead to increased expenditures in other sectors of the economy, the general effect of efficiency standards is to shift economic activity from a less labor-intensive sector (*i.e.,* the utility sector) to more labor-intensive sectors (*e.g.,* the retail and service sectors). Thus, based on the BLS data alone, DOE believes net national employment will increase due to shifts in economic activity resulting from amended standards for microwave ovens.

For the standard levels considered in today's direct final rule, DOE estimated indirect national employment impacts using an input/output model of the U.S. economy called Impact of Sector Energy Technologies version 3.1.1 (ImSET).[26] ImSET is a special-purpose version of the ''U.S. Benchmark National Input-Output'' (I–O) model, which was designed to estimate the national employment and income effects of energy-saving technologies. The ImSET software includes a computer-based I–O model having structural coefficients that characterize economic flows among 187 sectors most relevant to industrial, commercial, and residential building energy use.

DOE notes that ImSET is not a general equilibrium forecasting model, and understands the uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Because ImSET does not incorporate price changes, the employment effects predicted by ImSET may overestimate actual job impacts over the long run for this rule. Because ImSET predicts small job impacts resulting from this rule, regardless of these uncertainties, the actual job impacts are likely to be negligible in the overall economy. DOE may consider the use of other modeling approaches for examining long run employment impacts. DOE also notes that the employment impacts estimated with ImSET for the entire economy differ from the employment impacts in the microwave oven manufacturing sector estimated using the GRIM in the MIA. The methodologies used and the sectors analyzed in the ImSET and GRIM models are different.

For further details, see chapter 13 of the final rule TSD.

J. Utility Impact Analysis

The utility impact analysis estimates the change in the forecasted power generation capacity for the Nation that would be expected to result from adoption of new or amended standards. The analysis determines the changes to electricity supply as a result of electricity consumption savings due to standards. For the October 2008 NOPR and today's final rule, DOE used the NEMS–BT computer model to calculate these changes. The analysis output provides a forecast for the needed generation capacities at each TSL. The estimated net benefit of a standard is the difference between the generation capacities forecasted by NEMS–BT and the *AEO* Reference case. DOE obtained the energy savings inputs from the NIA. Those inputs reflect the effects of standby mode and off mode energy use reduction on electricity consumption of microwave ovens. Chapter 14 of the final rule TSD presents results of the utility impact analysis.

K. Emissions Analysis

In the emissions analysis, DOE estimated the reduction in power sector emissions of CO_2, SO_2, NO_X, and Hg from amended energy conservation standards for microwave ovens. DOE conducted the emissions analysis using emissions factors that were derived from data in EIA's *AEO 2012,* supplemented by data from other sources. DOE developed separate emissions factors for power sector emissions and upstream emissions. The method that DOE used to derive emissions factors is described in chapter 15 of the final rule TSD.

EIA prepares the *Annual Energy Outlook* using the National Energy Modeling System (NEMS). Each annual version of NEMS incorporates the projected impacts of existing air quality regulations on emissions. *AEO 2012* generally represents current legislation and environmental regulations, including recent government actions, for which implementing regulations were available as of December 31, 2011.

SO_2 emissions from affected electric generating units (EGUs) are subject to nationwide and regional emissions cap and trading programs. Title IV of the Clean Air Act sets an annual emissions cap on SO_2 for affected EGUs in the 48 contiguous States and the District of Columbia (D.C.). SO_2 emissions from 28 eastern States and D.C. were also limited under the Clean Air Interstate Rule (CAIR), which created an allowance-based trading program that operates along with the Title IV program. 70 FR 25162 (May 12, 2005). CAIR was remanded to the U.S. Environmental Protection Agency (EPA) by the U.S. Court of Appeals for the District of Columbia Circuit, but it remained in effect. See *North Carolina* v. *EPA,* 550 F.3d 1176 (D.C. Cir. 2008); *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008). On July 6, 2011 EPA issued a replacement for CAIR, the Cross-State Air Pollution Rule (CSAPR). 76 FR 48208 (Aug. 8, 2011). The *AEO 2012* emissions factors used for today's rule assume the implementation of CSAPR.[27]

The attainment of emissions caps typically is flexible among EGUs and is enforced through the use of emissions

[24] Data on industry employment, hours, labor compensation, value of production, and the implicit price deflator for output for these industries are available upon request by calling the Division of Industry Productivity Studies (202–691–5618) or by sending a request by email to *dipsweb@bls.gov.* Available at: *www.bls.gov/news.release/prin1.nr0.htm.* (Last accessed December 2012.)

[25] See Bureau of Economic Analysis, *Regional Multipliers: A User Handbook for the Regional Input-Output Modeling System (RIMS II).* Washington, DC. U.S. Department of Commerce, 1992.

[26] J. M. Roop, M. J. Scott, and R. W. Schultz, *ImSET 3.1: Impact of Sector Energy Technologies,* PNNL–18412, Pacific Northwest National Laboratory, 2009. Available at: *www.pnl.gov/main/publications/external/technical_reports/PNNL–18412.pdf.* (Last accessed December 2012.)

[27] On December 30, 2011, the D.C. Circuit stayed the new rules while a panel of judges reviews them, and told EPA to continue enforcing CAIR. See EME *Homer City Generation, LP* v. *EPA,* Order, No. 11–1302, Slip Op. at *2 (D.C. Cir. Dec. 30, 2011). On August 21, 2012, the D.C. Circuit vacated CSAPR and related Federal Implementation Plans that would have superseded the State Implementation Plans that EPA typically approves for compliance with Clean Air Act stationary source regulations. *See EME Homer City Generation, LP* v. *EPA,* No. 11–1302, 2012 WL 3570721 at *24 (D.C. Cir. Aug. 21, 2012). The court required EPA to continue administering CAIR. *See id.* The *AEO 2012,* however, had been finalized prior to both these decisions. DOE understands, however, that CAIR and CSAPR are similar with respect to their effect on emissions impacts of energy efficiency standards.

allowances and tradable permits. Under existing EPA regulations, any excess SO_2 emissions allowances resulting from the lower electricity demand caused by the imposition of an efficiency standard could be used to permit offsetting increases in SO_2 emissions by any regulated EGU. In past rulemakings, DOE recognized that there was uncertainty about the effects of efficiency standards on SO_2 emissions covered by the existing cap-and-trade system, but it concluded that no reductions in power sector emissions would occur for SO_2 as a result of standards.

Beginning in 2015, however, SO_2 emissions will fall as a result of the Mercury and Air Toxics Standards (MATS) for power plants, which were announced by EPA on December 21, 2011. 77 FR 9304 (Feb. 16, 2012). In the final MATS rule, EPA established a standard for hydrogen chloride as a surrogate for acid gas hazardous air pollutants (HAP), and also established a standard for SO_2 (a non-HAP acid gas) as an alternative equivalent surrogate standard for acid gas HAP. The same controls are used to reduce HAP and non-HAP acid gas; thus, SO_2 emissions will be reduced as a result of the control technologies installed on coal-fired power plants to comply with the MATS requirements for acid gas. *AEO 2012* assumes that, in order to continue operating, coal plants must have either flue gas desulfurization or dry sorbent injection systems installed by 2015. Both technologies, which are used to reduce acid gas emissions, also reduce SO_2 emissions. Under the MATS, NEMS shows a reduction in SO_2 emissions when electricity demand decreases (*e.g.,* as a result of energy efficiency standards). Emissions will be far below the cap that would be established by CSAPR, so it is unlikely that excess SO_2 emissions allowances resulting from the lower electricity demand would be needed or used to permit offsetting increases in SO_2 emissions by any regulated EGU. Therefore, DOE believes that efficiency standards will reduce SO_2 emissions in 2015 and beyond.

Under CSAPR, there is a cap on NO_X emissions in 28 eastern States and the District of Columbia. Energy conservation standards are expected to have little effect on NO_X emissions in those States covered by CSAPR because excess NO_X emissions allowances resulting from the lower electricity demand could be used to permit offsetting increases in NO_X emissions. However, standards would be expected to reduce NO_X emissions in the States not affected by the caps, so DOE estimated NO_X emissions reductions from the standards considered in today's rule for these States.

The MATS limit mercury emissions from power plants, but they do not include emissions caps and, as such, DOE's energy conservation standards would likely reduce Hg emissions. For this rulemaking, DOE estimated mercury emissions reductions using the NEMS–BT based on *AEO 2012,* which incorporates the MATS.

Chapter 15 of the final rule TSD provides further information on the emissions analysis.

L. Monetizing Carbon Dioxide and Other Emissions Impacts

As part of the development of this final rule, DOE considered the estimated monetary benefits from the reduced emissions of CO_2 and NO_X that are expected to result from each of the TSLs considered. In order to make this calculation similar to the calculation of the NPV of customer benefit, DOE considered the reduced emissions expected to result over the lifetime of products shipped in the forecast period for each TSL. This section summarizes the basis for the monetary values used for each of these emissions and presents the values considered in this rulemaking.

For today's final rule, DOE is relying on sets of values for the social cost of carbon (SCC) that were developed by an interagency process. A summary of the basis for those values is provided below, and a more detailed description of the methodologies used is provided in appendix 16–A and appendix 16–B of the final rule TSD.

1. Social Cost of Carbon

The SCC is an estimate of the monetized damages associated with an incremental increase in carbon emissions in a given year. It is intended to include (but is not limited to) changes in net agricultural productivity, human health, property damages from increased flood risk, and the value of ecosystem services. Estimates of the SCC are provided in dollars per metric ton of carbon dioxide. A domestic SCC value is meant to reflect the value of damages in the United States resulting from a unit change in carbon dioxide emissions, while a global SCC value is meant to reflect the value of damages worldwide.

Under section 1(b)(6) of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), agencies must, to the extent permitted by law, assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. The purpose of the SCC estimates presented here is to allow agencies to incorporate the monetized social benefits of reducing CO_2 emissions into cost-benefit analyses of regulatory actions that have small, or ''marginal,'' impacts on cumulative global emissions. The estimates are presented with an acknowledgement of the many uncertainties involved and with a clear understanding that they should be updated over time to reflect increasing knowledge of the science and economics of climate impacts.

As part of the interagency process that developed the SCC estimates, technical experts from numerous agencies met on a regular basis to consider public comments, explore the technical literature in relevant fields, and discuss key model inputs and assumptions. The main objective of this process was to develop a range of SCC values using a defensible set of input assumptions grounded in the existing scientific and economic literatures. In this way, key uncertainties and model differences transparently and consistently inform the range of SCC estimates used in the rulemaking process.

a. Monetizing Carbon Dioxide Emissions

When attempting to assess the incremental economic impacts of carbon dioxide emissions, the analyst faces a number of serious challenges. A recent report from the National Research Council points out that any assessment will suffer from uncertainty, speculation, and lack of information about: (1) Future emissions of greenhouse gases; (2) the effects of past and future emissions on the climate system; (3) the impact of changes in climate on the physical and biological environment; and (4) the translation of these environmental impacts into economic damages. As a result, any effort to quantify and monetize the harms associated with climate change will raise serious questions of science, economics, and ethics and should be viewed as provisional.

Despite the serious limits of both quantification and monetization, SCC estimates can be useful in estimating the social benefits of reducing carbon dioxide emissions. Most Federal regulatory actions can be expected to have marginal impacts on global emissions. For such policies, the agency can estimate the benefits from reduced emissions in any future year by multiplying the change in emissions in that year by the SCC value appropriate for that year. The net present value of

the benefits can then be calculated by multiplying the future benefits by an appropriate discount factor and summing across all affected years. This approach assumes that the marginal damages from increased emissions are constant for small departures from the baseline emissions path, an approximation that is reasonable for policies that have effects on emissions that are small relative to cumulative global carbon dioxide emissions. For policies that have a large (non-marginal) impact on global cumulative emissions, there is a separate question of whether the SCC is an appropriate tool for calculating the benefits of reduced emissions. This concern is not applicable to this rulemaking, however.

It is important to emphasize that the interagency process is committed to updating these estimates as the science and economic understanding of climate change and its impacts on society improves over time. In the meantime, the interagency group will continue to explore the issues raised by this analysis and consider public comments as part of the ongoing interagency process.

b. Social Cost of Carbon Values Used in Past Regulatory Analyses

Economic analyses for Federal regulations have used a wide range of values to estimate the benefits associated with reducing carbon dioxide emissions. In the final model year 2011 CAFE rule, the U.S. Department of Transportation (DOT) used both a ''domestic'' SCC value of $2 per metric ton of CO_2 and a ''global'' SCC value of $33 per metric ton of CO_2 for 2007 emission reductions (in 2007$), increasing both values at 2.4 percent per year. DOT also included a sensitivity analysis at $80 per metric ton of CO_2.[28] A 2008 regulation proposed by DOT assumed a domestic SCC value of $7 per metric ton of CO_2 (in 2006$) for 2011 emission reductions (with a range of $0–$14 for sensitivity analysis), also increasing at 2.4 percent per year.[29] A regulation for packaged terminal air conditioners and packaged terminal heat pumps finalized by DOE in October of 2008 used a domestic SCC range of $0 to $20 per metric ton CO_2 for 2007 emission reductions (in 2007$). 73 FR 58772, 58814 (Oct. 7, 2008). In addition, EPA's 2008 Advance Notice of Proposed Rulemaking on Regulating Greenhouse Gas Emissions Under the Clean Air Act identified what it described as ''very preliminary'' SCC estimates subject to revision. 73 FR 44354 (July 30, 2008). EPA's global mean values were $68 and $40 per metric ton CO_2 for discount rates of approximately 2 percent and 3 percent, respectively (in 2006$ for 2007 emissions).

In 2009, an interagency process was initiated to offer a preliminary assessment of how best to quantify the benefits from reducing carbon dioxide emissions. To ensure consistency in how benefits are evaluated across agencies, the Administration sought to develop a transparent and defensible method, specifically designed for the rulemaking process, to quantify avoided climate change damages from reduced CO_2 emissions. The interagency group did not undertake any original analysis. Instead, it combined SCC estimates from the existing literature to use as interim values until a more comprehensive analysis could be conducted. The outcome of the preliminary assessment by the interagency group was a set of five interim values: global SCC estimates for 2007 (in 2006$) of $55, $33, $19, $10, and $5 per metric ton of CO_2. These interim values represented the first sustained interagency effort within the U.S. government to develop an SCC for use in regulatory analysis. The results of this preliminary effort were presented in several proposed and final rules.

c. Current Approach and Key Assumptions

Since the release of the interim values, the interagency group reconvened on a regular basis to generate improved SCC estimates. Specifically, the group considered public comments and further explored the technical literature in relevant fields. The interagency group relied on three integrated assessment models commonly used to estimate the SCC: the FUND, DICE, and PAGE models. These models are frequently cited in the peer-reviewed literature and were used in the last assessment of the Intergovernmental Panel on Climate Change. Each model was given equal weight in the SCC values that were developed.

Each model takes a slightly different approach to model how changes in emissions result in changes in economic damages. A key objective of the interagency process was to enable a consistent exploration of the three models while respecting the different approaches to quantifying damages taken by the key modelers in the field. An extensive review of the literature was conducted to select three sets of input parameters for these models: climate sensitivity, socio-economic and emissions trajectories, and discount rates. A probability distribution for climate sensitivity was specified as an input into all three models. In addition, the interagency group used a range of scenarios for the socio-economic parameters and a range of values for the discount rate. All other model features were left unchanged, relying on the model developers' best estimates and judgments.

The interagency group selected four SCC values for use in regulatory analyses. Three values are based on the average SCC from three integrated assessment models, at discount rates of 2.5 percent, 3 percent, and 5 percent. The fourth value, which represents the 95th-percentile SCC estimate across all three models at a 3-percent discount rate, is included to represent higher-than-expected impacts from climate change further out in the tails of the SCC distribution. The values grow in real terms over time. Additionally, the interagency group determined that a range of values from 7 percent to 23 percent should be used to adjust the global SCC to calculate domestic effects, although preference is given to consideration of the global benefits of reducing CO_2 emissions. Table IV–13 presents the values in the 2010 interagency group report,[30] which is reproduced in appendix 16–A of the final rule TSD.

[28] See *Average Fuel Economy Standards Passenger Cars and Light Trucks Model Year 2011,* 74 FR 14196 (March 30, 2009) (Final Rule); Final Environmental Impact Statement Corporate Average Fuel Economy Standards, Passenger Cars and Light Trucks, Model Years 2011–2015 at 3–90 (Oct. 2008) (Available at: *http://www.nhtsa.gov/fuel-economy*). (Last accessed December 2012.)

[29] See *Average Fuel Economy Standards, Passenger Cars and Light Trucks, Model Years 2011–2015,* 73 FR 24352 (May 2, 2008) (Proposed Rule); Draft Environmental Impact Statement Corporate Average Fuel Economy Standards, Passenger Cars and Light Trucks, Model Years 2011–2015 at 3–58 (June 2008) (Available at: *http://www.nhtsa.gov/fuel-economy*). (Last accessed December 2012).

[30] *Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866.* Interagency Working Group on Social Cost of Carbon, United States Government, 2010. URL

TABLE IV–13—ANNUAL SCC VALUES FROM 2010 INTERAGENCY REPORT, 2010–2050

[In 2007 dollars per metric ton CO_2]

Year	Discount rate %			
	5	3	2.5	3
	Average	Average	Average	95th Percentile
2010	4.7	21.4	35.1	64.9
2015	5.7	23.8	38.4	72.8
2020	6.8	26.3	41.7	80.7
2025	8.2	29.6	45.9	90.4
2030	9.7	32.8	50.0	100.0
2035	11.2	36.0	54.2	109.7
2040	12.7	39.2	58.4	119.3
2045	14.2	42.1	61.7	127.8
2050	15.7	44.9	65.0	136.2

The SCC values used for today's notice were generated using the most recent versions of the three integrated assessment models that have been published in the peer-reviewed literature.[31] Table IV–14 shows the updated sets of SCC estimates in five year increments from 2010 to 2050. The full set of annual SCC estimates between 2010 and 2050 is reported in appendix 16–B of the final rule TSD. The central value that emerges is the average SCC across models at the 3 percent discount rate. However, for purposes of capturing the uncertainties involved in regulatory impact analysis, the interagency group emphasizes the importance of including all four sets of SCC values.

TABLE IV–14—ANNUAL SCC VALUES FROM 2013 INTERAGENCY UPDATE, 2010–2050

[In 2007 dollars per metric ton CO_2]

Year	Discount rate %			
	5	3	2.5	3
	Average	Average	Average	95th Percentile
2010	11	33	52	90
2015	12	38	58	109
2020	12	43	65	129
2025	14	48	70	144
2030	16	52	76	159
2035	19	57	81	176
2040	21	62	87	192
2045	24	66	92	206
2050	27	71	98	221

It is important to recognize that a number of key uncertainties remain, and that current SCC estimates should be treated as provisional and revisable since they will evolve with improved scientific and economic understanding. The interagency group also recognizes that the existing models are imperfect and incomplete. The National Research Council report mentioned above points out that there is tension between the goal of producing quantified estimates of the economic damages from an incremental ton of carbon and the limits of existing efforts to model these effects. There are a number of concerns and problems that should be addressed by the research community, including research programs housed in many of the Federal agencies participating in the interagency process to estimate the SCC. The interagency group intends to periodically review and reconsider those estimates to reflect increasing knowledge of the science and economics of climate impacts, as well as improvements in modeling.

In summary, in considering the potential global benefits resulting from reduced CO_2 emissions, DOE used the values from the 2013 interagency report, adjusted to 2011$ using the Gross Domestic Product price deflator. For each of the four cases specified, the values used for emissions in 2016 were $12.6, $41.1, $63.2, and $119 per metric ton avoided (values expressed in 2011$). DOE derived values after 2050 using the growth rate for the 2040–2050 period in the interagency update.

DOE multiplied the CO_2 emissions reduction estimated for each year by the SCC value for that year in each of the four cases. To calculate a present value of the stream of monetary values, DOE discounted the values in each of the four cases using the specific discount rate that had been used to obtain the SCC values in each case.

2. Valuation of Other Emissions Reductions

DOE investigated the potential monetary benefit of reduced NO_X emissions from the potential standards it considered. As noted above, DOE has taken into account how amended energy conservation standards would reduce NO_X emissions in those 22 States not affected by emissions caps. DOE estimated the monetized value of NO_X emissions reductions resulting from each of the TSLs considered for today's

[31] Technical Update of the *Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866.* Interagency Working Group on Social Cost of Carbon, United States Government. April 2013. See appendix 16–B of the final rule TSD.

final rule based on estimates found in the relevant scientific literature. Available estimates suggest a very wide range of monetary values per ton of NO_X from stationary sources, ranging from $455 to $4,679 per ton in 2011$).[32] In accordance with OMB guidance, DOE calculated the monetary benefits using each of the economic values for NO_X and real discount rates of 3 percent and 7 percent.

DOE is evaluating appropriate monetization of avoided SO_2 and Hg emissions in energy conservation standards rulemakings. It has not included monetization in the current analysis.

M. Discussion of Other Comments

1. Significance of Energy Savings for the Built-In and Over-the-Range Product Class

In the February 2012 SNOPR, the total cumulative energy savings for the proposed standby power standard for the built-in and over-the-range convection microwave oven product class estimated for products shipped in 2016–2045 were 0.01 quad. AHAM, Whirlpool, and GE questioned whether that amount could be considered large enough to justify standards for that product class. They requested that DOE issue a ''no standard'' standard for the product class. (AHAM, No. 16 at p. 1; Whirlpool, No.15 at p. 2; GE, No. 19 at p. 1)

In the past, DOE has issued standards for a product class for which the total savings were 0.01 quad or less. For the 2010 standards on direct heating equipment (DHE), for example, the combined total energy savings from the standards were 0.23 quad, but the savings for several DHE product classes were each 0.01 quad or less. 75 FR 20185 (Apr. 16, 2010). Using the interpretation of ''non-trivial'' energy savings that DOE has applied in previous rulemakings (see section 0 of this rulemaking), DOE concludes that the energy savings estimated for the standard for the built-in and over-the-range convection microwave oven product class are non-trivial and thus significant within the meaning of 42 U.S.C. 6295(o)(3)(B).

[32] For additional information, refer to U.S. Office of Management and Budget, Office of Information and Regulatory Affairs, *2006 Report to Congress on the Costs and Benefits of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities,* Washington, DC.

2. Standard Levels

The Joint Commenters stated that they support the standards at TSL 3. According to these commenters, such energy conservation standards will help harmonize the United States with standby mode and off mode power standards developed by the European Union in 2009. (Joint Comment, No. 17 at p. 1)

Whirlpool stated that the payback period shown for built-in and over-the-range convection microwave ovens at the proposed standard level (TSL 3) is 6.3 years, which exceeds the timeframe consumers will accept to recoup the cost of a more efficient product. It stated that this excessive payback period calls into question whether TSL 3 is the proper level for built-in and over-the-range convection microwave ovens. (Whirlpool, No. 15 at p. 2)

DOE is not aware of evidence for a specific payback period that consumers require to recoup the incremental cost of a more efficient product. As shown in Table 0–2 and Table 0–3 in section 0 of this rulemaking, the median payback period calculated for the final rule for built-in and over-the-range convection microwave ovens at TSL 3 is 3.5 years. The payback period is lower than estimated for the February 2012 SNOPR due to the aforementioned change in the estimated manufacturing cost of meeting higher efficiency levels. DOE believes that the majority of consumers would find such a payback acceptable.

V. Analytical Results

A. Trial Standard Levels

DOE analyzed the benefits and burdens of a number of TSLs for the microwave oven standby mode and off mode energy use that are the subject of today's final rule. For the October 2008 NOPR, DOE based the TSLs on standby power levels explored in the November 2007 ANOPR, and selected the TSLs on consideration of economic factors and current market conditions. As discussed previously in section IV.D.2 of this rulemaking, given the small number of standby power levels analyzed, DOE maintained all four of the standby power levels to consider as TSLs.

Table V–1 shows the TSLs for microwave oven standby mode and off mode energy use. TSL 1 corresponds to the first candidate standard level from each product class and represents the standby power level for each class with the least significant design change. TSL 4 corresponds to the max-tech efficiency levels. TSLs 2 and 3 are intermediate levels between TSL 1 and TSL 4.

TABLE V–1—TRIAL STANDARD LEVELS FOR MICROWAVE OVEN STANDBY MODE AND OFF MODE ENERGY USE

Trial standard level	Standby power (*W*)	
	Product class 1: Microwave-only and countertop convection microwave oven	Product class 2: Built-in and over-the-range convection microwave oven
TSL 1	2.00	3.70
TSL 2	1.50	2.70
TSL 3	1.00	2.20
TSL 4	0.02	0.04

B. Economic Justification and Energy Savings

1. Economic Impacts on Consumers

a. Life-Cycle Cost and Payback Period

To evaluate the net economic impact of standards on consumers, DOE conducted LCC and PBP analyses for each TSL. In general, a higher efficiency product would affect consumers in two ways: (1) Annual operating expense would decrease; and (2) purchase price would increase. Section V of this rulemaking discusses the inputs DOE used for calculating the LCC and PBP.

The key outputs of the LCC analysis are a mean LCC savings relative to the base-case efficiency distribution, as well as a probability distribution or likelihood of LCC reduction or increase, for each TSL and product class. The LCC analysis also estimates the fraction of consumers for which the LCC will decrease (net benefit), increase (net cost), or exhibit no change (no impact) relative to the base-case product forecast. No impacts occur when the product efficiencies of the base-case forecast already equal or exceed the efficiency at a given TSL.

Table V–2 and Table V–3 show the LCC and PBP results for both microwave oven product classes. Note that for built-in and over-the-range convection microwave ovens, 100 percent of consumers of such products in 2016 are assumed to be using a convection microwave oven in the base case. Any decrease in standby power would affect 100 percent of the market.

TABLE V–2—MICROWAVE-ONLY OVENS AND COUNTERTOP CONVECTION MICROWAVE OVENS: LIFE-CYCLE COST AND PAYBACK PERIOD RESULTS

TSL	Standby power (*W*)	Life-Cycle cost ($)			Life-Cycle cost savings				Payback period (*years*) median
		Average installed price	Average standby operating cost	Average LCC	Average savings $	% Households with			
						Net cost	No impact	Net benefit	
Baseline ...	4.00	234	35	269	NA	0	100	0	NA
1	2.00	234	18	252	8	0	54	46	0.2
2	1.50	234	13	247	11	0	19	81	0.3
3	1.00	239	9	248	11	12	0	88	3.5
4	0.02	243	0	244	15	5	0	95	3.5

TABLE V–3—BUILT-IN AND OVER-THE-RANGE CONVECTION MICROWAVE OVENS: LIFE-CYCLE COST AND PAYBACK PERIOD RESULTS

TSL	Standby power (*W*)	Life-cycle cost ($)			Life-Cycle cost savings				Payback period (*years*) median
		Average installed price	Average standby operating cost	Average LCC	Average savings	% Households with			
						Net cost	No impact	Net benefit	
Baseline ...	4.50	506	40	545	NA	0	100	0	NA
1	3.70	506	33	538	7	0	0	100	0.1
2	2.70	506	24	529	16	0	0	100	0.1
3	2.20	513	19	533	12	0	0	100	3.3
4	0.04	515	0	515	30	0	0	100	2.0

b. Consumer Subgroup Analysis

Using the LCC spreadsheet model, DOE determined the impact of the standards on the following microwave oven consumer subgroups: senior-only households and low-income households. Table V–4 and Table V–5 compare the average LCC savings for senior-only households and low-income households with those for all households. The LCC impacts for senior-only and low-income households are essentially the same as they are for the general population.

TABLE V–4—MICROWAVE-ONLY OVENS AND COUNTERTOP CONVECTION MICROWAVE OVENS: COMPARISON OF AVERAGE LCC SAVINGS FOR CONSUMER SUBGROUPS AND ALL HOUSEHOLDS

TSL	Standby power (*W*)	Senior-only households	Low-income households	All households
1	2.00	$8	$8	$8
2	1.50	11	11	11
3	1.00	11	11	11
4	0.02	14	14	15

TABLE V–5—BUILT-IN AND OVER-THE-RANGE CONVECTION MICROWAVE OVENS: COMPARISON OF AVERAGE LCC SAVINGS FOR CONSUMER SUBGROUPS AND ALL HOUSEHOLDS

TSL	Standby power (*W*)	Senior-only households	Low-income households	All households
1	$6	$7	$7	$7
2	14	16	16	16
3	10	12	12	12
4	25	30	30	30

c. Rebuttable-Presumption Payback

As discussed above, EPCA establishes a rebuttable presumption that, in essence, an energy conservation standard is economically justified if the increased purchase cost for a product that meets the standard is less than three times the value of the first-year energy savings resulting from the standard. (42 U.S.C. 6295(o)(2)(B)(iii)) DOE calculated a rebuttable-presumption payback period for each TSL to determine whether DOE could presume that a standard at that level is economically justified. Table V–6 shows the rebuttable-presumption payback periods for the microwave oven standby mode and off mode TSLs. Because only a single, average value is necessary for establishing the rebuttable-presumption payback period, rather than using distributions for input values, DOE used discrete values. As required by EPCA, DOE based the calculation on the assumptions in the DOE test procedures for microwave ovens. (42 U.S.C. 6295(o)(2)(B)(iii)) As a result, DOE

calculated a single rebuttable-presumption payback value, and not a distribution of payback periods, for each TSL.

TABLE V–6—REBUTTABLE-PRESUMPTION PAYBACK PERIODS FOR MICROWAVE OVEN STANDBY MODE AND OFF MODE

TSL	Payback period (*years*)	
	Microwave-only ovens and countertop convection microwave ovens	Built-in and over-the-range convection microwave ovens
1	0.2	0.1
2	0.2	0.1
3	3.5	3.3
4	3.5	2.0

All the TSLs in the above tables have rebuttable-presumption payback periods of less than 4 years. DOE believes that the rebuttable-presumption payback period criterion (*i.e.,* a limited payback period) is not sufficient for determining economic justification. Therefore, DOE has considered a full range of impacts, including those to consumers, manufacturers, the Nation, and the environment. Section IV of this rulemaking provides a complete discussion of how DOE considered the range of impacts to select the standards in today's rule.

2. Economic Impacts on Manufacturers

For today's final rule, DOE used INPV to compare the financial impacts of potential energy conservation standards on microwave oven manufacturers at different TSLs. The INPV is the sum of all net cash flows discounted by the industry's cost of capital (discount rate). DOE used the GRIM to compare the INPV of the base case (no new energy conservation standards) to that of each TSL for the microwave oven industry. To evaluate the range of cash-flow impacts on the microwave oven industry, DOE constructed different scenarios using different markups that correspond to the range of anticipated market responses. Each scenario results in a unique set of cash flows and corresponding industry value at each TSL. These steps allowed DOE to compare the potential impacts on the industry as a function of TSLs in the GRIM. The difference in INPV between the base case and the standards case is an estimate of the economic impacts that implementing that standard level would have on the entire industry. See chapter 12 of the final rule TSD for additional information on MIA methodology and results.

a. Industry Cash-Flow Analysis Results

To assess the lower end of the range of potential impacts for the microwave oven industry, DOE considered the scenario reflecting the preservation of gross margin percentage. As production cost increases with efficiency, this scenario implies manufacturers will be able to maintain gross margins as a percentage of revenues. To assess the higher end of the range of potential impacts for the microwave oven industry, DOE considered the scenario reflecting preservation of gross margin in absolute dollars. Under this scenario, DOE assumed that the industry can maintain its gross margin in absolute dollars after the compliance date of the energy conservation standard by accepting lower gross margins as a percentage of revenue, but maintaining these margins in absolute dollars. Table V–7 through Table V–12 show MIA results for standby mode and off mode energy conservation standards using both markup scenarios described above for microwave oven manufacturers.

TABLE V–7—PRODUCT CLASS 1 MANUFACTURER IMPACT ANALYSIS UNDER THE PRESERVATION OF GROSS MARGIN PERCENTAGE MARKUP SCENARIO

Units	INPV	Change in INPV	Change in INPV	Product Conversion Costs	Capital Conversion Costs	Total Investment Required
	Millions 2011$	Millions 2011$	%	Millions 2011$	Millions 2011$	Millions 2011$
Base Case	1,356.8					
TSL 1	1,341.9	(14.9)	(1.1)	16.7	3.9	20.6
TSL 2	1,332.5	(24.3)	(1.8)	30.0	4.3	34.3
TSL 3	1,317.3	(39.5)	(2.9)	38.0	4.7	42.7
TSL 4	1,281.4	(75.4)	(5.6)	73.4	7.8	81.3

Parentheses indicate negative (−) values.

TABLE V–8—PRODUCT CLASS 1 MANUFACTURER IMPACT ANALYSIS UNDER THE PRESERVATION OF GROSS MARGIN IN ABSOLUTE DOLLARS MARKUP SCENARIO

Units	INPV	Change in INPV	Change in INPV	Product Conversion Costs	Capital Conversion Costs	Total Investment Required
	Millions 2011$	Millions 2011$	%	Millions 2011$	Millions 2011$	Millions 2011$
Base Case	1,356.8					
TSL 1	1,339.7	(17.1)	(1.3)	16.7	3.9	20.6
TSL 2	1,328.6	(28.2)	(2.1)	30.0	4.3	34.3
TSL 3	1,261.6	(95.2)	(7.0)	38.0	4.7	42.7
TSL 4	1,174.0	(182.8)	(13.5)	73.4	7.8	81.3

Parentheses indicate negative (−) values.

TABLE V–9—PRODUCT CLASS 2 MANUFACTURER IMPACT ANALYSIS UNDER THE PRESERVATION OF GROSS MARGIN PERCENTAGE MARKUP SCENARIO

Units	INPV	Change in INPV	Change in INPV	Product Conversion Costs	Capital Conversion Costs	Total Investment Required
	Millions 2011$	Millions 2011$	%	Millions 2011$	Millions 2011$	Millions 2011$
Base Case	29.7					
TSL 1	29.5	(0.1)	(0.5)	0.2	0.0	0.2
TSL 2	29.4	(0.2)	(0.8)	0.3	0.0	0.3
TSL 3	29.2	(0.5)	(1.5)	0.4	0.0	0.4
TSL 4	28.9	(0.8)	(2.5)	0.7	0.1	0.8

Parentheses indicate negative (−) values.

TABLE V–10—PRODUCT CLASS 2 MANUFACTURER IMPACT ANALYSIS UNDER THE PRESERVATION OF GROSS MARGIN IN ABSOLUTE DOLLARS MARKUP SCENARIO

Units	INPV	Change in INPV	Change in INPV	Product Conversion Costs	Capital Conversion Costs	Total Investment Required
	Millions 2011$	Millions 2011$	%	Millions 2011$	Millions 2011$	Millions 2011$
Base Case	29.7					
TSL 1	29.5	(0.2)	(0.5)	0.2	0.0	0.2
TSL 2	29.4	(0.3)	(0.9)	0.3	0.0	0.3
TSL 3	28.3	(1.4)	(4.6)	0.4	0.0	0.4
TSL 4	27.8	(1.8)	(6.1)	0.7	0.1	0.8

Parentheses indicate negative (−) values.

TABLE V–11—COMBINED PRODUCT CLASSES MANUFACTURER IMPACT ANALYSIS UNDER THE PRESERVATION OF GROSS MARGIN PERCENTAGE MARKUP SCENARIO

Units	INPV	Change in INPV	Change in INPV	Product Conversion Costs	Capital Conversion Costs	Total Investment Required
	Millions 2011$	Millions 2011$	%	Millions 2011$	Millions 2011$	Millions 2011$
Base Case	1,386.5					
TSL 1	1,371.4	(15.1)	(1.1)	16.9	4.0	20.8
TSL 2	1,361.9	(24.6)	(1.8)	30.3	4.3	34.7
TSL 3	1,346.5	(40.0)	(2.9)	38.3	4.7	43.1
TSL 4	1,310.3	(76.1)	(5.5)	74.2	7.9	82.1

Parentheses indicate negative (−) values.

TABLE V–12—COMBINED PRODUCT CLASSES MANUFACTURER IMPACT ANALYSIS UNDER THE PRESERVATION OF GROSS MARGIN IN ABSOLUTE DOLLARS MARKUP SCENARIO

Units	INPV	Change in INPV	Change in INPV	Product Conversion Costs	Capital Conversion Costs	Total Investment Required
	Millions 2011$	Millions 2011$	$%	Millions 2011$	Millions 2011$	Millions 2011$
Base Case	1,386.5					
TSL 1	1,369.2	(17.3)	(1.2)	16.9	4.0	20.8
TSL 2	1,358.0	(28.5)	(2.1)	30.3	4.3	34.7
TSL 3	1,289.9	(96.6)	(7.0)	38.3	4.7	43.1
TSL 4	1,201.9	(184.6)	(13.3)	74.2	7.9	82.1

Parentheses indicate negative (−) values.

TSL 1 represents an improvement in standby power from the baseline level of 4.0 W to 2.0 W for Product Class 1 and an improvement in standby power from the baseline level of 4.5 W to 3.7 W for Product Class 2. At TSL 1, the impact on INPV and cash flow varies depending on the manufacturers' ability to pass on increases in MPCs to their customers. DOE estimated the impacts in INPV at TSL 1 to range −$15.1 million to −$17.3 million, or a change in INPV of −1.1 percent to −1.2 percent. At this level, the industry cash flow decreases by approximately 6.0 percent, to $99.7 million, compared to the base-case value of $106.1 million in the year leading up to the standards.

TSL 2 represents an improvement in standby power from the baseline level of 4.0 W to 1.5 W for Product Class 1 and an improvement in standby power from the baseline level of 4.5 W to 2.7 W for Product Class 2. At TSL 2, the impact on INPV and cash flow would be similar to TSL 1 and depend on whether manufacturers can fully recover the increases in MPCs from their customers. DOE estimated the impacts in INPV at TSL 2 to range from −$24.6 million to

−$28.5 million, or a change in INPV of −1.8 percent to −2.1 percent. At this level, the industry cash flow decreases by approximately 9.7 percent, to $95.8 million, compared to the base-case value of $106.1 million in the year leading up to the standards.

TSL 3 represents an improvement in standby power from the baseline level of 4.0 W to 1.0 W for Product Class 1 and an improvement in standby power from the baseline level of 4.5 W to 2.2 W for Product Class 2. At TSL 3, the impact on INPV and cash flow continues to vary depending on the manufacturers and their ability to pass on increases in MPCs to their customers. DOE estimated the impacts in INPV at TSL 3 to range from approximately −$40.0 million to −$96.6 million, or a change in INPV of −2.9 percent to −7.0 percent. At this level, the industry cash flow decreases by approximately 12.0 percent, to $93.4 million, compared to the base-case value of $106.1 million in the year leading up to the standards.

TSL 4 represents an improvement in standby power from the baseline level of 4.0 W to 0.02 W for Product Class 1 and an improvement in standby power from the baseline level of 4.5 W to 0.04 W for Product Class 2. At TSL 4, DOE estimated the impacts in INPV to range from approximately −$76.1 million to −$184.6 million, or a change in INPV of −5.5 percent to −13.3 percent. At this level, the industry cash flow decreases by approximately 22.7 percent, to $82.0 million, compared to the base-case value of $106.1 million in the year leading up to the standards. At higher TSLs, manufacturers have a harder time fully passing on larger increases in MPCs to their customers. At TSL 4, the conversion costs are higher than the other TSLs because the design of all microwave platforms must be altered more significantly.

For new standby mode and off mode energy conservation standards, conversion costs increase at higher TSLs as the complexity of further lowering standby power increases, substantially driving up engineering, product development, and testing time. If the increased production costs are fully passed on to consumers (the preservation of gross margin percentage scenario), the operating revenue from higher prices is still not enough to overcome the negative impacts from the substantial conversion costs. The incremental costs are small for each TSL, meaning the positive impact on cash flow is small compared to the conversion costs required to achieve these efficiencies. As a result of the small incremental costs and large conversion expenses, INPV is negative for all TSLs under the preservation of gross margin percentage scenario. If the incremental costs are not fully passed along to customers (the preservation of gross margin in absolute dollars scenario), the negative impacts on INPV are amplified at each TSL.

b. Employment Impacts

DOE discussed the domestic employment impacts on the microwave oven industry in the February 2012 SNOPR. DOE concluded that since more than 98 percent of microwave ovens are already imported and the employment impacts in the GRIM are small, the actual impacts on domestic employment would depend on whether any U.S. manufacturer decided to shift remaining U.S. production to lower-cost countries. 77 8526, FR 8561 (Feb.14, 2012). DOE maintains this conclusion for today's final rule.

c. Impacts on Manufacturing Capacity

As stated in the October 2008 NOPR, minor tooling changes would be necessary at all TSLs for standby mode and off mode energy conservation standards. For all standby power levels, the most significant conversion costs are the research and development, testing, and certification of products with more-efficient components, which does not affect production line capacity. Thus, DOE determined that manufacturers will be able to maintain manufacturing capacity levels and continue to meet market demand under new energy conservation standards. 73 FR 62034, 62103 (Oct. 17, 2008). DOE reached the same conclusion in today's final rule.

d. Impacts on Subgroups of Manufacturers

DOE used the results of the industry characterization to group manufacturers exhibiting similar characteristics. However, DOE did not identify any manufacturer subgroups for microwave ovens that would justify a separate manufacturer subgroup.

e. Cumulative Regulatory Burden

During previous stages of this rulemaking DOE identified a number of requirements with which manufacturers of these microwave ovens must comply and which take effect within 3 years of the compliance date of the new standards. DOE discusses these and other requirements, and includes the full details of the cumulative regulatory burden, in chapter 12 of the final rule TSD.

3. National Impact Analysis

a. Significance of Energy Savings

For each TSL, DOE projected energy savings for microwave ovens purchased in the 30-year period that begins in the year of compliance with amended standards (2016–2045). The savings are measured over the entire lifetime of products purchased in the 30-year period. DOE quantified the energy savings attributable to each TSL as the difference in energy consumption between each standards case and the base case. Table V–13 presents the estimated energy savings for each TSL. The savings were calculated using the approach described in section IV.E of this rulemaking.[33]

TABLE V–13 CUMULATIVE NATIONAL ENERGY SAVINGS FOR MICROWAVE OVEN STANDBY MODE AND OFF MODE POWER FOR UNITS SOLD IN 2016–2045

TSL	Microwave-only ovens and countertop convection ovens (*quads*)	Built-in and over-the-range convection microwave ovens (*quads*)	Total * (*quads*)
1	0.24	0.00	0.24
2	0.35	0.00	0.35
3	0.47	0.01	0.48
4	0.72	0.01	0.73

[33] Chapter 10 of the TSD presents tables that show the magnitude of the energy savings discounted at rates of 3 percent and 7 percent. Discounted energy savings represent a policy perspective in which energy savings realized farther in the future are less significant than energy savings realized in the nearer term.

Circular A–4 requires agencies to present analytical results, including separate schedules of the monetized benefits and costs that show the type and timing of benefits and costs. Circular A–4 also directs agencies to consider the variability of key elements underlying the estimates of benefits and costs. DOE believes its standard 30-year analysis is fully compliant with the procedures outlined in Circular A–4. For this rulemaking, DOE undertook an additional sensitivity analysis of its standard 30-year analysis, using a 9-year analytical period. The choice of a 9-year period is a proxy for the timeline in EPCA for the review of certain energy conservation standards and potential revision of and compliance with such revised standards.[34] We would note that the review timeframe established in EPCA generally does not overlap with the product lifetime, product manufacturing cycles or other factors specific to microwave ovens. Thus, this information is presented for informational purposes only and is not indicative of any change in DOE's analytical methodology. The NES results based on a 9-year analytical period are presented in Table V–14. The impacts are counted over the lifetime of products purchased in 2016–2024. The sensitivity analysis results based on a 9-year analytical period are presented in Table V–14.

TABLE V–14—CUMULATIVE NATIONAL ENERGY SAVINGS FOR MICROWAVE OVEN STANDBY MODE AND OFF MODE POWER FOR UNITS SOLD IN 2016–2024

TSL	Microwave-only ovens and countertop convection microwave ovens (*quads*)	Built-in and over-the-range convection microwave ovens (*quads*)	Total * (*quads*)
1	0.07	0.00	0.07
2	0.10	0.00	0.10
3	0.14	0.00	0.14
4	0.21	0.00	0.22

b. Net Present Value of Consumer Costs and Benefits

DOE estimated the cumulative NPV to the Nation of the total costs and savings for consumers that would result from particular standard levels for microwave oven standby mode and off mode. In accordance with the OMB's guidelines on regulatory analysis,[35] DOE calculated NPV using both a 7-percent and a 3-percent real discount rate. The 7-percent rate is an estimate of the average before-tax rate of return on private capital in the U.S. economy, and reflects the returns on real estate and small business capital as well as corporate capital. DOE used this discount rate to approximate the opportunity cost of capital in the private sector, because recent OMB analysis has found the average rate of return on capital to be near this rate. DOE used the 3-percent rate to capture the potential effects of standards on private consumption (*e.g.,* through higher prices for products and reduced purchases of energy). This rate represents the rate at which society discounts future consumption flows to their present value. This rate can be approximated by the real rate of return on long-term government debt (*i.e.,* yield on Treasury notes minus annual rate of change in the Consumer Price Index), which has averaged about 3 percent on a pre-tax basis for the past 30 years.

Table V–15 shows the consumer NPV results for each TSL DOE considered for both product classes of microwave ovens, using both a 7-percent and a 3-percent discount rate. In each case, the impacts cover the lifetime of products purchased in 2016–2045. See chapter 10 of the final rule TSD for more detailed NPV results.

TABLE V–15—CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR MICROWAVE OVEN STANDBY MODE AND OFF MODE FOR UNITS SOLD IN 2016–2045

TSL	Net Present Value (Billions 2011$)					
	Microwave-Only Ovens and Countertop Convection Microwave Ovens		Built-In and Over-the-Range Convection Microwave Ovens		Total *	
	7% Discount Rate	3% Discount Rate	7% Discount Rate	3% Discount Rate	7% Discount Rate	3% Discount Rate
1	1.13	2.32	0.01	0.02	1.14	2.34
2	1.61	3.31	0.02	0.05	1.63	3.36
3	1.51	3.34	0.02	0.04	1.53	3.38
4	2.00	4.56	0.04	0.09	2.04	4.65

* The total values may differ from the sum of the product class sub-totals due to the rounding to two decimal places.

[34] EPCA requires DOE to review its standards at least once every 6 years, and requires, for certain products, a 3-year period after any new standard is promulgated before compliance is required, except that in no case may any new standards be required within 6 years of the compliance date of the previous standards. While adding a 6-year review to the 3-year compliance period adds up to 9 years, DOE notes that it may undertake reviews at any time within the 6 year period and that the 3-year compliance date may yield to the 6-year backstop. A 9-year analysis period may not be appropriate given the variability that occurs in the timing of standards reviews and the fact that for some consumer products, the compliance period is 5 years rather than 3 years.

[35] OMB Circular A–4, section E (Sept. 17, 2003). Available at: *http://www.whitehouse.gov/omb/circulars_a004_a-4.* (Last accessed December 2012.)

The NPV results presented in Table V–15 are based on the default product price trend. As discussed in section IV.E.3 of this rulemaking, DOE developed several sensitivity cases with alternative forecasts of future prices of microwave ovens. The impact of these alternative forecasts on the NPV results is presented in appendix 10–C of the final rule TSD.

The NPV results based on the aforementioned 9-year analytical period are presented in Table V–16. The impacts are counted over the lifetime of products purchased in 2016–2024. As mentioned previously, this information is presented for informational purposes only and is not indicative of any change in DOE's analytical methodology or decision criteria.

TABLE V–16—CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR MICROWAVE OVEN STANDBY MODE AND OFF MODE FOR UNITS SOLD IN 2016–2024

TSL	Net Present Value (Billions 2011$)					
	Microwave-Only Ovens and Countertop Convection Microwave Ovens		Built-In and Over-the-Range Convection Microwave Ovens		Total *	
	7% Discount Rate	3% Discount Rate	7% Discount Rate	3% Discount Rate	7% Discount Rate	3% Discount Rate
1	0.55	0.84	0.00	0.01	0.56	0.85
2	0.79	1.20	0.01	0.02	0.80	1.22
3	0.73	1.19	0.01	0.01	0.74	1.20
4	0.96	1.61	0.02	0.03	0.98	1.64

* The total values may differ from the sum of the product class sub-totals due to the rounding to two decimal places.

c. Indirect Impacts on Employment

DOE develops estimates of the indirect employment impacts of proposed standards on the economy in general. As discussed above, DOE expects energy conservation standards for microwave ovens to reduce energy bills for consumers of those products, and the resulting net savings to be redirected to other forms of economic activity. Those shifts in spending and economic activity could affect the demand for labor. As described in section 0 of this rulemaking, to estimate those effects, DOE used an input/output model of the U.S. economy. Chapter 13 of the final rule TSD presents the estimated net indirect employment impacts in the near term for the TSLs for both product classes of microwave ovens that DOE considered in this rulemaking. The results suggest that today's standards are likely to have a negligible impact on the net demand for labor in the economy. The net change in jobs is so small that it would be imperceptible in national labor statistics and might be offset by other, unanticipated effects on employment.

4. Impact on Utility or Performance of Product

For the reasons stated in section III.D.1 of this rulemaking, DOE believes that for purposes of 42 U.S.C. 6295(o)(2)(B)(i)(IV), the standby power level considered in this rulemaking does not reduce the utility or performance of the microwave oven products under consideration in this rulemaking.

5. Impact of Any Lessening of Competition

DOE has considered any lessening of competition that is likely to result from today's standards. The Attorney General determines the impact, if any, of any lessening of competition likely to result from a proposed standard, and transmits such determination to the Secretary of Energy, together with an analysis of the nature and extent of such impact. (42 U.S.C. 6295(o)(2)(B)(i)(V) and (B)(ii)) To assist the Attorney General in making such a determination, DOE provided the Department of Justice (DOJ) with copies of the proposed rule and the TSD for review. In a letter to DOE dated May 9, 2012, DOJ provided the following opinion: ''[T]he proposed energy conservation standards for microwave oven standby power are unlikely to have a significant adverse impact on competition.'' DOE considered DOJ's comments on the proposed rule in preparing the final rule.

6. Need of the Nation To Conserve Energy

Improving the energy consumption of microwave oven standby mode and off mode, where economically justified, would likely improve the security of the Nation's energy system by reducing overall demand for energy. Reduced electricity demand may also improve the reliability of the electricity system. As a measure of this reduced demand, chapter 14 in the final rule TSD presents the estimated reduction in national generating capacity for the TSLs that DOE considered in this rulemaking.

Energy savings from more stringent microwave oven standby mode and off mode standards would also produce environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases associated with electricity production. Table V–17 provides DOE's estimate of cumulative CO_2 and NO_X emissions reductions that would result from the TSLs considered in this rulemaking. DOE reports estimated annual changes in emissions attributable to each TSL in chapter 15 of the final rule TSD.

TABLE V–17—CUMULATIVE EMISSIONS REDUCTIONS UNDER MICROWAVE OVEN STANDBY MODE AND OFF MODE TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2016–2045

TSL	CO_2 (Mt)	SO_2 (1,000 tons)	NO_X (1,000 tons)	Hg (tons)
1	19.13	13.63	16.40	0.048
2	27.63	19.70	23.69	0.069
3	38.11	27.14	32.67	0.095

TABLE V–17—CUMULATIVE EMISSIONS REDUCTIONS UNDER MICROWAVE OVEN STANDBY MODE AND OFF MODE TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2016–2045—Continued

TSL	CO_2 (Mt)	SO_2 (1,000 tons)	NO_X (1,000 tons)	Hg (tons)
4	58.55	41.72	50.20	0.146

Mt = million metric tons. Values for other emissions reductions refer to short tons.

DOE also estimated monetary benefits likely to result from the reduced emissions of CO_2 and NO_X that DOE estimated for each of the TSLs considered for microwave oven standby mode and off mode. In order to make this calculation similar to the calculation of the NPV of consumer benefit, DOE considered the reduced emissions expected to result over the lifetime of products shipped in 2016–2045.

As discussed in section IV.L.1 of this rulemaking, DOE used four sets of values for the SCC developed by an interagency process. For each of the four cases, DOE calculated a present value of the stream of annual values using the same discount rate as was used in the studies upon which the dollar-per-ton values are based. Table V–18 presents the global values of CO_2 emissions reductions at each TSL. DOE calculated domestic values as a range from 7 percent to 23 percent of the global values, and these results are presented in chapter 16 of the final rule TSD.

TABLE V–18—ESTIMATES OF PRESENT VALUE OF CO_2 EMISSIONS REDUCTIONS UNDER MICROWAVE OVEN STANDBY MODE AND OFF MODE TRIAL STANDARD LEVELS FOR PRODUCTS SOLD IN 2016–2045

TSL	SCC Case			
	5% discount rate, average *	3% discount rate, average *	2.5% discount rate, average *	3% discount rate, 95th percentile *
(Million 2011$)				
1	$128	$592	$942	$1,815
2	185	855	1,360	2,621
3	255	1,179	1,876	3,615
4	392	1,812	2,882	5,554

* Columns are labeled by the discount rate used to calculate the SCC and whether it is an average value or drawn from a different part of the distribution. The values in 2016 (in 2011$) are $12.6/ton, $41.1/ton, $63.2/ton, and $119/ton. The values increase over time.

DOE is well aware that scientific and economic knowledge about the contribution of CO_2 and other GHG emissions to changes in the future global climate and the potential resulting damages to the world economy continues to evolve rapidly. Thus, any value placed on reducing CO_2 emissions is subject to change. DOE, together with other Federal agencies, will continue to review various methodologies for estimating the monetary value of reductions in CO_2 and other GHG emissions. However, consistent with DOE's legal obligations, and taking into account the uncertainty involved with this particular issue, DOE has included in this rule the most recent values resulting from the interagency review process.

DOE also estimated a range for the cumulative monetary value of the economic benefits associated with NO_X emissions reductions anticipated to result from new standby mode and off mode standards for microwave ovens. The dollar-per-ton values that DOE used are discussed in section IV.L.2 of this rulemaking. Table V–19 presents the cumulative present values for each TSL calculated using 7-percent and 3-percent discount rates.

TABLE V–19—ESTIMATES OF PRESENT VALUE OF NO_X EMISSIONS REDUCTIONS UNDER MICROWAVE OVEN STANDBY MODE AND OFF MODE TRIAL STANDARD LEVELS FOR PRODUCTS SOLD IN 2016–2045

TSL	3% discount rate *(Million 2011$)*	7% discount rate *(Million 2011$)*
1	$22.3	$11.0
2	32.3	15.8
3	44.5	21.8
4	68.4	33.6

The NPV of the monetized benefits associated with emissions reductions can be viewed as a complement to the NPV of the consumer savings calculated for each TSL considered in this rulemaking. Table V–20 and Table V–21 present the NPV values that result from adding the estimates of the potential economic benefits resulting from reduced CO_2 and NO_X emissions in each of four valuation scenarios to the NPV of consumer savings calculated for each TSL considered in this rulemaking, at both a 7-percent and 3-percent discount rate. The CO_2 values used in the columns of each table correspond to the four scenarios for the valuation of CO_2 emission reductions presented in section IV.L of this rulemaking.

TABLE V–20—RESULTS OF ADDING NET PRESENT VALUE OF CONSUMER SAVINGS (AT 7-PERCENT DISCOUNT RATE) TO NET PRESENT VALUE OF MONETIZED BENEFITS FROM CO_2 AND NO_X EMISSIONS REDUCTIONS FOR MICROWAVE OVEN STANDBY MODE AND OFF MODE

TSL	Consumer NPV at 7% Discount Rate added with:			
	SCC Value of $12.6/t CO_2* and Low Value for NO_X** *(Billion 2011$)*	SCC Value of $41.1/t CO_2 thnsp;* and Medium Value for NO_X thnsp;** *(Billion 2011$)*	SCC Value of $63.2/t CO_2* and Medium Value for NO_X** *(Billion 2011$)*	SCC Value of $119/t CO_2* and High Value for NO_X** *(Billion 2011$)*
1	1.26	1.73	2.08	2.96
2	1.80	2.48	2.99	4.26
3	1.77	2.71	3.41	5.17
4	2.40	3.85	4.92	7.62

* These label values represent the global SCC in 2016, in 2011$. The present values have been calculated with scenario-consistent discount rates.

** Low Value corresponds to $455 per ton of NO_X emissions. Medium Value corresponds to $2,567 per ton of NO_X emissions. High Value corresponds to $4,679 per ton of NO_X emissions.

TABLE V–21—RESULTS OF ADDING NET PRESENT VALUE OF CONSUMER SAVINGS (AT 3-PERCENT DISCOUNT RATE) TO NET PRESENT VALUE OF MONETIZED BENEFITS FROM CO_2 AND NO_X EMISSIONS REDUCTIONS FOR MICROWAVE OVEN STANDBY MODE AND OFF MODE

TSL	Consumer NPV at 3% Discount Rate added with:			
	SCC Value of $12.6/t CO_2* and Low Value for NO_X** *(Billion 2011$)*	SCC Value of $41.1/t CO_2* and Medium Value for NO_X** *(Billion 2011$)*	SCC Value of $63.2/t CO_2* and Medium Value for NO_X** *(Billion 2011$)*	SCC Value of $119/t CO_2* and High Value for NO_X** *(Billion 2011$)*
1	2.45	2.93	3.28	4.17
2	3.50	4.20	4.70	5.99
3	3.60	4.56	5.26	7.03
4	4.97	6.44	7.51	10.24

* These label values represent the global SCC in 2016, in 2011$. The present values have been calculated with scenario-consistent discount rates.

** Low Value corresponds to $455 per ton of NO_X emissions. Medium Value corresponds to $2,567 per ton of NO_X emissions. High Value corresponds to $4,679 per ton of NO_X emissions.

Although adding the value of consumer savings to the values of emission reductions provides a valuable perspective, two issues should be considered. First, the national operating cost savings are domestic U.S. consumer monetary savings that occur as a result of market transactions, while the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and the SCC are performed with different methods that use quite different time frames for analysis. The national operating cost savings is measured for the lifetime of products shipped in 2016–2045. The SCC values, on the other hand, reflect the present value of future climate-related impacts resulting from the emission of one ton of CO_2 in each year. These impacts continue well beyond 2100.

7. Other Factors

The Secretary of Energy, in determining whether a standard is economically justified, may consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6295(o)(2)(B)(i)(VI)) DOE has not considered other factors in development of the standards in this final rule.

C. Conclusion

When considering proposed standards, the new or amended energy conservation standard that DOE adopts for any type (or class) of covered product shall be designed to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) In determining whether a standard is economically justified, the Secretary must determine whether the benefits of the standard exceed its burdens by, to the greatest extent practicable, considering the seven statutory factors discussed previously. (42 U.S.C. 6295(o)(2)(B)(i)) The new or amended standard must also ''result in significant conservation of energy.'' (42 U.S.C. 6295(o)(3)(B))

The Department considered the impacts of standards at each TSL, beginning with the maximum technologically feasible level, to determine whether that level was economically justified. Where the max-tech level was not justified, DOE then considered the next most efficient level and undertook the same evaluation until it reached the highest efficiency level that is both technologically feasible and economically justified and saves a significant amount of energy.

To aid the reader in understanding the benefits and/or burdens of each TSL, Table V–22 summarizes the quantitative analytical results for each TSL, based on the assumptions and methodology discussed herein. In addition to the quantitative results presented in the table, DOE also considers other burdens and benefits that affect economic justification. These include the impacts on identifiable subgroups of consumers, such as low-income households and seniors, who may be disproportionately affected by a national standard. Section V.B.1.b of this rulemaking presents the estimated impacts of each TSL for these subgroups.

TABLE V–22—SUMMARY OF RESULTS FOR TRIAL STANDARD LEVELS FOR MICROWAVE OVEN STANDBY MODE AND OFF MODE ENERGY USE

Category	TSL 1	TSL 2	TSL 3	TSL 4
National Energy Savings (*quads*)	0.24	0.35	0.48	0.73
NPV of Consumer Benefits (Billion *2011$*):				
3% discount rate	2.34	3.36	3.38	4.65
7% discount rate	1.14	1.63	1.53	2.04
Manufacturer Impacts:				
Industry NPV (Million *2011$*)	(15.1) to (17.3)	(24.6) to (28.5)	(40.0) to (96.6)	(76.1) to (184.6)
Industry NPV (*% change*)	(1.1) to (1.2)	(1.8) to (2.1)	(2.9) to (7.0)	(5.5) to (13.3)
Cumulative Emissions Reduction:				
CO_2 (*Mt*)	19.13	27.63	38.11	58.55
SO_2 (*thousand tons*)	13.63	19.70	27.14	41.72
NO_X (*thousand tons*)	16.40	23.69	32.67	50.20
Hg (*tons*)	0.048	0.069	0.095	0.146
Value of Emissions Reductions CO_2 (Million *2011$*)*	128 to 1815	185 to 2621	255 to 3615	392 to 5554
NO_X—3% discount rate (Million *2011$*)	22.3	32.3	44.5	68.4
NO_X—7% discount rate (Million *2011$*)	11.0	15.8	21.8	33.6
Consumer Mean LCC Savings (*2011$*):				
Product Class 1	8	11	11	15
Product Class 2	7	16	12	30
Consumer Median PBP (*years*):				
Product Class 1	0.2	0.3	3.5	3.5
Product Class 2	0.1	0.1	3.3	2.0
Distribution of Consumer LCC Impacts:				
Product Class 1:				
Net Cost	0	0	12	5
No Impact	54	19	0	0
Net Benefit	46	81	88	95
Product Class 2:				
Net Cost	0	0	0	0
No Impact	0	0	0	0
Net Benefit	100	100	100	100

Parentheses indicate negative (−) values. For NPVs, a negative value means a decrease in NPV.
* Range of the economic value of CO_2 reductions is based on estimates of the global benefit of reduced CO_2 emissions.

In addition to the quantitative results, DOE also considered harmonization of microwave oven standby mode and off mode standards with international standby power programs such as Korea's e-standby program,[36] Australia's standby program,[37] and Japan's Top Runner Program.[38] Those programs seek to establish standby power ratings through the International Energy Agency's (IEA) 1-Watt Program, which seeks to lower standby power below 1 W for microwave ovens.[39] Korea published a mandatory standby power standard of 1 W that became effective in 2010 and Australia will publish mandatory standby power standards of 1 W by 2013. In accordance with Japan's Top Runner Program, Japanese appliance manufacturers made a voluntary declaration to reduce standby power of microwave ovens that lack a timer to as close to zero as possible and that of microwave ovens that have a timer to 1 W or lower.

DOE also notes that the economics literature provides a wide-ranging discussion of how consumers trade off upfront costs and energy savings in the absence of government intervention. Much of this literature attempts to explain why consumers appear to undervalue energy efficiency improvements. This undervaluation suggests that regulation that promotes energy efficiency can produce significant net private gains (as well as producing social gains by, for example, reducing pollution). There is evidence that consumers undervalue future energy savings as a result of (1) A lack of information; (2) a lack of sufficient salience of the long-term or aggregate benefits; (3) a lack of sufficient savings to warrant delaying or altering purchases; (4) excessive focus on the short term, in the form of inconsistent weighting of future energy cost savings relative to available returns on other investments; (5) computational or other difficulties associated with the evaluation of relevant tradeoffs; and (6) a divergence in incentives (that is, renter versus owner; builder vs. purchaser). Other literature indicates that with less than perfect foresight and a high degree of uncertainty about the future, consumers may trade off these types of investments at a higher than expected rate between current consumption and uncertain future energy cost savings.

In its current regulatory analysis, potential changes in the benefits and costs of a regulation due to changes in consumer purchasing decisions are included in two ways. First, if consumers forego a purchase of a product in the standards case, this decreases sales for product manufacturers and the cost to manufacturers is included in the MIA. Second, DOE accounts for energy savings attributable only to products actually used by consumers in the standards case; if a regulatory option decreases the number of products used by consumers, this decreases the potential energy savings from an energy conservation standard. DOE provides

[36] Refer to: *http://www.kemco.or.kr/new_eng/pg02/pg02100300.asp.* (Last accessed December 2012.)

[37] Refer to: *http://www.energyrating.gov.au/products-themes/standby-power/about/.* (Last accessed December 2012.)

[38] Refer to: *http://www.eccj.or.jp/top_runner/pdf/tr_microwaveoven.pdf.* (Last accessed December 2012.)

[39] IEA Energy Information Centre. Standby Power Use and the IEA ''1-Watt Plan.'' Available at: *http://greenshorenstein.info/pdf/Standby%20Power%20Fact%20Sheet%20-%20IEA%20-%20April%202007.pdf.* (Last accessed December 2012.)

detailed estimates of shipments and changes in the volume of product purchases in chapter 9 of the final rule TSD. DOE's current analysis does not explicitly control for heterogeneity in consumer preferences, preferences across subcategories of products or specific features, or consumer price sensitivity variation according to household income.[40]

While DOE is not prepared at present to provide a fuller quantifiable framework for estimating the benefits and costs of changes in consumer purchase decisions due to an energy conservation standard, DOE is committed to developing a framework that can support empirical quantitative tools for improved assessment of the consumer welfare impacts of appliance standards. DOE has posted a paper that discusses the issue of consumer welfare impacts of appliance energy efficiency standards, and potential enhancements to the methodology by which these impacts are defined and estimated in the regulatory process.[41]

1. Benefits and Burdens of TSLs Considered for Microwave Oven Standby Mode and Off Mode Energy Use

First, DOE considered TSL 4, the max-tech level for microwave oven standby mode and off mode energy use. TSL 4 likely would save 0.73 quads of energy through 2045, an amount DOE considers significant. Under TSL 4, the estimated NPV of consumer benefit is $2.04 billion, using a discount rate of 7 percent, and $4.65 billion, using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 4 are 58.55 Mt of CO_2, 41.72 thousand tons of SO_2, 50.20 thousand tons of NO_X, and 0.146 tons of Hg. The estimated monetary value of the CO_2 emissions reductions at TSL 4 ranges from $392 million to $5,554 million.

DOE projects that at TSL 4 for microwave-only ovens and countertop convection microwave ovens (Product Class 1), the average microwave oven consumer would experience a savings in LCC of $15. DOE also estimates 95 percent of consumers who purchase these microwave ovens would realize some LCC savings. The median payback period at TSL 4 is projected to be 3.5 years, substantially shorter than the lifetime of the product. DOE projects that at TSL 4 for built-in and over-the-range convection microwave ovens (Product Class 2), the average microwave oven consumer would experience a savings in LCC of $30, and all consumers who purchase these microwave ovens would realize some LCC savings. The median payback period at TSL 4 is projected to be 2.0 years, substantially shorter than the lifetime of the product.

Although DOE estimates that all microwave oven consumers would benefit economically from TSL 4, the reduction in standby power consumption at TSL 4 would result in the loss of certain functions that provide utility to consumers, specifically the continuous clock display. Because it is uncertain how greatly consumers value this function, DOE is concerned that TSL 4 may result in significant loss of consumer utility.

For manufacturers of microwave ovens, DOE estimated a decrease in INPV that ranges from $76.1 million to $184.6 million. DOE recognizes that TSL 4 poses the risk of large negative impacts if manufacturers' expectations about reduced profit margins are realized. In particular, if the high end of the range of impacts is reached, as DOE expects, TSL 4 could result in a net loss of 13.3 percent in INPV to microwave oven manufacturers.

After carefully considering the analysis and weighing the benefits and burdens of TSL 4, DOE has reached the following initial conclusion: At TSL 4, the benefits of energy savings, NPV of consumer benefit, positive consumer LCC impacts, and emissions reductions would be outweighed by the potential burden on consumers from loss of product utility and the large product conversion costs that could result in a reduction in INPV for manufacturers.

DOE then considered TSL 3. Primary energy savings are estimated to be 0.48 quads of energy through 2045, which DOE considers significant. Under TSL 3, the estimated NPV of consumer benefit is $1.53 billion, using a discount rate of 7 percent, and $3.38 billion, using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 3 are 38.11 Mt of CO_2, 27.14 thousand tons of SO_2, 32.67 thousand tons of NO_X, and 0.095 tons of Hg. The estimated monetary value of the CO_2 emissions reductions at TSL 3 ranges from $255 million to $3,615 million.

For microwave-only ovens and countertop convection microwave ovens, DOE projects that at TSL 3 the average consumer would experience a savings in LCC of $11, and 88 percent of consumers who purchase these microwave ovens would realize some LCC savings. At TSL 3 the median payback period is projected to be 3.5 years, substantially shorter than the lifetime of the product. In addition, DOE estimates that the reduction in standby power consumption under TSL 3 (to no greater than 1.0 W) would not impact consumer utility. The continuous clock display that would be lost under TSL 4 would be retained at TSL 3.

For built-in and over-the-range convection microwave ovens, DOE projects that at TSL 3 the average consumer would experience a savings in LCC of $12, and all consumers who purchase these microwave ovens would realize some LCC savings. At TSL 3, the median payback period is projected to be 3.3 years, significantly shorter than the lifetime of the product.

For manufacturers of microwave ovens, DOE estimated that the projected decrease in INPV under TSL 3 would range from $40.0 million to $96.6 million. DOE recognizes the risk of large negative impacts at TSL 3 if manufacturers' expectations about reduced profit margins are realized. In particular, if the high end of the range of impacts is reached, as DOE expects, TSL 3 could result in a net loss of 7.0 percent in INPV to microwave oven manufacturers.

After considering the analysis and weighing the benefits and the burdens of TSL 3, the Secretary concludes that TSL 3 will offer the maximum improvement in efficiency that is technologically feasible and economically justified, and will result in the significant conservation of energy. Therefore, DOE adopts the energy conservation standards for microwave oven standby mode and off mode at TSL 3. The amended energy conservation standards, which are maximum allowable standby power consumption, are shown in Table V–23.

TABLE V–23—AMENDED ENERGY CONSERVATION STANDARDS FOR MICROWAVE OVEN STANDBY AND OFF MODE

Product classes	Effective June 17, 2016
Microwave-Only Ovens and Countertop Convection Microwave Ovens.	Maximum Standby Power = 1.0 watt.
Built-In and Over-the-Range Convection Microwave Ovens.	Maximum Standby Power = 2.2 watts.

[40] P.C. Reiss and M.W. White. Household Electricity Demand, Revisited. *Review of Economic Studies* (2005) 72, 853–883.

[41] Alan Sanstad, Notes on the Economics of Household Energy Consumption and Technology Choice. Lawrence Berkeley National Laboratory. 2010. Available online at: *www1.eere.energy.gov/buildings/appliance_standards/pdfs/consumer_ee_theory.pdf.* (Last accessed December 2012.)

2. Summary of Benefits and Costs (Annualized) of the Standards

The benefits and costs of today's proposed standards can also be expressed in terms of annualized values. The annualized monetary values are the sum of (1) the annualized national economic value, expressed in 2011$, of the benefits from operating products that meet the proposed standards (consisting primarily of operating cost savings from using less energy, minus increases in equipment purchase costs, which is another way of representing consumer NPV), and (2) the monetary value of the benefits of emission reductions, including CO_2 emission reductions.[42] The value of the CO_2 reductions is calculated using a range of values per metric ton of CO_2 developed by a recent interagency process. The monetary costs and benefits of cumulative emissions reductions are reported in 2011$ to permit comparisons with the other costs and benefits in the same dollar units.

Although combining the values of operating savings and CO_2 reductions provides a useful perspective, two issues should be considered. First, the national operating savings are domestic U.S. consumer monetary savings that occur as a result of market transactions while the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and SCC are performed with different methods that use different time frames for analysis. The national operating cost savings is measured for the lifetime of products shipped in 2016–2045. The SCC values, on the other hand, reflect the present value of future climate-related impacts resulting from the emission of one ton of CO_2 in each year. These impacts continue well beyond 2100.

Table V–24 shows the annualized values for the proposed standards for microwave oven standby mode and off mode energy use. The results for the primary estimate are as follows. Using a 7-percent discount rate for benefits and costs other than CO_2 reductions, for which DOE used a 3-percent discount rate along with the SCC series corresponding to a value of $41.1/ton in 2011, the cost of the standards proposed in today's rule is $58.4 million per year in increased product costs, while the annualized benefits are $174 million in reduced product operating costs, $58.4 million in CO_2 reductions, and $1.64 million in reduced NO_X emissions. In this case, the net benefit amounts to $175 million per year. Using a 3-percent discount rate for all benefits and costs and the SCC series corresponding to a value of $41.1/ton in 2011, the cost of the standards proposed in today's rule is $66.4 million per year in increased product costs, while the annualized benefits are $234 million in reduced operating costs, $58.4 million in CO_2 reductions, and $2.20 million in reduced NO_X emissions. In this case, the net benefit amounts to $228 million per year. The monetary value of the CO_2 emissions reductions using the previous (2010) SCC estimates, and the net benefits using those estimates, is presented for information purposes in Table V.24.

TABLE V–24—ANNUALIZED BENEFITS AND COSTS OF AMENDED STANDARDS (TSL 3) FOR MICROWAVE OVENS SOLD IN 2016–2045

	Discount rate	Primary estimate *	Low net benefits estimate	High net benefits estimate
		(Million 2011$/year)	*(Million 2011$/year)*	*(Million 2011$/year)*
Benefits				
Operating Cost Savings	7%	174	162	191
	3%	234	215	261
Using 2013 Social Cost of Carbon Values				
CO_2 Reduction ($12.6/t case) **	5%	15.8	14.7	17.4
CO_2 Reduction ($41.1/t case) **	3%	58.4	54.1	64.5
CO_2 Reduction ($63.2/t case) **	2.5%	87.4	80.9	96.7
CO_2 Reduction ($119/t case) **	3%	179	166	198
Total Benefits†	7% plus CO_2 range	191 to 354	178 to 329	210 to 391
	7%	234	218	258
	3%	294	271	328
	3% plus CO_2 range	252 to 415	232 to 383	281 to 462
Using 2010 Social Cost of Carbon Values				
CO_2 Reduction ($6.2/t case) ***	5%	9.29	8.62	17.4
CO_2 Reduction ($25.6/t case) ***	3%	36.7	34.0	40.6
CO_2 Reduction ($41.1/t case) ***	2.5%	57.9	53.6	64.1
CO_2 Reduction ($78.4/t case) ***	3%	111.8	103.5	123.6
NO_X Reduction at $2,567/ton **	7%	1.64	1.54	1.79
	3%	2.20	2.05	2.42
Total Benefits†	7% plus CO_2 range	185 to 287	172 to 267	203 to 317

[42] DOE used a two-step calculation process to convert the time-series of costs and benefits into annualized values. First, DOE calculated a present value in 2011, the year used for discounting the NPV of total consumer costs and savings, for the time-series of costs and benefits using discount rates of 3 and 7 percent for all costs and benefits except for the value of CO_2 reductions. For the latter, DOE used a range of discount rates, as shown in Table V–24. From the present value, DOE then calculated the fixed annual payment over a 30-year period, starting in 2011 that yields the same present value. The fixed annual payment is the annualized value. Although DOE calculated annualized values, this does not imply that the time-series of cost and benefits from which the annualized values were determined would be a steady stream of payments.

TABLE V–24—ANNUALIZED BENEFITS AND COSTS OF AMENDED STANDARDS (TSL 3) FOR MICROWAVE OVENS SOLD IN 2016–2045—Continued

	Discount rate	Primary estimate *	Low net benefits estimate	High net benefits estimate
		(Million 2011$/year)	*(Million 2011$/year)*	*(Million 2011$/year)*
	7%	212	198	234
	3%	273	251	304
	3% plus CO_2 range	245 to 348	226 to 321	274 to 388
Costs				
Incremental Installed Costs	7%	58.4	59.6	57.5
	3%	66.4	67.8	64.3
Net Benefits (using 2013 SCC values)				
Total†	7% plus CO_2 range	133 to 296	119 to 270	153 to 334
	7%	175	158	200
	3%	228	203	264
	3% plus CO_2 range	185 to 349	164 to 315	217 to 398
Net Benefits (using 2010 SCC values)				
Total††	7% plus CO_2 range	126 to 229	113 to 208	146 to 259
	7%	154	138	176
	3%	206	183	240
	3% plus CO_2 range	179 to 281	158 to 253	210 to 323

* This table presents the annualized costs and benefits associated with microwave ovens shipped in 2016–2045. These results include benefits to consumers which accrue after 2016 from the microwave ovens purchased from 2016–2045. Costs incurred by manufacturers, some of which may be incurred prior to 2016 in preparation for the rule, are not directly included, but are indirectly included as part of incremental equipment costs. The Primary, Low Benefits, and High Benefits Estimates utilize projections of energy prices and housing starts from the *AEO 2012* Reference case, Low Estimate, and High Estimate, respectively. In addition, incremental product costs reflect a medium decline rate for product prices in the Primary Estimate, constant product price in the Low Benefits Estimate, and a high decline rate for product prices in the High Benefits Estimate. The methods used to derive projected price trends are explained in section 0 of this rulemaking.

** The CO_2 values represent global monetized values of the SCC, in 2011$, in 2016 under several scenarios. The values of $12.6, $41.1, and $63.2 per metric ton are the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The value of $119/t represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series increase over time. The value for NO_X (in 2011$) is the average of the low and high values used in DOE's analysis.

*** The CO_2 values represent global monetized values of the SCC, in 2011$, in 2016 under several scenarios. The values of $6.2, $25.6, and $41.1 per metric ton are the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The value of $78.4/t represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series increase over time. The value for NO_X (in 2011$) is the average of the low and high values used in DOE's analysis.

† Total Benefits for both the 3-percent and 7-percent cases are derived using the series corresponding to SCC value of $41.1/t in 2016. In the rows labeled "7% plus CO_2 range" and "3% plus CO_2 range," the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

†† Total Benefits for both the 3-percent and 7-percent cases are derived using the series corresponding to SCC value of $25.6/t in 2016. In the rows labeled "7% plus CO_2 range" and "3% plus CO_2 range," the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

VI. Additional Technical Corrections to 10 CFR 430.32

In the February 2012 SNOPR, DOE also proposed the following technical corrections to the language contained in 10 CFR 430.32. DOE noted that 10 CFR 430.32, "Energy and water conservation standards and their effective dates" contains dates required for compliance with energy and water conservation standards rather than the effective dates of such standards. As a result, DOE proposed in the February 2012 SNOPR to revise the title of 10 CFR 430.32 to read "Energy and water conservation standards and their compliance dates." DOE also noted that the current energy conservation standards for cooking products found at 10 CFR 430.32(j)(1)–(2) should be revised to more accurately reflect the date required for compliance with energy conservation standards. DOE proposed to revise the language in 10 CFR 430.32(j)(1)–(2) to state that products manufactured on or after the compliance date must meet the required energy conservation standard. 77 FR 8526, 8569 (Feb. 14, 2012).

AHAM and GE supported the proposed amendment to the title of 10 CFR 430.32 to clarify that these are compliance dates rather than effective dates, and the proposed revision to 10 CFR 430.32(j)(1)–(2) to state that products manufactured on or after the compliance date must meet the required energy conservation standards. AHAM and GE further requested that DOE clarify that products manufactured before the compliance date may continue to be sold after the compliance date. (AHAM, No. 16 at p. 4; GE, No. 19 at p. 1) DOE also received a comment from a private citizen requesting that DOE clarify the compliance date for new microwave oven standby power

standards. (Private Citizen, No. 10 at p. 7)

For clarity, DOE revises in today's final rule the title of 10 CFR 430.32 and amends 10 CFR 430.32(j)(1)–(2) as proposed in the February 2012 SNOPR. In the new energy conservation standards that will be codified at 10 CFR 430.32(j)(3), DOE specifies the maximum standby power consumption for microwave ovens manufactured on or after June 17, 2016. These new standards do not apply to any microwave oven manufactured before that compliance date.

VII. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Section 1(b)(1) of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), requires each agency to identify the problem that it intends to address, including, where applicable, the failures of private markets or public institutions that warrant new agency action, as well as to assess the significance of that problem. The problems that today's standards address are as follows:

(1) There is a lack of consumer information and/or information processing capability about energy efficiency opportunities in the home appliance market.

(2) There is asymmetric information (one party to a transaction has more and better information than the other) and/or high transactions costs (costs of gathering information and effecting exchanges of goods and services).

(3) There are external benefits resulting from improved energy efficiency of microwave ovens that are not captured by the users of such equipment. These benefits include externalities related to environmental protection and energy security that are not reflected in energy prices, such as reduced emissions of greenhouse gases.

In addition, DOE has determined that today's regulatory action is an ''economically significant regulatory action'' under section 3(f)(1) of Executive Order 12866. Accordingly, section 6(a)(3) of the Executive Order requires that DOE prepare a regulatory impact analysis (RIA) on today's rule and that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) review this rule. DOE presented to OIRA for review the draft rule and other documents prepared for this rulemaking, including the RIA, and has included these documents in the rulemaking record. The assessments prepared pursuant to Executive Order 12866 can be found in the technical support document for this rulemaking.

DOE has also reviewed this regulation pursuant to Executive Order 13563, issued on January 18, 2011 (76 FR 3281 (Jan. 21, 2011)). EO 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, agencies are required by Executive Order 13563 to: (1) Propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

DOE emphasizes as well that Executive Order 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, DOE determines that today's final rule is consistent with these principles, including the requirement that, to the extent permitted by law, benefits justify costs and that net benefits are maximized.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of a regulatory flexibility analysis (RFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site (*www.gc.doe.gov*).

For manufacturers of microwave ovens, the Small Business Administration (SBA) has set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. 65 FR 30836, 30848 (May 15, 2000), as amended at 65 FR 53533, 53544 (Sept. 5, 2000) and codified at 13 CFR part 121.The size standards are listed by North American Industry Classification System (NAICS) code and industry description and are available at *http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf*. Microwave oven manufacturing is classified under NAICS 335221, ''Household Cooking Appliance Manufacturing.'' The SBA sets a threshold of 750 employees or less for an entity to be considered as a small business for this category.

DOE surveyed the AHAM member directory to identify manufacturers of microwave ovens. In addition, DOE asked interested parties and AHAM representatives within the microwave oven industry if they were aware of any small business manufacturers. DOE consulted publicly available data, purchased company reports from sources such as Dun & Bradstreet, and contacted manufacturers, where needed, to determine if they meet the SBA's definition of a small business manufacturing facility and have their manufacturing facilities located within the United States. Based on this analysis, DOE determined that the microwave oven industry consists of seven manufacturers that have a market share greater than 3 percent. Most are large, foreign companies that import microwave ovens into the United States. There are U.S. facilities that partly assemble microwave ovens, but none of these are small businesses. DOE estimates that there is one small business which manufactures a product which combines a microwave oven with other appliance functionality. However,

because DOE is not amending energy conservation standards at this time for the microwave oven portion of such combined products, DOE certifies that today's final rule would not have a significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE will transmit the certification and 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

Manufacturers of microwave ovens 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 procedure for microwave ovens, 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 microwave ovens. (76 FR 12422 (Mar. 7, 2011). The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act (NEPA) of 1969, DOE has determined that the rule fits within the category of actions included in Categorical Exclusion (CX) B5.1 and otherwise meets the requirements for application of a CX. See 10 CFR Part 1021, App. B, B5.1(b); 1021.410(b) and Appendix B, B(1)–(5). The rule fits within the category of actions because it is a rulemaking that establishes energy conservation standards for consumer products or industrial equipment, and for which none of the exceptions identified in CX B5.1(b) apply. Therefore, DOE has made a CX determination for this rulemaking, and DOE does not need to prepare an Environmental Assessment or Environmental Impact Statement for this rule. DOE's CX determination for this rule is available at *http://cxnepa.energy.gov/.*

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism.'' 64 FR 43255 (Aug. 10, 1999) imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of today's final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For an amended regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *www.gc.doe.gov*.

DOE has concluded that this final rule would likely require expenditures of $100 million or more on the private sector. Such expenditures may include: (1) investment in research and development and in capital expenditures by microwave oven manufacturers in the years between the final rule and the compliance date for the new standards, and (2) incremental additional expenditures by consumers

to purchase higher-efficiency microwave ovens, starting at the compliance date for the applicable standard.

Section 202 of UMRA authorizes a Federal agency to respond to the content requirements of UMRA in any other statement or analysis that accompanies the final rule. 2 U.S.C. 1532(c). The content requirements of section 202(b) of UMRA relevant to a private sector mandate substantially overlap the economic analysis requirements that apply under section 325(o) of EPCA and Executive Order 12866. The **SUPPLEMENTARY INFORMATION** section of the notice of final rulemaking and the ''Regulatory Impact Analysis'' section of the TSD for this final rule respond to those requirements.

Under section 205 of UMRA, the Department is obligated to identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a written statement under section 202 is required. 2 U.S.C. 1535(a). DOE is required to select from those alternatives the most cost-effective and least burdensome alternative that achieves the objectives of the rule unless DOE publishes an explanation for doing otherwise, or the selection of such an alternative is inconsistent with law. As required by 42 U.S.C. 6295(h), today's final rule would establish energy conservation standards for microwave ovens that are designed to achieve the maximum improvement in energy efficiency that DOE has determined to be both technologically feasible and economically justified. A full discussion of the alternatives considered by DOE is presented in the ''Regulatory Impact Analysis'' section of the TSD for today's final rule.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (Mar. 18, 1988), that this regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed today's 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 OIRA at OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has concluded that today's regulatory action, which sets forth energy conservation standards for microwave oven standby mode and off mode, is not a significant energy action because the amended standards are not likely to have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects on the final rule.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (the Bulletin). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions. 70 FR 2667.

In response to OMB's Bulletin, DOE conducted formal in-progress peer reviews of the energy conservation standards development process and analyses and has prepared a Peer Review Report pertaining to the energy conservation standards rulemaking analyses. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. The ''Energy Conservation Standards Rulemaking Peer Review Report'' dated February 2007 has been disseminated and is available at the following Web site: *www1.eere.energy.gov/buildings/appliance_standards/peer_review.html*.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is a ''major rule'' as defined by 5 U.S.C. 804(2).

VIII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of today's final rule.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Reporting and recordkeeping requirements.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Reporting and recordkeeping requirements, and Small businesses.

Issued in Washington, DC, on May 31, 2013.

David T. Danielson,

Assistant Secretary of Energy, Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE amends parts 429 and 430, of Chapter II of title 10 of the Code of Federal Regulations, as set forth below.

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. In § 429.23 revise paragraph (b)(2) to read as follows:

§ 429.23 Conventional cooking tops, conventional ovens, microwave ovens.

* * * * *

(b) * * *

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information: For conventional cooking tops and conventional ovens: the type of pilot light and a declaration that the manufacturer has incorporated the applicable design requirements. For microwave ovens, the average standby power in watts.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 3. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 4. In § 430.23 add paragraph (i)(3) to read as follows:

§ 430.23 Test procedures for the measurement of energy and water consumption.

* * * * *

(i) * * *

(3) The standby power for microwave ovens shall be determined according to 3.2.3 of appendix I to this subpart. The standby power shall be rounded off to the nearest 0.1 watt.

* * * * *

■ 5. In § 430.32 revise the section heading and paragraph (j) to read as follows:

§ 430.32 Energy and water conservation standards and their compliance dates.

* * * * *

(j) *Cooking Products* (1) Gas cooking products with an electrical supply cord manufactured on or after January 1, 1990, shall not be equipped with a constant burning pilot light.

(2) Gas cooking products without an electrical supply cord manufactured on or after April 9, 2012, shall not be equipped with a constant burning pilot light.

(3) Microwave-only ovens and countertop convection microwave ovens manufactured on or after June 17, 2016 shall have an average standby power not more than 1.0 watt. Built-in and over-the-range convection microwave ovens manufactured on or after June 17, 2016 shall have an average standby power not more than 2.2 watts.

* * * * *

[FR Doc. 2013–13535 Filed 6–14–13; 8:45 am]

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Part IV

Environmental Protection Agency

40 CFR Parts 85, 86, 1036, et al.

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Parts 523 and 535

Heavy-Duty Engine and Vehicle, and Nonroad Technical Amendments; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 85, 86, 1036, 1037, 1039, 1042, 1048, 1054, 1065, 1066, 1068

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 523 and 535

[EPA–HQ–OAR–2012–0102; NHTSA–2012–0152; FRL 9772–3]

RIN 2060–AR48; 2127–AL31

Heavy-Duty Engine and Vehicle, and Nonroad Technical Amendments

AGENCIES: Environmental Protection Agency (EPA) and National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Direct final rule.

SUMMARY: EPA and NHTSA, on behalf of the Department of Transportation, are each adopting corrections to provisions in our respective Medium- and Heavy-Duty Greenhouse Gas Emissions and Fuel Efficiency final rule issued on September 15, 2011. These amendments eliminate duplicative reporting requirements, reduce inadvertent minor differences between the EPA and NHTSA programs regarding such matters as voluntary early model year compliance, better align testing procedures to market realities, and reduce unnecessary testing burdens. This action also separately amends several regulations exclusive to EPA by: adjusting the provisions of the replacement engine exemption, expanding EPA's discretion to allow greater flexibility under the Transition Program for Equipment Manufacturers related to the Tier 4 standards for nonroad diesel engines, specifying multiple versions of the applicable SAE standard for demonstrating that fuel lines for nonroad spark-ignition engines above 19 kilowatts meet permeation requirements, and allowing for the use of the ethanol-based test fuel specified by the California Air Resources Board for nonroad spark-ignition engines at or below 19 kilowatts. Some of the individual EPA-only provisions of this action may have minor impacts on the costs and emission reductions of the underlying regulatory programs amended in this action, though in most cases these are simple technical amendments. For those provisions that may have a minor impact on the costs or benefits of the amended regulatory program, any potential impacts would be small and we have not attempted to quantify the potential changes.

DATES: These rules are effective on August 16, 2013 without further notice, unless EPA or NHTSA receives adverse comment. If we receive relevant adverse comment on distinct elements of this rule by July 17, 2013, we will publish a timely withdrawal in the **Federal Register** indicating which provisions we are withdrawing. The provisions that are not withdrawn will become effective on August 16, 2013 notwithstanding adverse comment on any other provision.

The incorporation by reference of certain publications listed in this regulation is approved by the Director of the Federal Register as of August 16, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. NHTSA–2012–0152 and/or EPA–HQ–OAR–2012–0102, by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov*
- *Fax:* NHTSA: (202) 493–2251; EPA: (202) 566–9744.
- *Mail:*

NHTSA: Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

EPA: Air and Radiation Docket and Information Center, Environmental Protection Agency, Air Docket, Mail-code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

1. *Hand Delivery:*

NHTSA: West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal Holidays.

EPA: EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC, Attention Docket ID No. EPA–HQ–OAR–2012–0102. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. NHTSA–2012–0152 and/or EPA–HQ–OAR–2012–0102. See the **SUPPLEMENTARY INFORMATION** section on ''Public Participation'' for additional instructions on submitting written comments.

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

NHTSA: Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Management Facility is open between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

EPA: EPA Docket Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Lily Smith, Office of Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone: (202) 366–2992. Angela Cullen, Environmental Protection Agency, Office of Transportation and Air Quality, Assessment and Standards Division, 2000 Traverwood Drive, Ann Arbor, Michigan 48105; telephone number: 734–214–4419; email address: *cullen.angela@epa.gov*.

SUPPLEMENTARY INFORMATION:

A. Why are EPA and NHTSA publishing a direct final rule?

The agencies have found that prior notice and comment is unnecessary for this action because it consists of minor amendments made for the following types of reasons: to eliminate duplicative reporting requirements, reduce inadvertent minor differences between the EPA and NHTSA programs regarding such matters as voluntary early model year compliance, better align testing procedures to market realities, reduce unnecessary testing burdens, and correct clear technical errors. As these amendments are not expected to be controversial or to result in adverse comment, the agencies believe that this action falls under the ''good cause'' exception to the Administrative Procedure Act

requirement for prior notice and comment.[1]

If no adverse comments are received within thirty days of publication, this rule will become effective as stated in the **DATES** section. In that case, approximately 30 days before the effective date, the agencies will publish a document in the **Federal Register** stating that no adverse comments were received and confirming that this rule will become effective as scheduled. The agencies would not consider frivolous or irrelevant comments to be adverse. The agencies would also not consider a comment recommending additional actions or changes to be adverse, unless the comment also states why the direct final rule would be ineffective without the additional action or change.

If adverse comments are received to any part of this rule, that part will be withdrawn by publishing a timely notice in the **Federal Register** indicating which provisions are being withdrawn. The provisions that are not withdrawn will become effective on the date set out above, notwithstanding adverse comment on any other provision.

If either or both agencies receive adverse comment to this rule, they will rely upon the agency-specific processes as follows, after the provision is withdrawn. If an adverse comment applies to a NHTSA provision of this rule, NHTSA will issue a notice of proposed rulemaking (NPRM) and provide another opportunity to comment. If EPA receives an adverse comment or a request for public hearing on a distinct EPA provision of this rulemaking, the related NPRM[2] published in the ''Proposed Rules'' section of today's **Federal Register** will serve as the proposed rule to adopt the EPA provisions. If a public hearing is held on any provision that affects both agencies' regulations, both agencies will participate. EPA does not plan to institute a second comment period on this action. Any parties interested in commenting on EPA technical amendments must do so at this time. EPA would address all public comments in a subsequent final rule.

We request that commenters identify in their comments any portions of the action with which they agree and support as written, in addition to any comments regarding provisions with which they disagree. In this way, the agencies will be able to adopt those elements of this action that are fully supported and most needed today while properly considering and addressing any adverse comments through a ''notice and comment'' rulemaking. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

B. Does this action apply to me?

This action affects companies that manufacture, sell, or import into the United States new heavy-duty engines and new Class 2b through 8 vehicles, including combination tractors, school and transit buses, vocational vehicles such as utility service trucks, as well as ¾-ton and 1-ton pickup trucks and vans. The heavy-duty category incorporates all motor vehicles with a gross vehicle weight rating of 8,500 pounds or greater, and the engines that power them, except for medium-duty passenger vehicles already covered by the greenhouse gas emissions standards and corporate average fuel economy standards issued for light-duty model year 2012–2016 vehicles (75 FR at 25324, May 7, 2010).

This action also affects nonroad engine manufacturers.

Regulated categories and entities include the following:

Category	NAICS Code[a]	Examples of potentially affected entities
Industry	336111 336112 333618 336120	Motor Vehicle Manufacturers, Engine and Truck Manufacturers.
Industry	541514 811112 811198	Commercial Importers of Vehicles and Vehicle Components.
Industry	336111 336112 422720 454312 541514 541690 811198 336510	Alternative Fuel Vehicle Converters.
Industry	811310	Engine Repair, Remanufacture, and Maintenance.

Note:
[a] North American Industry Classification System (NAICS).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely covered by these rules. This table lists the types of entities that the agencies are aware may be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your activities are regulated by this action, you should carefully examine the applicability criteria in the referenced regulations. You may direct questions regarding the applicability of this action to the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

C. What should I consider as I prepare my comments?

Comments that are submitted for consideration by one agency should be identified as such, and comments that are submitted for consideration by both agencies should be identified as such. Absent such identification, each agency will exercise its best judgment to determine whether a comment is submitted on its respective part of these rules.

Further instructions for submitting comments to either the EPA or NHTSA docket are described below.

NHTSA: Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the Docket ID No. NHTSA–2012–0152 in your comments. By regulation, your comments must not be more than 15 pages long.[3] NHTSA established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments. If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using the Optical Character Recognition (OCR) process, thus allowing the agencies to search and copy certain portions of your submissions.[4] Please note that pursuant to the Data Quality Act, in order for the substantive data to be relied upon and used by the agencies, it must meet the information quality standards set forth in the Office of Management and Budget (OMB) and Department of Transportation (DOT) Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *http://www.whitehouse.gov/omb/fedreg/reproducible.html*. DOT's guidelines may be accessed at *http://regs.dot.gov*.

EPA: Direct your comments to Docket ID No. EPA–HQ–OAR–2012–0102.

[1] *See* 5 U.S.C. 553(b). The ''good cause'' exception provides that the requirement for prior notice and comment on a proposed action does not apply ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.''

[2] This document contains EPA revisions for heavy-duty engines and vehicles and the EPA provisions for replacement engines.

[3] *See* 49 CFR 553.21.

[4] Optical character recognition (OCR) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

(1) Tips for Preparing Your Comments

When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agencies may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified in the **DATES** section above.

(2) How can I be sure that my comments were received?

NHTSA: If you submit your comments by mail and wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

(3) How do I submit confidential business information?

Any confidential business information (CBI) submitted to one of the agencies will also be available to the other agency.[5] However, as with all public comments, any CBI only needs to be submitted to either one of the agencies' dockets and it will be available to the other. Following are specific instructions for submitting CBI to either agency.

NHTSA: If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be CBI, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**, according the process outlined in 49 CFR part 512. When you send a comment containing CBI, you should include a cover letter setting forth the information specified in our CBI regulation. In addition, you should submit a copy from which you have deleted the claimed CBI to the Docket by one of the methods set forth above.

EPA: Do not submit CBI to EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI 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.

(4) Will the agencies consider late comments?

NHTSA and EPA will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent practicable, we will also consider comments received after that date. If interested persons believe that any new information the agency places in the docket affects their comments, they may submit comments after the closing date concerning how the agency should consider that information for the final rules. However, the agencies' ability to consider any such late comments in this rulemaking will be limited due to the time frame for issuing the final rules.

If a comment is received too late for us to practicably consider in developing the final rules, we will consider that comment as an informal suggestion for future rulemaking action.

(5) How can I read the comments submitted by other people?

You may read the materials placed in the dockets for this document (*e.g.,* the comments submitted in response to this document by other interested persons) at any time by going to *http://www.regulations.gov*. Follow the online instructions for accessing the dockets. You may also read the materials at the NHTSA Docket Management Facility or the EPA Docket Center by going to the street addresses given above under **ADDRESSES**.

I. Technical Amendments to the Heavy-Duty Engine and Vehicle Greenhouse Gas and Fuel Efficiency Standards Rules

EPA and NHTSA developed the first-ever program to reduce greenhouse gas (GHG) emissions and fuel consumption in the heavy-duty (HD) highway vehicle sector. The rulemaking was developed as a single, national program with both EPA and NHTSA promulgating complementary standards that allow manufacturers to build one set of vehicles to comply with both agencies' regulations. This broad heavy-duty sector—ranging from large pickups to sleeper-cab tractors—together represent the second largest contributor to oil consumption and GHG emissions from the mobile source sector, after light-duty passenger cars and trucks. The final rule was published in the **Federal Register** on September 15, 2011 (76 FR 57106).

[5] This statement constitutes notice to commenters pursuant to 40 CFR 2.209(c) that EPA will share confidential business information received with NHTSA unless commenters expressly specify that they wish to submit their CBI only to EPA and not to both agencies.

A. Background of the HD GHG and Fuel Efficiency Standards and Amendments

EPA's GHG standards and NHTSA's fuel consumption standards apply to manufacturers of the following types of heavy-duty vehicles and their engines:

- Heavy-duty Pickup Trucks and Vans
- Combination Tractors
- Vocational Vehicles

The rules include separate standards for the engines that power combination tractors and vocational vehicles. Certain parts of the program are exclusive to EPA's GHG standards. These include EPA's final hydrofluorocarbon standards to control leakage from air conditioning systems in combination tractors and in pickup trucks and vans. Also exclusive to the EPA rules are standards for nitrous oxide (N_2O) and methane (CH_4) emissions standards that apply to all heavy-duty engines and to pickup trucks and vans.

EPA's final greenhouse gas emission standards for heavy-duty vehicles under the Clean Air Act will begin with model year 2014. NHTSA's final fuel consumption standards under the Energy Independence and Security Act of 2007 will be voluntary in model years 2014 and 2015, becoming mandatory with model year 2016 for most regulatory categories. Both agencies allow manufacturers to comply early in model year 2013 and promote early compliance by providing incentives to do so.

In the final rulemaking, EPA established all-new regulations in 40 CFR parts 1036, 1037, and 1066. EPA also included changes to existing regulations in 40 CFR parts 85, 86, 1039, 1065, and 1068. Similarly, NHTSA modified its existing regulations in 49 CFR parts 523 and 534, and established an all-new regulation in 49 CFR part 535.

After publication of the heavy-duty rule, EPA and NHTSA began an extensive outreach effort to aid in the rule's implementation. EPA and NHTSA held public workshops on November 3, 2011 and August 10, 2012. In the course of these efforts, the agencies received a series of comments on specific aspects of the rules and prepared question and answer responses.[6] In some cases, it became clear that minor changes to the rules would better clarify the rule's intent, or amend the rule to make it more effective. The amendments adopted in this rule are largely based on these implementation discussions.

The revisions related to the heavy-duty GHG emissions and fuel efficiency regulations in this direct final rule generally affect the joint heavy-duty program. Therefore, the agencies are issuing this joint rule to maintain a single, harmonized program. However, some of these technical amendments are unique to the rules of one or the other agency. Thus, this section is further divided into three subsections. First is the set of amendments that directly affect both EPA's and NHTSA's regulations, which are discussed in Section I.B below. Next, the technical amendments exclusive to NHTSA's regulations in 49 CFR parts 523 and 535 are discussed in Section I.C. Finally, EPA's unique amendments in 40 CFR parts 86, 1036, 1037, 1065, and 1066, are discussed in Section I.D.

B. Joint Heavy-Duty GHG and Fuel Efficiency Technical Amendments

The following amendments correct minor, technical inconsistencies and add clarifications in the current regulatory text of both agencies. If adverse comment is received by either agency relative to any aspect of the joint technical amendments that directly affect both EPA's and NHTSA's regulations, then both agencies will withdraw that joint amendment. A comparison of the original and amended regulatory text is provided in a memorandum to the dockets for this rulemaking.[7]

(1) Hybrid Testing

40 CFR 1036.525, 40 CFR 1036.615, and 49 CFR 535.7(e)(1)(ii) specify requirements for testing hybrid engines and engines with Rankine cycle waste heat recovery. The regulatory text includes references for testing ''post-transmission'' and ''pre-transmission'' hybrid systems in these sections. In a pre-transmission hybrid system, the energy from both the engine and motor is input into the drive shaft prior to the transmission. In a post-transmission hybrid system, the engine energy is input into the drive shaft prior to the transmission, but the motor energy is input into the drive shaft after the transmission. Since post-transmission hybrid systems are incompatible with engine testing, the agencies have decided to remove the reference to post-transmissions systems in the hybrid engine test requirements in 40 CFR part 1036 and 49 CFR part 535. 40 CFR 1037.525, 40 CFR 1037.550, 40 CFR 1037.615, and 49 CFR 535.7(e)(1)(i) include requirements for testing post-transmission hybrids using a vehicle test. The agencies anticipate that there will be no impact on manufacturers by the deletion of this text, since the vehicle test procedures set out in the regulation specify how to test post-transmission systems.

Specifically, 40 CFR 1037.525, 40 CFR 1037.550, 40 CFR 1037.615, and 49 CFR 535.7(e)(1)(i) describe or reference the procedure to be used for testing hybrid systems with and without power take-off (PTO) devices on a vehicle test. Both pre- and post-transmission hybrid systems can use, and be tested with and without, PTO devices on a whole vehicle test. The current rule text states that manufacturers can test post-transmission hybrid systems on a whole vehicle test procedure to quantify CO_2 and fuel consumption improvements resulting with and without PTO equipment, but inadvertently excludes pre-transmission hybrid systems. Therefore, agencies are amending the language to allow these pre-transmission hybrid systems with and without PTO to be tested on the vehicle test procedures in 40 CFR 1037.525, 40 CFR 1037.550, and 49 CFR 535.7(e)(1)(i). The agencies believe this is a non-controversial amendment that will allow the existing vehicle test procedure to appropriately apply to existing hybrid systems.

(2) Advanced Technology Improvement Factor

40 CFR 1037.615 and 49 CFR 535.7(e)(1)(i) describe the procedure for measuring CO_2 and fuel consumption improvements from vehicles with hybrid and other advanced technologies (such as Rankine engines, electric vehicles and fuel cell vehicles), in order to generate advanced technology credits.[8] 40 CFR 1037.615 specifies how manufacturers can measure the effectiveness of the advanced system by chassis-testing a vehicle equipped with the advanced system and an equivalent conventional vehicle using the test procedures in 40 CFR part 1037, subpart F.

The effectiveness of the advanced system is calculated by measuring the CO_2 output from chassis tests of the vehicle with the advanced system and an equivalent conventional vehicle, thereby obtaining the relative marginal improvement between the two vehicles (the ''improvement factor''). The ''benefit'' associated with the advanced

[6] See U.S. EPA Web site at *http://www.epa.gov/otaq/climate/regs-heavy-duty.htm.*

[7] Hicks, M. and A. Cullen. Memorandum to Dockets EPA–HQ–OAR–2012–0102 and NHTSA–2012–0152. Heavy-Duty Engine and Vehicle Greenhouse Gas Emissions and Fuel Consumption Regulatory Changes. May 2013.

[8] Advanced technology credits may be increased by a 1.5 multiplier and applied to any heavy-duty vehicle or engine subcategory with certain maximum limits applying. See 40 CFR 1036.740, 1037.740 and 49 CFR 535.7(e) for description of advanced technology credit program.

system is then calculated by multiplying the Greenhouse Gas Emissions Model (GEM) result for the vehicle with advanced technology by the dimensionless improvement factor. The benefit is then converted to advanced technology credits for the model year production volume of the vehicle subfamily with the advanced technology.

The final rule specified the procedure for applying the improvement factor in simulating a chassis test with a post-transmission hybrid system for A to B testing (40 CFR 1037.550) across multiple vehicle configurations having the same advanced technology. However, the regulations for developing the improvement factor using the chassis test procedures (40 CFR 1037.615 and 49 CFR 535.7(e)(1)(i)(A)(*3*)), did not allow the improvement factor to be applied to multiple vehicle configurations having the same advanced technology. The agencies are, therefore, amending the regulatory text that describes the measurement of advanced technology improvement to include this optional specification as well (in effect, carrying over the specification from 40 CFR 1037.550 to 40 CFR 1037.615 and 49 CFR 535.7(e)(1)(i)(A)(*3*)). The hybrid and advanced technology improvement factor can now be applied to multiple vehicle configurations using the same technology, as long as the value used for other configurations ''represents the vehicle configuration with the smallest potential reduction in greenhouse gas emissions as a result of the hybrid capability'' and is consistent with good engineering judgement. The agencies believe that no one will object to these changes.

The agencies are therefore revising 40 CFR 1037.615 and 49 CFR 535.7(e)(1)(i) to allow manufacturers, if they wish, to generate advanced technology credits from multiple heavy-duty vehicle configurations within a vehicle family group by testing a single vehicle of that group, provided the vehicle tested has the smallest potential reduction in fuel consumption of the vehicles with advanced technology capability. The agencies anticipate that this change may reduce testing and reporting costs for manufacturers while still allowing flexibility in choosing to test additional configurations within the family group. By limiting the use of this testing option to vehicles with the smallest potential reduction in emissions (or fuel consumption), fuel efficiency gains and emission reductions will not be compromised. Therefore, the agencies do not expect this change to be controversial.

(3) Optional Certification for Up to Class 6 Spark-Ignition Engine Vehicles

Heavy-duty pickup trucks and vans are pickup trucks and vans with a gross vehicle weight rating between 8,501 pounds and 14,000 pounds (Class 2b through 3 vehicles) manufactured as complete vehicles by a single or final stage manufacturer or manufactured as incomplete vehicles as designated by a manufacturer. Under the GHG rules and fuel efficiency rules, these vehicles are certified on a chassis dynamometer test, as opposed to the GEM simulation tool used to certify the vocational and tractor categories. NHTSA's current regulations allow Classes 4 and 5 spark-ignition vehicles the option of certifying on a chassis dynamometer test and to comply with heavy-duty pickup truck and van standards instead of vocational standards, as those vehicles may have more similar characteristics to Class 2b–3 pickups or vans than they do with other vocational vehicles in their class.[9] At the time of the final rule, NHTSA was unaware of any higher class spark ignition vehicles that would be similarly appropriate to test on a chassis dynamometer. EPA's current regulations allow spark-ignition vehicles of all classes the option of certifying on a chassis dynamometer test and to the standards in 40 CFR 1037.104.[10]

This amendment will align the regulatory texts by closing the current gap in vehicle classes eligible for NHTSA's and EPA's optional certification provisions. The agencies are aware of several Class 4 and 5 vehicles that could benefit from the optional certification path but now have identified one spark-ignition Class 6 vehicle for which the chassis dynamometer test would be appropriate. This vehicle is available in complete and cab-complete configurations. NHTSA has performed an analysis that supports that allowing this testing option up to and including Class 6 vehicles will reduce testing burden without resulting in a credit windfall or otherwise affecting the stringency of the standards.[11] As the agencies are not aware of any spark-ignition vehicles above Class 6, we believe it is appropriate to limit this option to Classes 6 and below. Therefore, the agencies anticipate that this alignment will be non-controversial.

The agencies are therefore allowing manufacturers of complete or cab-complete vehicles up to and including Class 6 vehicles that have spark-ignition engines the option of certifying using the chassis dynamometer test procedures and to the standards of 40 CFR 1037.104. The agencies are revising the requirements in 40 CFR 1037.104, 40 CFR 1037.150, 49 CFR 523.7, and 49 CFR 535.5(a)(6) to reflect this alignment of provisions.

(4) Reporting for Heavy-Duty Pickup Truck and Van Manufacturers

For model years 2013 and later, heavy-duty pickup truck and van (PUV) (i.e., Class 2b–3) manufacturers complying with NHTSA's voluntary and mandatory standards are required to submit two different reports after the end of the model year (49 CFR 535.8(d) and (e)). Manufacturers must submit an end-of-the-year-report (EOY report), including both GHG emissions and fuel consumption information, within 90 days after the end of the given model year and no later than April 1 of the next calendar year. Manufacturers must also submit a final report within 270 days after the end of the given model year and no later than October 1 of the next calendar year. Both EOY and final reports contain the same information, and are used by the agencies to review a manufacturer's final compliance data and to identify which manufacturers have a credit surplus or deficit for the given model year. Thus, NHTSA's final rule regulatory text requires that both a final and an EOY report be submitted from all heavy-duty PUV manufacturers. EPA requires one final report from the heavy-duty PUV manufacturers, specified in 40 CFR 86.1865–12(l)(2). This final report must be submitted no later than May 1 of the calendar year following the given model year.

The final rule preamble discussed the agencies' intent to streamline final reports submitted to the agencies, consolidating the multiple and separate reports as proposed in the NPRM (see 76 FR 57262). However, the agencies believed, and still believe that requiring two reports from manufacturers that have not previously been subject to fuel efficiency regulations will assist in assessing manufacturer compliance and will assist in the identification of any potential issues. That reasoning does not apply to PUV manufacturers, who are already regulated under the light-duty CAFE program and have well-established reporting systems. Further, for this joint national program, the agencies intended that PUV manufacturers would send single combined reports to satisfy the compliance needs of both agencies. The additional report presently required by the NHTSA regulation is inconsistent with this goal.

[9] See 49 CFR 523.7.

[10] See 40 CFR 1037.150(l).

[11] NHTSA. Memorandum to Docket NHTSA–2012–0152. November 2012.

NHTSA is therefore combining the EOY and final reporting requirements for heavy-duty pickup truck and van manufacturers in 49 CFR 535.8(d) and (e). In parallel with the existing EPA regulations, those manufacturers will now only be required to submit a single final report. To supplement the existing reference to the provisions outlining this requirement, EPA and NHTSA are also adding another more specific reference in the regulations to clarify the alignment of the submission date for these reports with that of EOY reports from other heavy-duty vehicle and engine manufacturers (90 days after the end of the given model year and no later than April 1 of the next calendar year). This amendment will harmonize reporting requirements between the two agencies and reduce the compliance burden for manufacturers, without affecting the overall content reported, or the agencies' ability to effectively assess compliance. As such, the agencies do not expect that it will be controversial.

(5) Configuration and Subconfiguration Definitions

The existing EPA and NHTSA regulations contain definitions for ''configuration'' and ''subconfiguration,'' which define how to group vehicles by similar characteristics within a test group when conducting testing to determine CO_2 emissions and fuel consumption rates for heavy-duty pickup trucks and vans. In each agency's regulations, ''configuration'' means a subclassification within a test group that is based on engine code, transmission type and gear ratios, final drive ratio and other parameters that EPA designates. Likewise, ''subconfiguration'' means a unique combination within a vehicle configuration of equivalent test weight, road-load horsepower, and any other operational characteristics or parameters that EPA determines may significantly affect CO_2 emissions within a vehicle configuration.

The agencies believe the current definitions could be specified further according to established principles to prevent any ambiguity for manufacturers in conducting testing for heavy-duty pickup trucks and vans. The terms ''transmission type'' and ''engine code'' can be further defined in the definition for ''configuration,'' to reflect common industry understanding of the terms. In addition, the term ''equivalent test weight'' could be further defined in the definition for ''subconfiguration'' to carryover the existing definition included in 40 CFR 1037.104(d)(11). Therefore, the agencies are adding these further details to clarify these terms in 40 CFR 1037.104(d)(12) and 49 CFR 535.4. As both additions provide clarity to existing concepts, and do not introduce new meanings to the terms, the agencies believe they are non-controversial.

(6) Vocational Tractor Vehicle Families

In the final rule, the regulatory text in 40 CFR 1037.230 related to vocational tractor families is unintentionally ambiguous, and is inconsistent with, the preamble and other regulatory text. In the vocational tractor provisions of 40 CFR 1037.630(b)(2), EPA requires that tractors ''reclassified under this provision must be certified as a separate vehicle family. However, they remain part of the vocational regulatory subcategory and averaging set that applies to their weight class.'' Although 40 CFR 1037.630(b)(2) requires two vocational tractor families dependent on the GVWR of the vehicle, the text in 40 CFR 1037.230(a)(1) implies only a single vocational tractor family default. This inconsistency is the result of an oversight when provisions were added allowing tractors to certify as vocational vehicles, and it is inconsistent with the way vehicle families are treated throughout the program, where they are split by weight class (76 FR at 57240, September 15, 2011). Therefore, EPA is revising 40 CFR 1037.230(a)(1) to be consistent with 40 CFR 1037.630(b)(2) by splitting the vocational vehicles families into two groups, those above 33,000 pounds GVWR and those above 26,000 pounds GVWR and at or below 33,000 pounds GVWR.

NHTSA is adding the same distinction in 49 CFR 535.5(c) to clarify how fuel consumption credits are generated and apply to averaging sets for these vehicles. As these clarifications align with the existing treatment of all vehicle families and the premise of the division of vehicle families, the agencies believe they are non-controversial.

C. NHTSA Regulatory Action on HD Fuel Efficiency Technical Amendments

NHTSA seeks to correct technical errors, clarify requirements, and incorporate requirements that were inadvertently omitted in 49 CFR part 535 in order to align with EPA's current regulatory text. As the following changes merely parallel existing EPA requirements that were more consistent with the intent of the final rule and will not result in additional requirements for manufacturers or in a change in the stringency of the standards, they are not anticipated to be controversial or to result in adverse comment.

A side-by-side comparison of the original and amended regulatory text is provided in a memorandum to the dockets for this rulemaking.[12]

(1) Secondary Manufacturers

Both fuel consumption and greenhouse gas emission standards apply to the manufacturer holding the EPA certificate of conformity. In the EPA regulatory text (40 CFR 1037.620(a) and (b)), a primary manufacturer has the option to transfer an uncertified incomplete tractor or vocational vehicle to a secondary manufacturer to be completed and sold in the United States so long as that secondary manufacturer has substantial control over the final design and completes assembly of the emission controls (ensuring that the engine and vehicle will conform to regulations in their final configurations). By agreement with the primary manufacturer, the secondary manufacturer may finish the assembly of the emission control systems of a partially complete vehicle and perform vehicle testing. In that case, the second stage manufacturer would apply for the vehicle's EPA certificate of conformity.

The current NHTSA regulations do not specify the process by which a secondary stage manufacturer may become an EPA certificate holder, and thus subject to both greenhouse gas emissions and fuel consumption standards. Thus, if someone unfamiliar with the EPA process were to read the NHTSA regulations alone, it would not be clear how a secondary stage manufacturer could become subject to fuel consumption standards. Therefore, NHTSA is modifying its provisions in 49 CFR 535.3(b) and (c) to more clearly include secondary stage manufacturers meeting the EPA requirements in 40 CFR 1037.620 as subject to the fuel consumption standards. NHTSA is also modifying its provisions in 49 CFR 535.7(a) to clarify that either the primary or secondary manufacturer can generate fuel consumption credits for over-compliance and may use one or more of the program flexibilities in gaining credits.

These clarifications will align NHTSA's regulations with EPA's. As the clarifications simplify the path a reader must take to understand how an entity becomes subject to the fuel consumption standards, and do not actually change the application of the standards, NHTSA does not expect this to be controversial.

[12] Hicks, M. and A. Cullen. Memorandum to Dockets EPA–HQ–OAR–2012–0102 and NHTSA–2012–0152. Heavy-Duty Engine and Vehicle Greenhouse Gas Emissions and Fuel Consumption Regulatory Changes. May 2013.

(2) Credit Holders

In the preamble to the final rule, the agencies stated that the NHTSA and EPA flexibility provisions (''ABT'' programs)[13] are essentially identical in structure and function (see 76 FR 57127). The agencies also stated that they intended to allow a manufacturer to offset any credit shortfalls within an averaging set, by using ''banked'' or ''traded'' credits received from another manufacturer. The EPA regulations (40 CFR 1036.701(e) and (h)) allow manufacturers to trade emissions credits generated from engines or vehicles to any purchaser other than manufacturers so long as those parties retire the credits. Likewise, trading is defined as ''the exchange of emission credits between manufacturers, or the transfer of credits to another party to retire them'' (40 CFR 1036.720(a) and 1037.720(a)). The current NHTSA regulations are silent on how parties other than manufacturers can acquire and trade credits.

NHTSA believes that the existing EPA ABT provisions help to maximize the benefits of the standards achieved during this critical initial phase of the program by providing the means for manufacturers to take full advantage of the program flexibility to trade earned credits, while providing a path for this flexibility to result in continued gains in fuel efficiency. In addition, NHTSA did not envision differences between the EPA and NHTSA ABT programs. Therefore, NHTSA is adding requirements to 49 CFR part 535 that parallel EPA's treatment of non-manufacturers in the ABT program. NHTSA is adding a definition in 49 CFR 535.4 for ''credit holder'' and adding requirements in 49 CFR 535.7 to clarify the limitations for non-manufacturers to obtain and trade fuel consumption credits. These additions will complement the EPA requirements in 40 CFR 1036.701(h), 1036.720(a), 1037.701(e), and 1037.720(a), and we do not expect anyone to object to this provision.

(3) Voluntary Compliance

Manufacturers can voluntarily comply early with both the NHTSA and EPA standards for model year (MY) 2013, and with the NHTSA standards through MY 2015 (EPA's standards are mandatory beginning in MY 2014). For MYs 2013 and 2014, EPA provides additional flexibilities and specifications in 40 CFR 1037.150 to incentivize early compliance. NHTSA inadvertently omitted parallel provisions for its early compliance program. As described in the final rule preamble, manufacturers entering the early compliance program for NHTSA must do so ''exactly as implemented'' under EPA's early compliance program (see 76 FR 57245). The purpose of the NHTSA early compliance provisions is to provide incentives for near-term fuel efficiency gains by allowing manufacturers to comply with both programs simultaneously in MYs 2013 and 2014.

EPA provisions in 40 CFR 1037.150(a)(2) limit the number of EPA credits a manufacturer can generate for heavy-duty pickup trucks and vans produced after MY 2013 begins. EPA specifies that for any test groups used to certify these vehicles produced after the start of the model year, a manufacturer may only generate credits for those vehicles that are produced after the last test groups has received an approved certificate by EPA. Therefore, for example, if a manufacturer produces three test groups in an averaging set and it receives certificates for those test groups on January 4, 2013, March 15, 2013, and April 24, 2013, it may not generate credits for its MY 2013 production for any of the vehicles that are produced before April 24, 2013. The same limitation is provided for production tractors and vocational vehicles (40 CFR 1037.150(a)(1)). NHTSA is proposing to incorporate these provisions into its voluntary compliance sections (49 CFR 535.5(a)(4), (b)(2) and (c)(2)) in order to ensure harmonization between the two programs. Otherwise, manufacturers could gain credits under the NHTSA program that would be excluded by the EPA program.

For MY 2013, EPA provisions allow manufacturers to certify their U.S.-directed production tractors and vocational vehicles within each regulatory subcategory separately (instead of certifying all the vehicles within a regulatory category) as an incentive for early introduction (40 CFR 1037.150(a)(1)). For example, a manufacturer could certify only its medium heavy-duty vocational vehicles in MY 2013 and then certify all of its three vocational vehicle subcategories starting in MY 2014. NHTSA provided parallel provisions in 49 CFR 535.5(b)(2) and (c)(2), but the current regulatory text would require manufacturers to comply with all the vehicles within each regulatory category. Thus, in this example, the vocational vehicle manufacturer would have to certify all of its U.S.-directed production vehicles in MY 2013 for NHTSA whereas it would only have to certify its medium heavy-duty vocational vehicles for EPA. The mismatch in certified vehicles under the EPA and NHTSA programs for MY 2013 could cause manufacturers to opt to comply with the EPA standards early, but to not opt into the NHTSA program or could disadvantage a manufacturer under the NHTSA program compared to the EPA program. NHTSA is therefore correcting 49 CFR 535.5(b)(2) and (c)(2) to include the same provisions for regulatory sub-category compliance for MY 2013 as EPA.

The definition of a model year in the final rule allows manufacturers to include vehicles in a given model year that are manufactured after January 1 of the previous calendar year for which the model year is named through December 31 of the corresponding year (see 40 CFR 1037.801 and 49 CFR 535.4). However, compliance with EPA standards for model year 2014 is optional for vehicles manufactured prior to January 1, 2014 (40 CFR 1037.150(g)). Thus, a manufacturer may choose to certify only vehicles produced from January 1, 2014 through December 31, 2014 and exclude model year 2014 vehicles produced between January 1, 2013 and December 31, 2013. NHTSA's requirements for the voluntary MY 2014 do not allow manufacturers this same flexibility. Instead, manufacturers choosing to comply with the NHTSA program in MY 2014 must certify vehicles produced over the entire standard model year period. NHTSA intended that provisions for voluntary early compliance with its program align with the EPA program. NHTSA believes that the MY 2014 EPA provisions are appropriate for that model year, the first mandatory year under the EPA program, particularly because they would lead to the least confusion among manufacturers. Aligning NHTSA's program provisions with EPA's will encourage manufactures to voluntarily opt in to the NHTSA program and enable manufacturers to generate similar credit balances in both programs, as intended. Therefore, NHTSA is modifying 49 CFR 535.5(a)(4), (b)(2) and (c)(2) to incorporate those provisions. As manufacturers typically lock their production plans anywhere from 18 to 24 months in advance of the production model year, they may not be able to bring early MY 2014 production vehicles into compliance with the NHTSA program absent this change.

As these corrections will align the NHTSA early compliance program to the specifications provided in the EPA

[13] NHTSA and EPA flexibilities include: Averaging, banking, and trading (ABT) provisions; early credits; advanced technology credits (including hybrid powertrains); and innovative technology credit provisions.

program, and thus also align the NHTSA program with the intent of harmonization expressed in the preamble, NHTSA does not expect these corrections to be controversial.

(4) Reporting

The final rule preamble specifies that a manufacturer not participating in the ABT program is required to provide an end-of-the-year (EOY) report after each model year. The EPA regulations (40 CFR 1036.250 and 1037.250) require this report to be submitted within 90 days after the calendar year ends. The NHTSA regulations require two reports for non-ABT participating manufacturers, an EOY report containing preliminary final estimates and a final report containing the final data. For this joint national program, the agencies developed their reporting requirements with the intent for manufacturers to send single combined reports to satisfy the compliance requirements of both agencies. The differences in the agencies' reporting requirements do not support this goal. Further, requiring non-ABT manufacturers to submit two reports would create unnecessary burden, as a single report would enable NHTSA to assess compliance for non-ABT manufacturers. Therefore, NHTSA is restructuring its reporting provisions (49 CFR 535.8(d) and (e)) to align with EPA's by clarifying that non-ABT participating manufacturers are only required to provide one report with final data 90 days after the model year.

For vehicle and engine manufacturers participating in the ABT program, EPA and NHTSA require EOY reports to be submitted with preliminary final estimates of compliance information 90 days after the model year ends. NHTSA is adding a clarification in 49 CFR 535.8(d) to specify that these EOY reports for participating manufacturers must contain preliminary data and for non-participating manufacturers must contain finalized data. Likewise, as discussed in Section I.B.4, clarifications will also be added for heavy-duty pickup truck and van manufacturers specifying that the EOY reports must contain finalized data.

NHTSA is also clarifying requirements for submitting information on exempted vehicles for both participating and non-participating manufacturers. In the final rule, NHTSA regulations require manufacturers to provide a plan describing the vehicles exempted as off-road vehicles in the EOY and final reports. EPA regulations require the plan be submitted only in the EOY report with finalized data. NHTSA is modifying its regulations to align with the EPA provisions and will require information on exempted vehicles to be submitted only with the EOY report with finalized data. This single reporting will provide NHTSA with the information needed to assess compliance.

As these clarifications are consistent with the agencies' intent as expressed in the final rule preamble (to consolidate duplicative reporting requirements), and the change will reduce reporting burdens without sacrificing necessary compliance data, NHTSA does not believe that this alignment with be controversial.

(5) Vocational Tractor Compliance

The final rule allows tractors meeting the definition of vocational tractors in 49 CFR 523.2 to comply with requirements for heavy-duty vocational vehicles. However, if a manufacturer is found not to have applied this allowance in good faith in its application for certification, it may not use this compliance path (it must comply instead with the tractor standards). EPA provides the complete requirements for vocational tractors in 40 CFR 1037.630. However, the NHTSA regulations mistakenly reference EPA's vocational tractor provisions as 40 CFR 1037.610 (the regulation for ''vehicles with innovative technologies'') instead of 40 CFR 1037.630. Therefore, NHTSA is correcting the reference specified in 49 CFR 535.5(c)(5).

(6) Fuel Consumption Calculations and Credit Equations

NHTSA is making a minor technical revision to address rounding inconsistencies when converting CO_2 values to equivalent fuel consumption values in the Greenhouse Gas Emissions Model (GEM) simulation tool. The GEM is programmed to use manufacturer-provided vehicle specifications to derive the CO_2 emissions (in grams CO_2 per ton-mile) and fuel consumption performance (in gallons per 1000 ton-miles) of vehicles. Both the CO_2 emissions and fuel consumption values are calculated and rounded to eight decimal places and then round once again in accordance with each agency's regulations. For NHTSA, the equivalent fuel consumption value derived by the GEM must be rounded to the nearest 0.1 gallons per 1000 ton-mile (49 CFR 535.6(b)(3)). For EPA, the CO_2 emissions value must be rounded to the nearest 1 gram of CO_2 per ton-mile (40 CFR 1037.701). The rounding can cause differences in equivalency between the performance results in the EPA and NHTSA programs. For compliance, vehicles are grouped into subfamilies based upon the GEM-derived CO_2 emissions value for the EPA program and the GEM-derived fuel consumption value for the NHTSA program. Rounding can cause differences in how vehicles are grouped in the EPA and NHTSA programs, creating compliance accounting differences that the agencies did not intend. The agencies intended that the same vehicles would be grouped in each subfamily for the EPA program and the NHTSA program. To address the rounding inconsistencies, NHTSA is amending 49 CFR 535.6(b)(3) to clarify that equivalent fuel consumption values in the GEM must be derived from the CO_2 value rounded to the nearest whole number and expressed to the nearest 0.1 gallons per 1000 ton-mile. This change will ensure the same vehicles will be grouped into a single subfamily for compliance under both programs. Hence, the agencies are releasing a revised version of GEM, GEM v2.0.1, with this rulemaking which incorporates this change in conversion methodology.

There is also a typographical error in the equations that are used to determine fuel consumption credits in the NHTSA regulations (49 CFR 535.7). In the existing equations, fuel consumption credits for heavy-duty vehicles and engines are calculated by multiplying by a factor of 10^2 for heavy-duty pickup trucks and vans and for engines, and by a factor of 10^3 for vocational vehicles and tractors. However, the correct factors for multiplication should be 10^{-2} for heavy-duty pickup trucks and vans and for engines and 10^{-3} for vocational vehicle and tractors. These factors ensure the proper conversion and alignment between EPA and NHTSA calculated credits. Therefore, NHTSA is amending its fuel consumption credit equations in 49 CFR 535.7(b)(9), (c)(11) and (d)(11) to reflect the correct factors for multiplication and does not anticipate any objections to this.

(7) Definitions for Incomplete and Complete Heavy-Duty Pickup Trucks and Vans

In the final rule, EPA included separate definitions to describe complete and incomplete vehicles in the vocational vehicle and tractor regulatory subcategories and for vehicles in the heavy-duty pickup truck and van subcategory. NHTSA included the same definitions for incomplete and complete vocational vehicle and tractors in its regulations but omitted the ones for pickup trucks and vans. Therefore, NHTSA is adding a reference to the EPA definitions for complete and incomplete pickup trucks and vans in 49 CFR part

523. NHTSA believes these changes are non-controversial as they will simply help to clarify characteristics in the construction of complete and incomplete heavy-duty pickup trucks and vans already existing in EPA's regulations.

(8) Off-Road Exclusion Petitioning Process

EPA and NHTSA requirements specify that heavy-duty off-road vehicles meeting the criteria in 40 CFR 1037.631 and 49 CFR 535.3(g) are exempted without request from vehicle standards, and manufacturers with off-road vehicles not meeting the enumerated criteria may petition for exemption by describing how and why their vehicles should qualify for exclusion (49 CFR 535.8(h)(6)(ii)). While this voluntary process is already described in this provision, NHTSA believes that manufacturers would benefit from additional language highlighting timing considerations should they plan to rely upon such a petition. While a manufacturer may submit a petition at any time, NHTSA recommends that they be submitted early enough in advance of the model year to ensure that a determination can be made by the agencies, and should the vehicles fail to be excluded, the manufacturer has sufficient time to submit and obtain approved certificates of conformity from EPA required prior to first commercial sale. Therefore, NHTSA is adding this recommendation to the existing provision for off-road exemptions in 49 CFR 535.8(a). As this amendment merely highlights existing timing considerations, and does not change any aspect of the process or requirements, NHTSA believes it will be non-controversial.

D. EPA Regulatory Action on HD GHG Amendments

EPA is amending 40 CFR parts 86, 1036, 1037, 1065, and 1066 to correct typographical errors, clarify test procedures and certification procedures, and correct the regulations to make them consistent with the intent expressed in the preamble to the final rules (see 76 FR 57106). If EPA receives adverse comment on a distinct EPA provision in this subsection, then EPA will publish a timely withdrawal in the **Federal Register** indicating which provisions EPA is withdrawing. The provisions that are not withdrawn will become effective on the date set out in the DATES section of this action. EPA would address all public comments in a subsequent final rule based on the EPA-proposed rule accompanying this joint direct final rule.

A comparison of the original and amended regulatory text is provided in a memorandum to the dockets for this rulemaking.[14]

(1) Regulatory Changes to 40 CFR Part 1036

EPA is revising portions of the regulations in 40 CFR part 1036, as described below.

- EPA is revising §§ 1036.5, 1036.150, and 1036.615 to address typographical issues to correct regulatory citations within the regulations.
- EPA is correcting § 1036.150(g)(2) and (g)(3) to change the assigned additive deterioration factor (DF) for nitrous oxide (N_2O) and methane (CH_4) emissions from 0.02 to 0.020 g/hp-hr to account for the appropriate number of significant digits.
- EPA is amending § 1036.225 to clarify that the CO_2 FEL is not required on the emission control information (ECI) label according to the provisions in § 1036.135.
- EPA is clarifying that the CH_4 and N_2O emission standards apply to all testable configurations in § 1036.205.
- EPA is adding a definition of ''preliminary approval'' to § 1036.801.

(2) Regulatory Changes to 40 CFR Part 1037

EPA is also revising portions of the regulations in 40 CFR part 1037 to correct technical errors and provide additional clarity in the regulations.

- Heavy-Duty Pickup Truck and Van Regulations: EPA is amending several provisions in §§ 1037.15 and 1037.104 to specify which parts of 40 CFR part 86 apply to these vehicles and to specifically reference portions of 40 CFR part 86 in 40 CFR part 1037. EPA also is revising the language in § 1037.150(a)(2) to make it consistent with the preamble to the final rule which stipulates that the entire heavy-duty pickup truck and van fleet must be certified to qualify for early credits (see 76 FR 57245). Also, EPA is clarifying how heavy-duty pickup truck and van subconfigurations are selected for testing in § 1037.104(d)(9)(i) through (iii). EPA is also revising § 1037.104(g)(2)(ii), (g)(2)(iv), and (g)(5) to clarify the approach for estimating analytically derived CO_2 emission rates (ADCs).
- Air Conditioning (A/C) Leakage Provisions: The MY2017–2025 Light-Duty GHG and Fuel Economy Rule separated 40 CFR 86.1866 into four sections for clarity. The A/C leakage section moved to 40 CFR 86.1867–12. Thus, EPA is amending § 1037.115 to reflect this change. In addition, EPA is revising § 1037.115 because the procedure for determining the hydrofluorocarbon (HFC) leakage rate for air conditioning systems with alternate refrigerants is already addressed in SAE J2727, which is incorporated by reference in 40 CFR 86.1, and therefore does not need to be included in § 1037.115.
- Labeling clarification: EPA is clarifying in § 1037.135 that the emission control label for the vehicle only requires a statement regarding the size of the fuel tank for vehicles that contain an evaporative canister for controlling emissions.
- Typographical fixes: EPA is addressing the typographical errors in § 1037.135 relative to labeling, § 1037.501 related to the trailer specification, and § 1037.520 which includes a weight reduction explanation.
- EPA is clarifying that the general requirements for obtaining a certificate of conformity and EPA's authority to perform confirmatory testing on vehicles, including the vehicles used to determine Falt-aero (see § 1037.201).
- EPA is revising § 1037.550 to change the nomenclature used for the vehicle speed variable from *S* to *v* to be consistent with 40 CFR part 1065. EPA is also removing the torque control option for testing post-transmission hybrid systems because it causes testing issues when the vehicle is shifting and braking. In addition, removing torque control mode from the dynamometer control options reduces lab-to-lab variability.
- EPA is clarifying the regulatory text in § 1037.620(a)(3) to cover instances where the secondary manufacturer who would hold the vehicle GHG certificate may be a small business that is exempted from the GHG regulations.
- EPA is revising § 1037.660 related to the automatic engine shutdown (AES) provisions. § 1037.660(c) currently allows manufacturers to obtain a discounted credit for installing AES systems that expire prior to the end of the vehicle's life based on the ratio of the set point relative to 1,259,000 miles.[15] EPA is not revising that provision, except to change the regulatory provision numbering from § 1037.660(c) to § 1037.660(c)(1). However, similar to the reasons which

[14] Hicks, M. and A. Cullen. Memorandum to Dockets EPA–HQ–OAR–2012–0102 and NHTSA–2012–0152. Heavy-Duty Engine and Vehicle Greenhouse Gas Emissions and Fuel Consumption Regulatory Changes. May 2013.

[15] The basis for the lifetime mileage assumption for heavy-duty tractors is discussed in the Regulatory Impact Analysis for the Final Rule on page 2–69. Available in Docket # EPA–HQ–OAR–2010–0162–3634.

supported the development of vehicle speed limiter flexibilities, an automatic engine shutdown system can be developed to alleviate other potential concerns that impede its adoption. For example, some amount of idling may be needed for truckers who experience significant ambient temperature excursions that would necessitate extended idling or for idle reduction technologies, such as auxiliary power units, that malfunction and necessitate extended idling. A remedy to these concerns would be to design the AES such that it allows for a predetermined number of hours per year of idling. EPA is adding § 1037.660(c)(2) to appropriately quantify the CO_2 emissions and fuel consumption of a partial AES system by discounting the AES input to GEM. EPA is using an assumption of 1,800 hours as the annual idling time in the calculation, which is consistent with the final rule (76 FR 57154). EPA used 1,800 hours as the annual idling time for sleeper cabs because it reasonably reflects the available range of idling time cited in several studies, as discussed in the preamble to the final rule and in the Final Regulatory Impact Analysis (pages 2–67 and 2–68).[16] The 1,800 hours of idling was used in the final rule to determine the credit of 5 grams of CO_2 per ton-mile for the use of AES systems (page 2–68 of the Final Regulatory Impact Analysis). EPA is adding a provision to § 1037.745. This new provision clarifies manufacturers' liability for offsetting debits (or deficit credits) after certifying with emissions above the standards for three years. We want to avoid claims that the statute of limitations starts to apply in the first year of using debits, since this could significantly limit our ability to adequately enforce the requirement. We have generally adopted this approach in other rules that allow debits to be carried forward a given number of model years and are later offset with credits (40 CFR 86.1861–04(e), 86.1864–10(o), and 86.1865–12(k)).

- EPA is adding a definition of ''preliminary approval'' to § 1037.801.
- EPA is revising the ''Regulatory Sub-category'' definitions in § 1037.801 to match the definition of ''Class'' in 40 CFR 1037.801, be consistent with DOT's Gross Vehicle Weight Rating Classes in Table II of 49 CFR 565.15, and aggregate the heavy-duty pickup truck and van sub-category to match the definition in 49 CFR 535.4.

(3) 40 CFR Part 1037 Aerodynamic Assessment

A vehicle's design impacts the amount of power that is required to move the vehicle down the road. Depending on the vehicle speed, two of the largest impacts on GHG emissions and fuel consumption are aerodynamics and tire rolling resistance. As part of the Heavy-Duty GHG and Fuel Efficiency rule, manufacturers are required to meet vehicle-based GHG emissions and fuel efficiency standards. Compliance with the vehicle standard for combination tractors is determined based on a vehicle simulation tool called the Greenhouse Gas Emissions Model (GEM). Various characteristics of the vehicle are measured and these measurements are used as inputs to the model. These characteristics relate to key technologies appropriate for this subcategory of truck—including aerodynamic features, weight reductions, tire rolling resistance, the presence of idle-reducing technology, and vehicle speed limiters. See generally 76 FR 57135.

The aerodynamic drag of a vehicle is determined by the vehicle's coefficient of drag (Cd), frontal area, air density and speed. As noted in the Heavy-Duty GHG and Fuel Efficiency rule, quantifying truck aerodynamics as an input to the GEM presents technical challenges because of the proliferation of vehicle configurations, the lack of a clearly preferable standardized test method, and subtle variations in measured aerodynamic values among various test procedures. *Id.* at 76 FR 57148–57151. Class 7 and 8 tractor aerodynamics are currently developed by manufacturers using a range of techniques, including wind tunnel testing, computational fluid dynamics, and constant speed tests.

We developed a broad approach that allows manufacturers to use these multiple different test procedures to demonstrate aerodynamic performance of the tractor fleet given that no single test procedure is superior in all aspects to other approaches. Allowing manufacturers to use multiple test procedures and modeling coupled with good engineering judgment to determine aerodynamic performance is consistent with the current approach used in determining representative road load forces for light-duty vehicle testing (40 CFR 86.129–00(e)(1)). However, we also recognize the need for consistency and a level playing field in evaluating aerodynamic performance.

The agencies developed a bin structure to group aerodynamic test results for the proposed rulemaking, and adjusted the method used to determine the bins in the final rule. The agencies, while working with industry, developed an approach for the final rulemaking which identified a reference aerodynamic test method and a procedure to align results from other aerodynamic test procedures with the reference method, an enhanced coastdown procedure. Manufacturers will be able to use any aerodynamic evaluation method in demonstrating a vehicle's aerodynamic performance as long as the method is aligned to the reference method.

As discussed in the final rules, the agencies adopted aerodynamic technology bins which divide the wide spectrum of tractor aerodynamics into five bins (*i.e.,* categories) for high roof tractors (see 76 FR 57149). The first high roof category, Bin I, is designed to represent tractor bodies that prioritize appearance or special duty capabilities over aerodynamics. These Bin I trucks incorporate few, if any, aerodynamic features and may have several features that detract from aerodynamics, such as bug deflectors, custom sunshades, B-pillar exhaust stacks, and others. The second high roof aerodynamics category is Bin II, which roughly represents the aerodynamic performance of the average new tractor sold today. The agencies developed this bin to incorporate conventional tractors that capitalize on a generally aerodynamic shape and avoid classic features which increase drag. High roof tractors within Bin III build on the basic aerodynamics of Bin II tractors with added components to reduce drag in the most significant areas on the tractor, such as integral roof fairings, side extending gap reducers, fuel tank fairings, and streamlined grill/hood/mirrors/bumpers, similar to SmartWay trucks today. The Bin IV aerodynamic category for high roof tractors builds upon the Bin III tractor body with additional aerodynamic treatments such as underbody airflow treatment, down exhaust, and lowered ride height, among other technologies. And finally, Bin V tractors incorporate advanced technologies that are currently in the prototype stage of development, such as advanced gap reduction, rearview cameras to replace mirrors, wheel system streamlining, and advanced body designs.

The agencies developed the aerodynamic drag area, CdA, bin values for the tractor categories based on coastdown testing conducted by EPA using the enhanced coastdown test procedures adopted for the final HD

[16] Regulatory Impact Analysis: Final Rulemaking to Establish Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles. August 2011. Available in Docket # EPA–HQ–OAR–2010–0162–3634.

GHG and Fuel Efficiency rulemaking. EPA tested high roof sleeper cab combination tractors from each of the manufacturers in order to represent the aerodynamic performance that we would expect from a Bin III vehicle. The test results used for the HD GHG and Fuel Efficiency final rule are included in Table II–1 below.[17]

TABLE II–1—TRACTOR CdA VALUES USED IN HD GHG FINAL RULE

Truck	Expected bin	Source	CdA (m^2)
Class 8 High Roof Sleeper Cab			
B–3JM2–2H–TXCR	Bin III	EPA Test Program	6.4
B–3JM2–4N–TXCR	Bin III–IV	EPA Test Program	5.7
B–3JM2–2K–TXCR	Bin III	EPA Test Program	6.3
C–3JM2–1B–TXCR	Bin III	EPA Test Program	6.2
C–3JE2–1F–TXCR	Bin II–III	EPA Test Program	6.7

As part of EPA's quality checks to the enhanced coastdown test program, EPA supplied OEMs with the coastdown test data for their individual trucks. Through post-rulemaking work with one OEM, EPA found an error in the data attributable to a testing contractor. The contractor had entered the same coastdown run twice into the dataset provided to EPA for one of the trucks tested (one of 20 repeat runs was entered twice). As a result the truck appeared to have a CdA value of 5.7, rather than its actual value of 6.6. As such, the data that should have been used to establish the aerodynamic bins for the high roof sleeper cabs are listed in Table II–2.

TABLE II–2—TRACTOR CdA VALUES USED IN THIS DFR

Truck	Expected bin	Source	CdA (m^2)
Class 8 High Roof Sleeper Cab			
B–3JM2–2H–TXCR	Bin III	EPA Test Program	6.4
B–3JM2–4N–TXCR	Bin III	EPA Test Program	6.6
B–3JM2–2K–TXCR	Bin III	EPA Test Program	6.3
C–3JM2–1B–TXCR	Bin III–IV	EPA Test Program	6.2
C–3JE2–1F–TXCR	Bin II–III	EPA Test Program	6.7

Since the coastdown test is an input into the aerodynamic bins, EPA is correcting the CdA range for the affected bin levels. The adjustment to the ranges will allow Bin III, which represents a SmartWay truck, to still mean exactly what was intended in the HD GHG and Fuel Efficiency final rule. The Bins IV and V adjustments will require the same level of improvement we expected in the HD GHG and Fuel Efficiency final rule. This amendment is a correction, so will not change the standards or the costs or projected emissions reductions. The HD GHG and Fuel Efficiency rulemaking estimates of technology costs and the resulting aerodynamic efficiency improvements were made separately from the test procedure normalization reflected in the bin tables. Those cost and technical feasibility assessments set the absolute values of the steps in the table, where the testing results of the five tractors in Table II–2 set the range of Bin III against which the rest of the aerodynamic bins are defined. Since EPA is not changing either the technical descriptions of the bins or the estimates of the aerodynamic loss or benefits in moving between bins in the table, EPA is estimating no change in HD GHG and Fuel Efficiency final rulemaking costs or benefits. EPA is also not changing the input into GEM related to each aerodynamic bin; therefore, this change has no impact on the GHG or on fuel consumption standards.

EPA is making the adjustments shown in Table II–3 to correct the technical error in the coastdown data used in the HD GHG and Fuel Efficiency final rule. Manufacturers will use these corrected aerodynamic bin levels in their end of year reports for all 2013 MY and later tractors.

TABLE II–3—REVISED TABLE IN § 1037.520(b)

High-Roof Sleeper Cabs		
If your measured C_DA (m^2) is . . .	Then your Bin Level is . . .	Then your C_D input is . . .
≥ 7.6	Bin I	0.75
6.8–7.5	Bin II	0.68
6.3–6.7	Bin III	0.60
5.6–6.2	Bin IV	0.52
≤5.5	Bin V	0.47

(4) Regulatory Changes to 40 CFR Parts 1065 and 1066

EPA is restoring text to § 1065.610(c)(3)(i) through (iii) which was inadvertently removed in the final rule adopting standards for Category 3 marine diesel engines (75 FR 22896, April 30, 2010). This text was most recently published in the final rule adopting standards for locomotive engines and Category 1 and Category 2 marine diesel engines (73 FR 37325, June 30, 2008).

EPA is also revising portions of the regulations in 40 CFR part 1066 to clarify test procedures. Specifically, § 1066.310(b) is revised to clarify the coastdown process and simplify the anemometer calibration process.

(5) Regulatory Changes to 40 CFR Part 85

EPA is revising § 85.525 to separate the light-duty and heavy-duty fuel conversion regulations to provide clarity regarding the applicability of the fuel conversion regulations to heavy-duty pickup trucks and vans.

[17] U.S. EPA and NHTSA. Final Rulemaking to Establish Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Regulatory Impact Analysis. August 2011. Page 2–48.

(6) Regulatory Changes to 40 CFR Part 86

EPA is also revising portions of the regulations in 40 CFR part 86. First, EPA is revising § 86.010–18(q) to provide a mechanism for engine manufacturers to identify engines which are only suitable for installation in hybrid applications due to the on-board diagnostics (OBD) calibration. Manufacturers who opt to produce a unique set of engines for hybrid applications will include a compliance statement on the ECI label that states ''for use in hybrid applications only.''

Second, EPA is revising portions of § 86.1865–12 to clarify the provisions that specifically apply to the heavy-duty pickup trucks and vans subject to 40 CFR 1037.104.

Third, EPA is removing §§ 86.007–23(n) and 86.1844–01(j), which describe how to report CO_2, N_2O, and CH_4 emissions. There is no need or benefit for manufacturers to submit greenhouse gas emission data in the model years before emission standards apply for those pollutants.

(7) Summary of Heavy-Duty GHG Amendments

EPA does not expect that these minor revisions to 40 CFR parts 85, 86, 1036, 1037, 1065, and 1066 will have any adverse cost impact to the manufacturers. There are no testing costs associated with the revisions. There is no environmental impact associated with this regulatory action because this rulemaking does not change the heavy-duty engine and vehicle greenhouse gas emission standards that manufacturers have to meet; it simply makes some minor amendments to the regulations.

II. EPA Technical Amendments

A. Replacement Engines

In 1996, EPA adopted a provision allowing manufacturers in limited circumstances to produce new, exempt engines for replacing failed engines (61 FR 58102, November 12, 1996). With this approach, manufacturers have been able to make new, exempt engines in cases where engines certified to current standards do not have the physical or performance characteristics needed to power the equipment with the old engine. Without this provision, some equipment owners would have been forced to prematurely scrap otherwise working equipment (sometimes worth millions of dollars), because no engine meeting current emission standards could be adapted for installation in the space occupied by the original engine.

EPA later added language to the replacement engine exemption to address the complications related to producing partially complete engines for replacement purposes, and to address the need to produce and sell replacement engines such that they would be available to operators with a critical need to avoid extended downtime in the case of engine failure (73 FR 59034, October 8, 2008). This expanded approach allowed manufacturers to sell a limited number of new, exempt replacement engines without taking the steps that would otherwise be required to document the need for the exemption and to arrange for the proper disposition of the old engine. Along with this expanded approach, EPA added circumvention language to describe the overall purpose of the replacement engine exemption in an attempt to prevent manufacturers and operators from using exempted engines in ways that were unnecessary and/or detrimental to the environment. In particular, this text states that the provisions § 1068.240 are ''intended to allow for replacement of engines that fail prematurely . . .'' This language has been interpreted to mean that replacement engines may be used for no other purpose.

Since then, EPA has found that the circumvention language has had some unintended consequences. For example, California has adopted requirements for operators to reduce emissions from in-use equipment, which has led to a desire to install new replacement engines that are cleaner than the old engines. It is often the case that it is infeasible or impractical to install replacement engines certified to current standards, but suitable replacement engines designed to meet an intermediate level of emission standards are available. The circumvention language may prevent operators in California from achieving overall emission reductions that would result from upgrading their existing equipment with cleaner engines in this manner. It may also be the case that an engine will simply wear out, rather than experiencing premature failure, well before the equipment in which it is installed is at the end of its life. Under the current regulation, an operator under these circumstances would need to install a new engine certified to current standards, or find a used engine, to keep the equipment operating.

EPA continues to believe that new, exempt replacement engines should only be used in cases where a currently certified engine cannot practically be installed to power the old equipment. EPA believes the regulatory language without our description of intent to prevent circumvention serves this purpose without the unintended consequences described above. EPA is therefore removing the circumvention provisions from the regulations in § 1068.240. EPA expects manufacturers and operators following the regulations to continue to use the exemption provisions appropriately and not for the purpose of circumventing the emission standards. EPA is adding language to explicitly limit this provision to equipment that has been in service 25 years or less (at the point of installation) so that manufacturers and operators do not use this provision to keep in operation older dirtier, equipment beyond the normal lifetime of the equipment, by continually using new engines to replace old engines. EPA has adopted this same restriction for stationary engines under 40 CFR 60.4210(i), except that the maximum equipment age is 15 years. EPA will continue to monitor compliance with the exemption provisions and will consider any appropriate changes to the regulation in the future to ensure that the exemption is properly used toward this purpose. This 25-year limit does not apply for marine diesel engines, since those engines are subject to separate replacement engine provisions.

The tracked option specified in § 1068.240(b) also includes an additional step to qualify for the replacement engine exemption for equipment not experiencing premature engine failure. In particular, manufacturers would need to make a determination that the replacement engine is designed with the greatest degree of emission control that is available for the particular application. For example, if the engine being replaced was built before the Tier 1 standards started to apply and engines of that size are currently subject to Tier 2 standards, the manufacturer would need to also consider whether it produces any Tier 1 or Tier 2 engines with the appropriate physical and performance characteristics for replacing the old engine. If the manufacturer produces a Tier 1 engine with the appropriate physical and performance characteristics, engines emitting at levels above the Tier 1 standards do not qualify for an exemption. The requirement to use the cleanest available engine fits with the intent of facilitating voluntary incentive programs involving replacement engine upgrades toward the goal of reducing emissions from in-use equipment, but without imposing a requirement that would involve new technology

development or impractical equipment design changes. This provision has already been in place for marine diesel engines in § 1042.615. In the case of equipment experiencing premature engine failure, we will continue to apply the simpler requirement that the replacement engine must meet emission standards that are the same as or better than the standards that apply to the old engine.

EPA is also adjusting the provisions related to the disposition of the old engine in § 1068.240(b). To be re-introduced into U.S. commerce, the old engine must either meet current emission standards or qualify for an exemption as if it were a new engine. The old engine could be re-used as a replacement engine for a different piece of equipment. Under this approach, an engine made from all new parts and an engine built with a used engine block and any mix of new or used additional parts would be treated the same way. For example, the recycled replacement engine would be subject to all the demonstrations and documentation requirements of § 1068.240(b), and it would count toward the allowance to produce a limited number of replacement engines under § 1068.240(c). For engines that are not re-introduced into U.S. commerce, manufacturers must destroy the old engine or confirm that it has been destroyed. These changes will further address the concern expressed in the circumvention language described above; in particular, EPA believes it is necessary to prevent the possibility of these old engines being installed in new equipment.

EPA is also adding some clarification to the regulations to address questions that have arisen, as well as making the following changes:

- Revising the labeling requirements to account for the possibility of using a new replacement engine to replace a previously exempted replacement engine. To the extent that the revised label statement differs from that specified by California ARB, we would expect to approve an adjusted statement that allows for a single, 50-state label under § 1068.201(c).
- Adjusting the reporting deadline for untracked replacement engines under § 1068.240(c). This change would allow manufacturers some time after the end of the calendar year to make the determinations and to take the required steps to fulfill the tracking requirements for replacement engines under § 1068.240(b). Any engines for which these steps and determinations are incomplete by the deadline for the report would need to be counted as untracked replacement engines. Further, to account for prevailing practices and typical timelines for replacement engines, we are moving back the deadline for this report from February 15 to March 31.
- Revising § 1068.240(c)(1) to specify that manufacturers may base sales limits for the untracked option on total U.S. production of certified and exempted engines together (including stationary engines).
- Adding language to clarify that § 1068.240(e) applies only for engines produced under a current, valid certificate. An exemption under § 1068.240(b) or (c) would be required to produce an engine that is identical to one that is no longer certified, even if the engine was formerly certified to standards (or a Family Emission Limits) that are at least as stringent as the current standards.
- Clarifying that the provisions in § 1068.240(d) related to partially complete engines also apply for ''current-tier'' replacement engines exempted under § 1068.240(e).
- Adding a statement to § 1042.615 for marine diesel engines to clarify our pre-determination that certified Tier 4 engines do not have the appropriate physical and performance characteristics for replacing older engines in marine vessels. This policy was established in our June 30, 2008 final rule (see 73 FR 37157).

In addition, we are revising § 1068.1 to correct two errors regarding the applicability of part 1068. First, we are restoring highway motorcycles to the list of categories that are not subject to part 1068. This was added, but then inadvertently removed, when we were completing two parallel rulemakings. Second, we are adding a reference to 40 CFR part 85 to identify how part 1068 applies in certain circumstances for heavy-duty highway engines. These changes are intended to clarify and reinforce existing requirements without modifying the underlying programs in any way.

B. Nonroad Diesel Engine Technical Hardship Program

EPA is amending the nonroad diesel engine technical hardship program to facilitate EPA granting exemptions to address certain hardship circumstances that were not considered when the original 2004 final rule was published. EPA adopted Tier 4 standards for nonroad diesel engines under 40 CFR part 1039 in 2004 (69 FR 38958, June 29, 2004). To meet these standards, engine manufacturers are pursuing development of advanced technologies, including new approaches for exhaust aftertreatment. Equipment manufacturers will need to modify their equipment designs to accommodate these new engine technologies and the corresponding changes to engine operating parameters (such as operating temperatures and heat rejection rates). To provide flexibility for equipment manufacturers in their efforts to respond to these engine design changes, the Tier 4 standards included the Transition Program for Equipment Manufacturers. Flexibilities allowed under this program include delaying compliance with small-volume equipment models for several years or using allowances in the first year to manage the transition to the Tier 4 engines.

The Transition Program for Equipment Manufacturers is intended to allow nonroad equipment manufacturers wide discretion to manage their product development timeline. Equipment manufacturers may comply either based on a percent of their production (generally for high-volume manufacturers, as described in § 1039.625(b)(1)), or based on a maximum number of exempted pieces of equipment (generally for low-volume manufacturers, as described in § 1039.625(b)(2)). At the same time, the regulations include at § 1039.625(m) an acknowledgement that equipment manufacturers might face a wide range of circumstances, including cases where engine manufacturers might be late in providing compliant engines to nonintegrated equipment manufacturers such that the specified allowances are insufficient to avoid a disruption in the equipment manufacturer's production schedule. The technical hardship provision at § 1039.625(m) allows EPA to make a judgment that an equipment manufacturer that buys engines from another company, through no fault of its own, needs additional allowances to manage the transition to Tier 4 products. The regulation specifies a maximum allowance of 150 percent of a manufacturer's annual production (relative to § 1039.625(b)(1)), or a total of 1,100 allowances (relative to § 1039.625(b)(2)). The regulation also provides economic hardship provisions under § 1068.255; however, eligibility depends on manufacturers showing that their solvency is in jeopardy without relief. Economic hardship therefore serves as a flexibility provision of last resort.

As the compliance dates for the Tier 4 standards approach, equipment manufacturers have described several scenarios where the technical hardship provisions are too restrictive to address their circumstances. For example, engine manufacturers have in some

cases delayed delivery of Tier 4 engines until six or even twelve months after the Tier 4 standards start to apply, which could force equipment manufacturers to use up all their allowances under § 1039.625(b) in the first year of the new standards. The maximum number of allowances under § 1039.625(m) would cover a good portion of the second year of the Tier 4 standards, but we have heard how this too is inadequate to allow equipment manufacturers to respond to late deliveries of compliant engines.

As another example where additional flexibility may be warranted, corporate acquisitions can cause equipment manufacturers to find themselves disadvantaged with respect to allowances because two companies have become a single company for purposes of regulatory compliance. Taken to an extreme, the combined company could exceed its allowances under § 1039.625(b) on the day of the merger because each of the separate companies may have used allowances that, taken together, exceed the specified thresholds for a single company. The combined company may apply for technical hardship under § 1039.625(m), but we have seen that this too can provide insufficient relief for equipment manufacturers trying to incorporate Tier 4 engines into their equipment.

In these cases, the maximum allowable relief under § 1039.625(m) is insufficient to allow equipment manufacturers to transition to meeting Tier 4 requirements without disrupting their ability to continue producing their equipment models. There have also been cases where a company would meet the criteria to qualify for consideration for technical hardship under § 1039.625(m) except that the regulation disallows technical hardship relief for all engines above 560 kW and provides only limited relief for engines above 37 kW. The regulation also provides only limited relief for companies that are not small businesses. In these cases, no additional relief is available under § 1039.625(m), which again leaves equipment manufacturers unable to continue producing their equipment models. We are amending the Transition Program for Equipment Manufacturers in three ways to address these concerns. First, we are removing the qualifying criteria so that any equipment manufacturer may apply for technical hardship relief under § 1039.625(m) for any size engine, rather than limiting the technical hardship relief to small businesses and to engines within certain power categories. We believe it is more appropriate to rely on our discretion to evaluate each hardship application on its merits rather than automatically precluding hardship relief based on certain characteristics of the engine or the company. If hardship relief is not appropriate because of an engine's power rating or a company's size or financial standing, we will not approve the request.

Second, we are removing the maximum number of allowances we can approve under § 1039.625(m), for both percent-of-production (currently 150 percent) and small-volume allowances (currently 1,100 units), and we are removing the deadlines for exercising those additional allowances. We have learned that the specified restrictions on hardship allowances are in some cases too limiting to address the legitimate concerns raised by equipment manufacturers. Again, we believe it is most appropriate to resolve issues of extent of relief once an equipment manufacturer has demonstrated that relief is appropriate, rather than limiting it *a priori*. We will not approve a greater number of technical hardship allowances than is needed to meet the established objectives. Finally, for additional small-volume allowances under § 1039.625(b)(2) and (m)(4), we may waive the annual limits on the number of allowances instead of or in addition to granting additional hardship allowances. There may be times when manufacturers only need approval to use up their regular allowances at a faster pace than the regulations currently allow.

An additional concern has come to our attention as it relates to marine engines. Vessel manufacturers may use certified land-based engines in marine vessels as long as the engines are not modified from their certified configuration (see § 1042.605). We adopted this provision with the understanding that, given the additional technological challenges of operating engines in a marine environment, marine standards are set to be no more stringent than land-based standards and are often set at a level somewhat less stringent than the standards that apply to the land-based engines. Vessel manufacturers have used these provisions extensively to access a wide range of engine models that are not available in a certified marine configuration. The part 1039 Tier 4 standards have made this more complicated. The Tier 4 standards for most sizes of land-based engines are much more stringent than the Tier 3 marine standards, which will continue to apply for many Category 1 engines. Engine distributors supplying product to vessel manufacturers have reported that several engine models will not be available to them in the transition period. In that way, vessel manufacturers are much like nonroad equipment manufacturers, except that the vessels are not actually required to use engines meeting the more stringent standards now or, for engines below 600 kW, in the foreseeable future. It would be a natural solution to use allowances under § 1039.625, but the regulations specifically require that vessel manufacturers may use only *certified* land-based engines under § 1042.605. There is a risk that this gap would significantly limit their ability to continue producing vessels in the near term. We are addressing this by revising 40 CFR part 1042 to specifically allow vessel manufacturers to use allowances under § 1039.625 for certain model year 2013 engines installed in marine vessels. This provision does not apply for engines at or below 19 kW, since the land-based and marine standards for those engines are very similar. This provision also does not apply for engines above 600 kW because the dynamic for designing and certifying those high-power engines allows for a greater expectation that they will be certified in a marine configuration. We expect no negative environmental impact because the engines will be meeting the nonroad Tier 3 standards, which will continue to be at least as stringent as the standards that currently apply for marine engines. Since this is only a temporary measure, vessel manufacturers will either need to use Tier 4 land-based engines or find certified Tier 3 marine engines starting with the 2014 model year.

There are further minor changes to the regulations to clarify some of the detailed transition provisions for nonroad diesel engines, as follows:

- Revising § 1039.104(g) to remove the limitations on the number of engines using the specified alternate FEL caps. Manufacturers have pointed out that this expanded flexibility would address the same concerns as described in this section for transitioning to the Tier 4 standards, but there would be no net environmental impact since manufacturers would need to produce low-emission engines that generate emission credits to offset the additional credits used by transition engines certified to with higher FELs. We are also revising the regulation to specify that the same Temporary Compliance Adjustment Factor is the same whether an engine is subject to NO_X + NMHC standards or NO_X-only standards. The revision also addresses Tier 3 carry-over engines that would need to certify to the alternate FEL caps after the Tier 4 final standards take effect.

• Adding text to § 1039.625(e) to clarify that exempted engines may meet standards that are more stringent than those specified in the regulation. This change is intended only to avoid the unintended consequence of disallowing a manufacturer from making an engine that was cleaner than it needed to be. Even though these engines are cleaner than they need to be under the replacement-engine exemption, it is still the case that these engines are being exempted from the standards that apply for certified engines; as such, it would be inappropriate for these engines to generate emission credits.

• Clarifying in § 1039.625(e) which alternate standards apply to exempted engines in cases where there is more than one set of standards in a given model year. For example, the appropriate standards for 19–56 kW engines are the Option 1 standards specified in § 1039.102, and the appropriate standards for bigger engines are the phase-out standards specified in § 1039.102.

• Adjusting the provision for using interim Tier 4 engines under § 1039.625(a)(2) to require that manufacturers use engines that are identical to previously certified engines, rather than requiring that the exempt engines be certified for the new model year. This addresses an administrative complication related to certifying exempted engines, without changing the requirements that apply.

C. Large SI Fuel Line Permeation

EPA is amending the required version of the SAE procedure for testing large SI fuel line permeation. In 2002 we adopted evaporative emission standards for nonroad spark-ignition engines above 19 kW (Large SI engines) (67 FR 68242, November 8, 2002). This rule included a requirement that engines meet a permeation control standard, that could be demonstrated by using fuel lines compliant with SAE J2260, the latest version of which had been completed in 1996 (see 40 CFR 1048.105). This SAE standard effectively established a level of permeation control that had been widely used with automotive products. In adopting this requirement, we expected manufacturers to find ''off-the-shelf'' automotive-grade products for the nonroad engines and equipment.

In 2008, we revised this requirement by changing the regulation to reference the 2004 version of SAE J2260, which had been finalized after the initial rulemaking (73 FR 59034, October 8, 2008). As noted in our proposed rule, we understood the purpose and effect of the change in the SAE standard to be substantive with regard to the permeation measurement procedure, but not necessarily with regard to the stringency of the standard. The revised SAE protocol specifies a tighter numerical standard, but this corresponded to an offsetting change from a methanol-based test fuel to an ethanol-based test fuel. Switching to ethanol improves the representativeness of the procedure, and it is widely understood that ethanol permeates through fuel-system materials less aggressively than methanol. It is also clear the fuel change would have a non-uniform effect on different fuel-system materials, but our overall expectation was that fuel lines meeting the 1996 version of the standard would also meet the 2004 version of the standard. Following the proposed rule, we received no comments either supporting or contradicting our understanding that updating to the new standard would have no significant effect on the stringency or practicability of the standard.

Since completing the 2008 rulemaking, we have received information indicating that the revision of the regulation to refer to the newer version of SAE J2260 was having a substantive effect on manufacturers' ability to meet the standard. First, it seems that automotive manufacturers have moved beyond the SAE J2260 standard to develop their own proprietary methods of sourcing fuel lines from their suppliers. Since the evaporative emission standards for automotive products involve whole-vehicle measurements in an enclosure, manufacturers have the option to pursue different strategies of balancing emissions from fuel-line permeation with emissions from other sources. In effect, there is no longer a level of emission control or a type of fuel line that we can characterize simply as ''automotive-grade''. It is also the case that motor vehicle manufacturers buy fuel lines in large quantities of pre-formed parts, rather than buying large spools of fuel line that can be cut and formed for a particular application.

Second, it appears that fuel line suppliers have a very limited ability or willingness to supply fuel lines that they will describe as meeting the 2004 version of SAE J2260. It is not clear whether this is a result of a difference in stringency between the two versions of the standard, or merely that fuel-line suppliers have moved beyond the SAE standard to conform to separate specifications from individual automotive manufacturers. In any case, Large SI equipment is not manufactured in sufficient numbers to greatly influence the fuel line manufacturers' activities, which has prevented Large SI equipment manufacturers from being able to find and use fuel lines meeting the exact specification in the regulations.

We are addressing this by again revising the regulation, this time to specify that either the 1996 or 2004 version of SAE J2260 provides an acceptable level of control for producing compliant Large SI engines and equipment. We do not believe this will have a significant effect on the stringency of the standard. However, to the extent that this modifies the stringency of the existing fuel-line permeation standards at all, it only revises it back to the level of permeation control that we adopted originally in 2002. We note also that the regulations from the California Air Resources Board continue to rely on the 1996 version of SAE J2260. This change therefore allows for a unified national approach to fuel-line permeation standards.

D. Small SI Amendments

Since the first emission standards for small spark-ignition (SI) engines (< 19kW), EPA and the California ARB have required the same basic exhaust emission test procedures and durability aging requirements. Both agencies have accepted exhaust emission test results on either agency's test fuel for purposes of certification. This has traditionally meant that for small SI engines used in either handheld or non-handheld equipment, EPA would accept exhaust emission test results based on either its Indolene test fuel (specified at 40 CFR 1065.710) or on California test fuel (specified at section 2262 in the California Code of Regulations (13 CCR 2262)). In 2008, when EPA promulgated the current small SI exhaust emission standards, the California test fuel, commonly referred to as California Phase 2 gasoline or CA RFG 2, was a seven pound per square inch (psi) Reid Vapor Pressure (RVP) gasoline which had approximately 11 percent methyl tertiary butyl ether (MTBE) as an oxygenate additive. This test fuel had been used in the California small off road emission (SORE) program since 1995.

Our 2008 final rule (73 FR 59034, October 8, 2008) included provisions (see § 1054.145(k)) indicating that EPA would not accept carryover exhaust emission certification data on CA RFG 2 after the 2012 model year. However, we left open the possibility of continuing to accept carryover exhaust emission test data on CA RFG 2 subject to the provisions of 40 CFR 1065.10, 1065.12 and 1065.701, which would

permit EPA to approve its continued use if it does not affect the manufacturers' ability to show that the affected engines would comply with all applicable emission standards using the fuel specified by EPA in 40 CFR 1065.710. Manufacturers have recently provided emissions data meeting the regulatory requirements listed above and EPA has permitted the use of CA RFG 2 (California Phase 2 gasoline) for certification for the 2013 model year.[18]

Recently, California adopted new requirements for their gasoline certification test fuel for nonroad engines. Over the period from 2013–2020, manufacturers must transition from CA RFG 2 to a gasoline certification test fuel that contains 10 percent ethanol (E10) and has a seven psi RVP (commonly referred to as California Phase 3 gasoline or CA RFG 3). This new requirement aligns California test fuels with their current in-use gasoline.

Considering this background and recent developments, EPA is making two changes to its current regulatory provisions. First, EPA believes it is appropriate to extend its current practice of accepting exhaust emission test results for small SI engines to include CA RFG 3. For the 2013–2019 model years (inclusive), EPA will accept exhaust emission certification data generated using CA RFG 3 test fuel. Harmonization with California on test procedures and test fuel requirements for small spark-ignition engines has significant value to the engine and equipment manufacturers and users of those products. It allows for development and certification of only one engine for a given model or application by the manufacturer and allows for greater model availability and lower overall cost due to 50-state production. In addition, E10, which is used in CA RFG 3, is common in gasoline sold across the U.S. today. Therefore, permitting the use of CA RFG 3 in emissions certification will allow test fuel to more closely match the in-use fuel used across the U.S. Accounting for the ethanol in the fuel is likely to enhance engine emissions in-use durability, because the presence of oxygen in the ethanol in the test fuel will need to be accommodated in the engine calibrations. This will reduce engine operating temperatures in-use relative to engines calibrated on a test fuel without oxygen.

While EPA is accepting manufacturer use of CA RFG 3 for the purposes of testing, EPA is not prepared to accept use of CA RFG 3 as a fully permissible replacement test fuel for Indolene. Test data indicate that NMHC+NO_X exhaust emissions using CA RFG 3 will be comparable relative to results on Federal certification fuel. However, due to the presence of an oxygenate (approximately 3 percent) caused by the inclusion of E10 in CA RFG 3, tested CO emissions will be reduced when an engine is tested using CA RFG 3, compared to Indolene which includes no oxygenates (see 40 CFR 1065.710). EPA's official test fuel is Indolene and the level of the CO emission standards for small SI engines (see 40 CFR 1054.103 and 1054.105) is based on the use of that fuel. Therefore, EPA cannot fully accept test results using CA RFG 3 as showing compliance with EPA CO standards, because CO test emissions showing compliance using CA RFG 3 do not guarantee that an engine will be able to comply with EPA's CO standard using Indolene.

Therefore, EPA will retain the option to conduct any production line, confirmatory, and selective enforcement audit (SEA) testing on EPA test fuel as specified in 40 CFR 1065.710.[19] However, as an option for the manufacturers, to bring some uniformity and certainty to the engine development and calibration, emissions testing, and emissions durability assessment processes, EPA will agree to use CA RFG 3 test fuel for any production line, confirmatory, and SEA testing if a manufacturer(s) agree to meet a lower CO emission standard. These values, which substantially address the effect of oxygenate content on CO emission rates, are 549 g/kW-hr for Classes I and II (non handheld engines) and 536 g/kW-hr for Classes III–V (handheld engines). These values are the same as California's current CO emission standards (based on the use of CA RFG 2); they are 10–33 percent lower (depending on Class) than EPA's CO emission standards (see 40 CFR 1054.103 and 1054.105) because they account for oxygenate content in that fuel. This does not represent a change in stringency, as the engine designs and calibration will not change, but CO emissions will decrease due to the oxygenate content of the California test fuel. This option would be available for Class I and II marine generators at a CO emission standard of 4.5 g/kW-hr. This value was derived based on the ratio of the California CO emission standards to the Federal emission standards for other Class I and II marine generators. This option is available on a family-by-family basis for all Classes of small SI engines. We consider these CO emission standards to be interim values for purposes of this option only. EPA may revise the level of its CO emission standard in the future if we propose to change the Federal test fuel specifications.

Second, EPA has decided to continue accepting exhaust emissions data on CA RFG 2 after the 2012 model year (see 40 CFR 1054.145(k)). Manufacturers have provided data for both handheld and nonhandheld engines showing equivalent exhaust emission levels between CA RFG 2 and the gasoline specified in 40 CFR 1065.710 (Indolene). Furthermore, the move to CA RFG 3 sets in motion a process to eliminate CA RFG 2 certifications in the future as would have been required under 40 CFR 1054.145(k). Thus, to help enable an orderly and cost effective transition, EPA believes it is appropriate for us to continue to accept exhaust emission test data using CA RFG 2 for certification through the 2019 model year. We will expect engine families certified using CA RFG 2 carryover exhaust emission data to meet emissions standards on both CA RFG 2 and EPA certification test fuel as specified in 40 CFR 1065.710 for any production line, SEA, or confirmatory testing.

Both of these actions apply for certification for model years 2013 to 2019, inclusive. EPA expects to revisit these provisions before 2020 to determine if they should be extended or otherwise modified. The primary EPA program using Indolene test fuel and meeting the current EPA emission standards remains in place for Federal certification for 2013 and beyond unless and until these provisions are otherwise modified.

We are also taking the opportunity to revise the regulatory provision in § 1054.145(c) describing requirements related to altitude kits for handheld engines. We adopted those specifications based on the expectation that the Phase 3 exhaust standards were unchanged from the Phase 2 exhaust standards. As such, the emission standards do not apply at altitudes for which the manufacturer would need to rely on an altitude kit. The regulation should therefore be revised to no longer refer to the manufacturer relying on an altitude kit ''to meet emission standards.'' This change in the regulations is not intended to change current requirements, but rather simply clarifies the proper relationship of the altitude kit to the certified configuration.

[18] See EPA Dear Manufacturer Letter CD–12–17 (NRSSI), October 29, 2012.

[19] EPA already requires a ten percent ethanol blend for evaporative emissions testing.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action'' because it raises issues that may have a potential effect on actions taken or planned by another agency. Accordingly, EPA and NHTSA submitted this action to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011) and any changes made in response to OMB recommendations have been documented in the docket for this action.

This direct final rule merely clarifies and corrects existing regulatory language. The agencies do not believe there will be costs associated with this rule because the costs in this program were previously accounted for under the existing rules (69 FR 38958, June 29, 2004; 73 FR 59034, October 8, 2008; and 76 FR 57106, September 15, 2011). This rule is not anticipated to create additional burdens to the existing requirements. As such, a regulatory impact evaluation or analysis is unnecessary. The agencies also do not expect this rule to have substantial Congressional or public interest.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 et seq. Burden is defined at 5 CFR 1320.3(b). The information collection requirements to ensure compliance with the provisions in these rules were covered under ICR (2394.02).

The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing heavy-duty greenhouse gas emissions regulations under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 et seq. and has assigned OMB Control Number 2060–0678. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business as defined by Small Business Administration regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of these rules on small entities, we concluded that this action will not have a significant economic impact on a substantial number of small entities.

This direct final rule merely corrects and clarifies regulatory provisions. In particular, as already adopted in the heavy-duty vehicle GHG and fuel efficiency rules, EPA and NHTSA are deferring standards for manufacturers meeting the Small Business Administration's definition of small business as described in 13 CFR 121.201.

There are no costs and therefore no regulatory burden associated with this rule. We have therefore concluded that this rule will not increase regulatory burden for affected small entities.

D. National Environmental Policy Act

NHTSA has analyzed this direct final rule pursuant to the National Environmental Policy Act. This rule corrects technical inconsistencies and adds minor clarifications to the regulatory text of the heavy-duty fuel efficiency program, finalized by rule in August 2011. NHTSA analyzed the environmental impacts of that rule in a Final Environmental Impact Statement (EIS), issued in July 2011. The direct final rule we are issuing today is not anticipated to affect the stringency of the standards finalized in the August 2011 rule or to have environmental impacts other than those identified and analyzed in the Final EIS. Accordingly, today's rule will not have any significant impact on the quality of the human environment. Because no substantial changes have been made to the heavy-duty fuel-efficiency program that are relevant to environmental concerns, and in the absence of significant new circumstances or information relevant to environmental concerns and bearing on this action, NHTSA has concluded that no further action is required under the National Environmental Policy Act.

E. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. The action imposes no enforceable duty on any State, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments.

F. 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, as specified in Executive Order 13132. This direct final rule merely corrects and clarifies regulatory provisions. Thus, Executive Order 13132 does not apply to this action.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This direct final rule merely corrects and clarifies regulatory provisions. Tribal governments would be affected only to the extent they purchase and use regulated vehicles. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in Executive Order 12866, and because EPA and NHTSA do not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This direct final rule merely corrects and clarifies regulatory provisions.

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

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This direct final rule merely corrects and clarifies regulatory provisions.

J. National Technology Transfer Advancement Act

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

This action slightly expands the use of voluntary consensus standards by adding a reference standard under 40 CFR 1048.105. Other amendments in this direct final rule do not involve application of new technical standards. However, the underlying regulations in many cases rely on voluntary consensus standards. For example, EPA and NHTSA included several voluntary consensus standards in the development of the Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles (76 FR 57106, September 15, 2011).

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

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

EPA and NHTSA have determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it merely corrects provisions for manufacturers to use to demonstrate compliance of heavy-duty engines and vehicles.

L. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA and NHTSA will submit reports containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective on August 16, 2013.

M. Executive Order 12988 (Civil Justice Reform)

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

IV. Statutory Authority

A. EPA

Statutory authority for the vehicle controls is found in Clean Air Act section 202(a) (which authorizes standards for emissions of pollutants from new motor vehicles which emissions cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare), sections 202(d), 203–209, 216, and 301 (42 U.S.C. 7521(a), 7521(d), 7522, 7523, 7524, 7525, 7541, 7542, 7543, 7550, and 7601).

B. NHTSA

Statutory authority for the fuel consumption standards is found in section 103 (which authorizes a fuel efficiency improvement program, designed to achieve the maximum feasible improvement to be created for commercial medium- and heavy-duty on-highway vehicles and work trucks, to include appropriate test methods, measurement metrics, standards, and compliance and enforcement protocols that are appropriate, cost-effective and technologically feasible) of the Energy Independence and Security Act of 2007, 49 U.S.C. 32902(k).

List of Subjects

40 CFR Part 85

Confidential business information, Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Research, Warranties.

40 CFR Part 86

Administrative practice and procedure, Confidential business information, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

40 CFR Part 1036

Administrative practice and procedure, Air pollution control, Confidential business information, Environmental protection, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Warranties.

40 CFR Part 1037

Administrative practice and procedure, Air pollution control, Confidential business information, Environmental protection, Incorporation by reference, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Warranties.

40 CFR Part 1039

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Labeling, Penalties, Reporting and recordkeeping requirements, Warranties.

40 CFR Part 1042

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Labeling, Penalties, Vessels, Reporting and recordkeeping requirements, Warranties.

40 CFR Part 1048

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Incorporation by reference, Labeling, Penalties, Reporting and recordkeeping requirements, Warranties.

40 CFR Part 1054

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Labeling, Penalties, Reporting and recordkeeping requirements, Warranties.

40 CFR Part 1065 and 1066

Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements, Research.

40 CFR Part 1068

Environmental protection, Administrative practice and procedure, Confidential business information, Imports, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements, Warranties.

49 CFR Parts 523 and 535

Fuel economy.

For the reasons set forth in the preamble, the Environmental Protection Agency is amending title 40, chapter I of the Code of Federal Regulations as follows:

PART 85—CONTROL OF AIR POLLUTION FROM MOBILE SOURCES

■ 1. The authority citation for part 85 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—[Amended]

■ 2. Section 85.525 is amended by revising paragraph (a)(2)(i) introductory text and adding paragraph (a)(2)(iii) to read as follows:

§ 85.525 Applicable standards.

* * * * *

(a) * * *

(2) * * *

(i) Subject to the following exceptions and special provisions, compliance with light-duty vehicle greenhouse gas emission standards is demonstrated by complying with the N_2O and CH_4 standards and provisions set forth in 40 CFR 86.1818–12(f)(1) and the in-use CO_2 exhaust emission standard set forth in 40 CFR 86.1818–12(d) as determined by the OEM for the subconfiguration that is identical to the fuel conversion emission data vehicle (EDV):

* * * * *

(iii) Subject to the following exceptions and special provisions, compliance with greenhouse gas emission standards for heavy-duty vehicles subject to 40 CFR 1037.104 is demonstrated by complying with the N_2O and CH_4 standards and provisions set forth in 40 CFR 1037.104 and the in-use CO_2 exhaust emission standard set forth in 40 CFR 1037.104(b) as determined by the OEM for the subconfiguration that is identical to the fuel conversion emission data vehicle (EDV):

(A) If the OEM complied with alternate standards for N_2O and/or CH_4, as allowed under 40 CFR 1037.104(c) you may demonstrate compliance with the same alternate standards.

(B) If you are unable to meet either the N_2O or CH_4 standards and your fuel conversion CO_2 measured value is lower than the in-use CO_2 exhaust emission standard, you may also convert the difference between the in-use CO_2 exhaust emission standard and the fuel conversion CO_2 measured value into GHG equivalents of CH_4 and/or N_2O, using 298 g CO_2 to represent 1 g N_2O, and 25 g CO_2 to represent 1 g CH_4. You may then subtract the applicable converted values from the fuel conversion measured values of CH_4 and/or N_2O to demonstrate compliance with the CH_4 and/or N_2O standards.

(C) You may alternatively comply with the greenhouse gas emission requirements by comparing emissions from the vehicle before and after the fuel conversion. This comparison must be based on FTP test result from the emission data vehicle (EDV) representing the pre-conversion test group. The sum of CO_2, CH_4, and N_2O shall be calculated for pre- and post-conversion FTP test results, where CH_4 and N_2O are weighted by their global warming potentials of 25 and 298, respectively. The post-conversion sum of these emissions must be lower than the pre-conversion greenhouse gas emission result. Calculate CO_2 emissions as specified in 40 CFR 600.113. If we waive N_2O measurement requirements based on a statement of compliance, disregard N_2O for all measurements and calculations under this paragraph (a)(2)(iii)(C).

* * * * *

PART 86—CONTROL OF EMISSIONS FROM NEW AND IN–USE HIGHWAY VEHICLES AND ENGINES

■ 3. The authority citation for part 86 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart A—[Amended]

§ 86.007–23 [Amended]

■ 4. Section 86.007–23 is amended by removing paragraph (n).

■ 5. Section 86.010–18 is amended by adding paragraph (q)(6) to read as follows:

§ 86.010–18 On-board Diagnostics for engines used in applications greater than 14,000 pounds GVWR.

* * * * *

(q) * * *

(6) Manufacturers that modify the engine's diagnostic system from the approved configuration to be compatible with a hybrid powertrain system under this paragraph (q) must add the following compliance statement to the ECI label: ''for use in hybrid applications only''.

Subpart S—[Amended]

§ 86.1844–01 [Amended]

■ 6. Section 86.1844–01 is amended by removing paragraph (j).

■ 7. Section 86.1865–12 is amended by:

■ a. Revising paragraph (a)(1) introductory text and adding paragraph (a)(1)(ii):

■ b. Revising paragraphs (j)(4)(i), (k)(4) introductory text, and (k)(8)(iv)(A); and

■ c. Revising paragraphs (l)(1)(i) introductory text, (l)(1)(ii) introductory text, and (l)(3).

The revisions and additions read as follows:

§ 86.1865–12 How to comply with the fleet average CO_2 standards.

(a) * * *

(1) Unless otherwise exempted under the provisions of § 86.1801–12(j) or (k), CO_2 fleet average exhaust emission standards of this subpart apply to:

* * * * *

(ii) Heavy-duty vehicles subject to standards under 40 CFR 1037.104.

* * * * *

(j) * * *

(4) * * *

(i) Manufacturers must report in their annual reports to the Agency that they met the relevant corporate average standard by showing that their production-weighted average CO_2 emission levels of passenger automobiles, light trucks, and heavy-duty vehicles, as applicable, are at or below the applicable fleet average standards; or

* * * * *

(k) * * *

(4) Credits are earned on the last day of the model year. Manufacturers must calculate, for a given model year and separately for passenger automobiles, light trucks, and heavy-duty vehicles (as specified in 40 CFR 1037.104), the number of credits or debits it has generated according to the following equation rounded to the nearest megagram:

* * * * *

(8) * * *

(iv) * * *

(A) If a manufacturer ceases production of passenger automobiles, light trucks, or heavy-duty vehicles subject to the standards of 40 CFR 1037.104, the manufacturer continues to be responsible for offsetting any debits outstanding within the required time period. Any failure to offset the debits

will be considered a violation of paragraph (k)(8)(i) of this section and may subject the manufacturer to an enforcement action for sale of vehicles not covered by a certificate, pursuant to paragraphs (k)(8)(ii) and (iii) of this section.

* * * * *

(l) * * *

(1) * * *

(i) Manufacturers producing any light-duty vehicles, light-duty trucks, or medium-duty passenger vehicles subject to the provisions in this subpart or any heavy-duty vehicles subject to the standards of 40 CFR 1037.104 must establish, maintain, and retain all the following information in adequately organized records for each model year:

* * * * *

(ii) Manufacturers producing any passenger automobiles or light trucks subject to the provisions in this subpart and vehicles subject to the standards of 40 CFR 1037.104 must establish, maintain, and retain all the following information in adequately organized records for each passenger automobile or light truck subject to this subpart:

* * * * *

(3) *Notice of opportunity for hearing.* Any voiding of the certificate under paragraph (l)(1)(vi) of this section will be made only after EPA has offered the affected manufacturer an opportunity for a hearing conducted in accordance with § 86.614 and, if a manufacturer requests such a hearing, will be made only after an initial decision by the Presiding Officer.

PART 1036—CONTROL OF EMISSIONS FROM NEW AND IN-USE HEAVY-DUTY HIGHWAY ENGINES

■ 8. The authority citation for part 1036 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart A—[Amended]

■ 9. Section 1036.5 is amended by revising paragraph (b) to read as follows:

§ 1036.5 Which engines are excluded from this part's requirements?

* * * * *

(b) Engines installed in heavy-duty vehicles that do not provide motive power are nonroad engines. The provisions of this part therefore do not apply to these engines. See 40 CFR part 1039, 1048, or 1054 for other requirements that apply for these auxiliary engines. See 40 CFR part 1037 for requirements that may apply for vehicles using these engines.

* * * * *

Subpart B—[Amended]

■ 10. Section 1036.150 is amended by revising paragraphs (d), (g)(2), and (g)(3) to read as follows:

§ 1036.150 Interim provisions.

* * * * *

(d) *Small manufacturers.* Manufacturers meeting the small business criteria specified for ''Gasoline Engine and Engine Parts Manufacturing'' or ''Other Engine Equipment Manufacturers'' in 13 CFR 121.201 are not subject to the greenhouse gas emission standards in § 1036.108. Qualifying manufacturers must notify the Designated Compliance Officer before importing or introducing into U.S. commerce excluded engines. This notification must include a description of the manufacturer's qualification as a small business under 13 CFR 121.201. You must label your excluded engines with the statement: ''THIS ENGINE IS EXCLUDED UNDER 40 CFR 1036.150(d).''

* * * * *

(g) * * *

(2) You may use an assigned additive DF of 0.020 g/hp-hr for N_2O emissions from any engine.

(3) You may use an assigned additive DF of 0.020 g/hp-hr for CH_4 emissions from any engine.

* * * * *

Subpart C—[Amended]

■ 11. Section 1036.205 is amended by revising paragraph (e) to read as follows:

§ 1036.205 What must I include in my application?

* * * * *

(e) Identify the CO_2 FCLs with which you are certifying engines in the engine family; also identify any FELs that apply for CH_4 and N_2O. The actual U.S.-directed production volume of configurations that have CO_2 emission rates at or below the FCL and CH_4 and N_2O emission rates at or below the applicable standards or FELs must be at least one percent of your actual (not projected) U.S.-directed production volume for the engine family. Identify configurations within the family that have emission rates at or below the FCL and meet the one percent requirement. For example, if your U.S.-directed production volume for the engine family is 10,583 and the U.S.-directed production volume for the tested rating is 75 engines, then you can comply with this provision by setting your FCL so that one more rating with a U.S.-directed production volume of at least 31 engines meets the FCL. Where applicable, also identify other testable configurations required under § 1036.230(b)(2).

* * * * *

■ 12. Section 1036.225 is amended by revising paragraph (f) introductory text to read as follows:

§ 1036.225 Amending my application for certification.

* * * * *

(f) You may ask us to approve a change to your FEL in certain cases after the start of production, but before the end of the model year. If you change an FEL for CO_2, your FCL for CO_2 is automatically set to your new FEL divided by 1.03. The changed FEL may not apply to engines you have already introduced into U.S. commerce, except as described in this paragraph (f). You may ask us to approve a change to your FEL in the following cases:

* * * * *

Subpart F—[Amended]

■ 13. Section 1036.525 is amended by revising paragraph (a) to read as follows:

§ 1036.525 Hybrid engines.

(a) If your engine system includes features that recover and store energy during engine motoring operation test the engine as described in paragraph (d) of this section. For purposes of this section, features that recover energy between the engine and transmission are considered related to engine motoring.

* * * * *

Subpart G—[Amended]

■ 14. Section 1036.615 is amended by revising paragraphs (a) introductory text and (c) to read as follows:

§ 1036.615 Engines with Rankine cycle waste heat recovery and hybrid powertrains.

* * * * *

(a) *Pre-transmission hybrid powertrains.* Test pre-transmission hybrid powertrains with the hybrid engine test procedures of 40 CFR part 1065 or with the post-transmission test procedures in 40 CFR 1037.550. Pre-transmission hybrid powertrains are those engine systems that include features to recover and store energy during engine motoring operation but not from the vehicle's wheels.

* * * * *

(c) *Calculating credits.* Calculate credits as specified in subpart H of this part. Credits generated from engines and powertrains certified under this section

may be used in other averaging sets as described in § 1036.740(c).

* * * * *

Subpart I—[Amended]

■ 15. Section 1036.801 is amended by adding a definition for ''Preliminary approval'' in alphabetical order to read as follows:

§ 1036.801 Definitions.

* * * * *

Preliminary approval means approval granted by an authorized EPA representative prior to submission of an application for certification, consistent with the provisions of § 1036.210.

* * * * *

PART 1037—CONTROL OF EMISSIONS FROM NEW HEAVY-DUTY MOTOR VEHICLES

■ 16. The authority citation for part 1037 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart A—[Amended]

■ 17. Section 1037.15 is amended by revising paragraph (c) to read as follows:

§ 1037.15 Do any other regulation parts apply to me?

* * * * *

(c) Part 86 of this chapter applies for certain vehicles as specified in this part. For example, the test procedures and most of part 86, subpart S, apply for vehicles subject to § 1037.104; including the following paragraphs of 40 CFR 86.1865–12 apply: (a), (h)(1), (h)(3), (j)(1), (j)(4), (k)(1) through (4), (k)(7)(ii), (k)(8), (k)(9), (l)(1), (l)(2)(i), (l)(2)(ii), (l)(2)(vi) through (viii), and (l)(3).

* * * * *

Subpart B—[Amended]

■ 18. Section 1037.104 is amended by revising paragraphs (a)(2) introductory text, (d)(2), (d)(4), (d)(6), (d)(9), (d)(12), (d)(13), and (g) and adding paragraph (d)(15) to read as follows:

§ 1037.104 Exhaust emission standards for CO_2, CH_4, and N_2O for heavy-duty vehicles at or below 14,000 pounds GVWR.

* * * * *

(a) * * *

(2) Using the appropriate work factor, calculate a target value for each vehicle subconfiguration (or group of subconfigurations allowed under paragraph (a)(4) of this section) you produce using one of the following equations, or the phase-in provisions in § 1037.150(b), rounding to the nearest 0.1 g/mile:

* * * * *

(d) * * *

(2) The following general credit provisions apply:

(i) Credits you generate under this section may be used only to offset credit deficits under this section. You may bank credits for use in a future model year in which your average CO_2 level exceeds the standard. You may trade credits to another manufacturer according to 40 CFR 86.1865–12(k)(8). Before you bank or trade credits, you must apply any available credits to offset a deficit if the deadline to offset that credit deficit has not yet passed.

(ii) Vehicles subject to the standards of this section are included in a single greenhouse gas averaging set separate from any averaging set otherwise included in 40 CFR part 86.

(iii) Banked CO_2 credits keep their full value for five model years after the year in which they were generated. Unused credits expire at the end of this fifth model year.

* * * * *

(4) The CO_2, N_2O, and CH_4 standards apply for a weighted average of the city (55%) and highway (45%) test cycle results. Note that this differs from the way the criteria pollutant standards apply for heavy-duty vehicles.

* * * * *

(6) Credits are calculated using the useful life value (in miles) in place of ''vehicle lifetime miles'' specified in 40 CFR part 86, subpart S. Calculate a total credit or debit balance in a model year by adding credits and debits from 40 CFR 86.1865–12(k)(4), subtracting any CO_2-equivalent debits for N_2O or CH_4 calculated according to § 1037.104(c), and adding any of the following credits:

(i) Advanced technology credits according to paragraph (d)(7) of this section and § 1037.150(i).

(ii) Innovative technology credits according to paragraph (d)(13) of this section.

(iii) Early credits according to § 1037.150(a)(2).

* * * * *

(9) Calculate your fleet-average emission rate consistent with good engineering judgment and the provisions of 40 CFR 86.1865. The following additional provisions apply:

(i) Unless we approve a lower number, you must test at least ten subconfigurations. If you produce more than 100 subconfigurations in a given model year, you must test at least 25 subconfigurations or ten percent of your subconfigurations (whichever is less). For purposes of this paragraph (d)(9)(i), count carryover tests, but do not include analytically derived CO_2 emission rates, data substitutions, or other untested allowances. We may approve a lower number of tests for manufacturers that have limited product offerings or low sales volumes. Note that good engineering judgment and other provisions of this part may require you to test more subconfigurations than these minimum values.

(ii) The provisions of paragraph (g) of this section specify how you may use analytically derived CO_2 emission rates.

(iii) All final production volume at the subconfiguration level must be represented by test data (real, data substituted, or analytical).

(iv) Perform fleet-average CO_2 calculations as described in 40 CFR 86.1865 and 40 CFR part 600, with the following exceptions:

(A) Use CO_2 emissions values for all test results, intermediate calculations, and fleet average calculations instead of the carbon-related exhaust emission (CREE) values specified in 40 CFR parts 86 and 600.

(B) Perform intermediate CO_2 calculations for subconfigurations within each configuration using the subconfiguration and configuration definitions in paragraph (d)(12) of this section.

(C) Perform intermediate CO_2 calculations for configurations within each test group and transmission type (instead of configurations within each base level and base levels within each model type). Use the configuration definition in paragraph (d)(12)(i) of this section.

(D) Do not perform intermediate CO_2 calculations for each base level or for each model type. Base level and model type CO_2 calculations are not applicable to heavy-duty vehicles subject to standards in this section.

(E) Determine fleet average CO_2 emissions for heavy-duty vehicles subject to standards in this section as described in 40 CFR 600.510–12(j), except that the calculations must be performed on the basis of test group and transmission type (instead of the model-type basis specified in the light-duty vehicle regulations), and the calculations for dual fuel, multi-fuel, and flexible fuel vehicles must be consistent with the provisions of paragraph (d)(10)(i) of this section.

* * * * *

(12) The following definitions apply for the purposes of this section:

(i) *Configuration* means a subclassification within a test group based on engine code, transmission type and gear ratios, final drive ratio, and

other parameters we designate. Transmission type means the basic type of the transmission (e.g., automatic, manual, automated manual, semi-automatic, or continuously variable) and does not include the drive system of the vehicle (e.g., front-wheel drive, rear-wheel drive, or four-wheel drive). Engine code means the combination of both ''engine code'' and ''basic engine'' as defined in 40 CFR 600.002. Note that this definition differs from the one in 40 CFR 86.1803.

(ii) *Subconfiguration* means a unique combination within a vehicle configuration (as defined in this paragraph (d)(12)) of equivalent test weight, road-load horsepower, and any other operational characteristics or parameters that we determine may significantly affect CO_2 emissions within a vehicle configuration. Note that for vehicles subject to standards of this section, equivalent test weight (ETW) is based on the ALVW of the vehicle as outlined in paragraph (d)(11) of this section.

(iii) The terms ''complete vehicle'' and ''incomplete vehicle'' have the meanings given for ''complete heavy-duty vehicle'' and ''incomplete heavy-duty vehicle'', respectively, in 40 CFR 86.1803.

(13) This paragraph (d)(13) applies for CO_2 reductions resulting from technologies that were not in common use before 2010 that are not reflected in the specified test procedures. We may allow you to generate emission credits consistent with the provisions of 40 CFR 86.1869–12(c) and (d). You do not need to provide justification for not using the 5-cycle methodology.

* * * * *

(15) You must submit a final report within 90 days after the end of the model year. Unless we specify otherwise, include applicable information identified in 40 CFR 86.1865–12(l), 40 CFR 600.512, and 49 CFR 535.8(e). The final report must include at least the following information:

(i) Model year.

(ii) Applicable fleet-average CO_2 standard.

(iii) Calculated fleet-average CO_2 value and all the values required to calculate the CO_2 value.

(iv) Number of credits or debits incurred and all values required to calculate those values.

(v) Resulting balance of credits or debits.

(vi) N_2O emissions.

(vii) CH_4 emissions.

(viii) HFC leakage score.

* * * * *

(g) *Analytically derived CO_2 emission rates (ADCs).* This paragraph (g) describes an allowance to use estimated (*i.e.,* analytically derived) CO_2 emission rates based on baseline test data instead of measured emission rates for calculating fleet-average emissions. Note that these ADCs are similar to ADFEs used for light-duty vehicles. Note also that F terms used in this paragraph (g) represent coefficients from the following road load equation:

$$\text{Force} - (\text{mass})(\text{acceleration}) = F0 + F1 \cdot (\text{velocity}) + F2 \cdot (\text{velocity})^2$$

(1) Except as specified in paragraph (g)(2) of this section, use the following equation to calculate the ADC of a new vehicle from road load force coefficients (F0, F1, F2), axle ratio, and test weight:

$$ADC = CO_{2base} + 2.18 \cdot \Delta F0 + 37.4 \cdot \Delta F1 + 2257 \cdot \Delta F2 + 189 \cdot \Delta AR + 0.0222 \cdot \Delta ETW$$

Where:

ADC = Analytically derived combined city/highway CO_2 emission rate (g/mile) for a new vehicle.

CO_{2base} = Combined city/highway CO_2 emission rate (g/mile) of a baseline vehicle.

$\Delta F0$ = F0 of the new vehicle—F0 of the baseline vehicle.

$\Delta F1$ = F1 of the new vehicle—F1 of the baseline vehicle.

$\Delta F2$ = F2 of the new vehicle—F2 of the baseline vehicle.

ΔAR = Axle ratio of the new vehicle—axle ratio of the baseline vehicle.

ΔETW = ETW of the new vehicle—ETW of the baseline vehicle.

(2) The purpose of this section is to accurately estimate CO_2 emission rates.

(i) You must apply the provisions of this section consistent with good engineering judgment. For example, do not use the equation in paragraph (g)(1) of this section where good engineering judgment indicates that it will not accurately estimate emissions. You may ask us to approve alternate equations that allow you to estimate emissions more accurately.

(ii) The analytically derived CO_2 equation in paragraph (g)(1) of this section may be periodically updated through publication of an EPA guidance document to more accurately characterize CO_2 emission levels' for example, changes may be appropriate based on new test data, future technology changes, or to changes in future CO_2 emission levels. Any EPA guidance document will determine the model year that the updated equation takes effect. We will issue guidance no later than eight months before the effective model year. For example, for 2014 models, the model year may start January 2, 2013, so guidance would be issued by May 1, 2012 for model year 2014.

(3) You may select, without our advance approval, baseline test data if they meet all the following criteria:

(i) Vehicles considered for the baseline test must comply with all applicable emission standards in the model year associated with the ADC.

(ii) You must include in the pool of tests considered for baseline selection all official tests of the same or equivalent basic engine, transmission class, engine code, transmission code, engine horsepower, dynamometer drive wheels, and compression ratio as the ADC subconfiguration. Do not include tests in which emissions exceed any applicable standard.

(iii) Where necessary to minimize the CO_2 adjustment, you may supplement the pool with tests associated with worst-case engine or transmission codes and carryover or carry-across engine families. If you do, all the data that qualify for inclusion using the elected worst-case substitution (or carryover or carry-across) must be included in the pool as supplemental data (*i.e.,* individual test vehicles may not be selected for inclusion). You must also include the supplemental data in all subsequent pools, where applicable.

(iv) Except with our advance approval, tests previously used during the subject model year as baseline tests in 20 other ADC subconfigurations must be eliminated from the pool.

(v) Select the tested subconfiguration with the smallest absolute difference between the ADC and the test CO_2 emission rate for combined emissions. Use this as the baseline test for the target ADC subconfiguration.

(4) You may ask us to allow you to use baseline test data not fully meeting the provisions of paragraph (g)(3) of this section.

(5) Calculate the ADC rounded to the nearest 0.1 g/mile. Except with our advance approval, the downward adjustment of ADC from the baseline is limited to ADC values 20 percent below the baseline emission rate. The upward adjustment is not limited.

(6) You may not submit an ADC if an actual test has been run on the target subconfiguration during the certification process or on a development vehicle that is eligible to be declared as an emission-data vehicle.

(7) [Reserved]

(8) Keep the following records for at least five years, and show them to us if we ask to see them:

(i) The pool of tests.

(ii) The vehicle description and tests chosen as the baseline and the basis for the selection.

(iii) The target ADC subconfiguration.

(iv) The calculated emission rates.

(9) We may perform or order a confirmatory test of any subconfiguration covered by an ADC.

(10) Where we determine that you did not fully comply with the provisions of this paragraph (g), we may require that you comply based on actual test data and that you recalculate your fleet-average emission rate.

* * * * *

■ 19. Section 1037.115 is amended by revising paragraph (c) introductory text and removing and reserving paragraph (c)(2) to read as follows:

§ 1037.115 Other requirements.

* * * * *

(c) *Air conditioning leakage.* Loss of refrigerant from your air conditioning systems may not exceed 1.50 percent per year, except as allowed by paragraph (c)(3) of this section. Calculate the total leakage rate in g/year as specified in 40 CFR 86.1867–12(a). Calculate the percent leakage rate as: [total leakage rate (g/yr)] ÷ [total refrigerant capacity (g)] × 100. Round your leakage rate to the nearest one-hundredth of a percent. See § 1037.150 for vocational vehicles.

* * * * *

■ 20. Section 1037.135 is amended by revising paragraphs (c)(5) and (c)(9) to read as follows:

§ 1037.135 Labeling.

* * * * *

(c) * * *

(5) State the date of manufacture [DAY (optional), MONTH, and YEAR]. You may omit this from the label if you stamp, engrave, or otherwise permanently identify it elsewhere on the vehicle, in which case you must also describe in your application for certification where you will identify the date on the vehicle.

* * * * *

(9) Include the following statement for vehicles with an evaporative canister for controlling diurnal emissions: ''THIS VEHICLE IS DESIGNED TO COMPLY WITH EVAPORATIVE EMISSION STANDARDS WITH UP TO x GALLONS OF FUEL TANK CAPACITY.'' Complete this statement by identifying the maximum specified fuel tank capacity associated with your certification.

* * * * *

■ 21. Section 1037.150 is amended by revising paragraphs (a)(2), (l) introductory text, and (l)(1) to read as follows:

§ 1037.150 Interim provisions.

* * * * *

(a) * * *

(2) This paragraph (a)(2) applies for regulatory sub-categories subject to the standards of § 1037.104. To generate early credits under this paragraph (a)(2) for any vehicles other than electric vehicles, you must certify your entire U.S.-directed fleet to these standards. If you calculate a separate fleet average for advanced-technology vehicles under § 1037.104(c)(7), you must certify your entire U.S.-directed production volume of both advanced and conventional vehicles within the fleet. Except as specified in paragraph (a)(4) of this section, if some test groups are certified after the start of the model year, you may generate credits only for production that occurs after all test groups are certified. For example, if you produce three test groups in an averaging set and you receive your certificates for those test groups on January 4, 2013, March 15, 2013, and April 24, 2013, you may not generate credits for model year 2013 for vehicles from any of the test groups produced before April 24, 2013. Calculate credits relative to the standard that would apply in model year 2014 using the applicable equations in 40 CFR part 86 and your model year 2013 U.S.-directed production volumes. These credits may be used to show compliance with the standards of this part for 2014 and later model years. We recommend that you notify us of your intent to use this provision before submitting your applications.

* * * * *

(l) *Optional certification under § 1037.104.* You may certify certain complete or cab-complete vehicles to the standards of § 1037.104. All vehicles optionally certified under this paragraph (l) are deemed to be subject to the standards of § 1037.104. Note that for vehicles above 14,000 pounds GVWR and at or below 26,000 pounds GVWR, certification under this paragraph (l) does not affect how you may or may not certify with respect to criteria pollutants. For example, certifying a Class 4 vehicle under this paragraph (l) does not allow you to chassis-certify these vehicles with respect to criteria pollutants.

(1) You may certify any complete or cab-complete spark-ignition vehicles above 14,000 pounds GVWR and at or below 26,000 pounds GVWR to the standards of § 1037.104 even though § 1037.104 specifies that you may certify vehicles to the standards of that section only if they are chassis-certified for criteria pollutants.

* * * * *

Subpart C—[Amended]

■ 22. Section 1037.201 is amended by revising paragraph (g) to read as follows:

§ 1037.201 General requirements for obtaining a certificate of conformity.

* * * * *

(g) We may perform confirmatory testing on your vehicles; for example, we may test vehicles to verify drag areas or other GEM inputs. This includes vehicles used to determine $F_{alt\text{-}aero}$ under § 1037.521. We may require you to deliver your test vehicles to a facility we designate for our testing. Alternatively, you may choose to deliver another vehicle that is identical in all material respects to the test vehicle. Where certification is based on testing components such as tires, we may require you to deliver test components to a facility we designate for our testing.

■ 23. Section 1037.230 is amended by revising paragraph (a)(1)(xiii) and adding paragraph (a)(1)(xiv) to read as follows:

§ 1037.230 Vehicle families, sub-families, and configurations.

(a) * * *

(1) * * *

(xiii) Vocational tractors above 26,000 pounds GVWR and at or below 33,000 pounds GVWR. Note that vocational tractor provisions do not apply for vehicles at or below 26,000 pounds GVWR.

(xiv) Vocational tractors above 33,000 pounds GVWR.

* * * * *

Subpart F—[Amended]

■ 24. Section 1037.501 is amended by revising paragraph (g)(1)(iv) to read as follows:

§ 1037.501 General testing and modeling provisions.

* * * * *

(g) * * *

(1) * * *

(iv) It includes dual 22.5 inch wheels, standard mudflaps, and standard landing gear. The centerline of the rear tandem axle must be 146 +/- 4 inches from the rear of the trailer.

* * * * *

■ 25. Section 1037.520 is amended by revising the section heading, the introductory text, Table 1 in paragraph (b)(2), and paragraph (e)(1) before the table to read as follows:

§ 1037.520 Modeling CO_2 emissions to show compliance.

This section describes how to use the Greenhouse gas Emissions Model (GEM) simulation tool (incorporated by

reference in § 1037.810) to show compliance with the CO_2 standards of §§ 1037.105 and 1037.106. Use good engineering judgment when demonstrating compliance using the GEM.

* * * * *

(b) * * *

(2) * * *

TABLE 1 TO § 1037.520—HIGH-ROOF DAY AND SLEEPER CABS

Bin level	If your measured C_DA (m^2) is . . .	Then your C_D input is . . .
High-Roof Day Cabs		
Bin I	≥ 8.0	0.79
Bin II	7.1–7.9	0.72
Bin III	6.2–7.0	0.63
Bin IV	5.6–6.1	0.56
Bin V	≤ 5.5	0.51
High-Roof Sleeper Cabs		
Bin I	≥ 7.6	0.75
Bin II	6.8–7.5	0.68
Bin III	6.3–6.7	0.60
Bin IV	5.6–6.2	0.52
Bin V	≤5.5	0.47

* * * * *

(e) * * *

(1) Vehicle weight reduction inputs for wheels are specified relative to dual-wide tires with conventional steel wheels. For purposes of this paragraph (e)(1), a light-weight aluminum wheel is one that weighs at least 21 pounds less than a comparable conventional steel wheel. The inputs are listed in Table 3 to this section. For example, a tractor with aluminum steer wheels and eight (4 × 2) dual-wide aluminum drive wheels would have an input of 210 pounds (2 × 21 + 8 × 21).

* * * * *

■ 26. Section 1037.525 is amended by revising the introductory text to read as follows:

§ 1037.525 Special procedures for testing hybrid vehicles with power take-off.

This section describes the procedure for quantifying the reduction in greenhouse gas emissions as a result of running power take-off (PTO) devices with a hybrid powertrain. The procedures are written to test the PTO by ensuring that the engine produces all of the energy with no net change in stored energy. The full test for the hybrid vehicle is from a fully charged renewable energy storage system (RESS) to a depleted RESS and then back to a fully charged RESS. These procedures may be used for testing any hybrid architecture for which you are requesting a vehicle certificate using either chassis testing or powertrain testing. You must include all hardware for the PTO system. You may ask us to modify the provisions of this section to allow testing hybrid vehicles other than electric-battery hybrids, consistent with good engineering judgment.

* * * * *

■ 27. Section 1037.550 is amended by revising the section heading, the introductory text, and paragraphs (d) through (g) to read as follows:

§ 1037.550 Special procedures for testing hybrid systems.

This section describes the procedure for simulating a chassis test with a pre-transmission or post-transmission hybrid system for A to B testing. These procedures may also be used to perform A to B testing with non-hybrid systems.

* * * * *

(d) Calculate the transmission output shaft's angular speed target for the driver model, $f_{nref,driver,}$ from the linear speed associated with the vehicle cycle using the following equation:

$$f_{\mathrm{nrefi,driver}} = \frac{v_{cyclei} \cdot k_{\mathrm{d}}}{2 \cdot \pi \cdot r}$$

Where:

v_{cyclei} = vehicle speed of the test cycle for each point, *i,* starting from *i*=1.

k_d = final drive ratio (the angular speed of the transmission output shaft divided by the angular speed of the drive axle), as declared by the manufacturer.

r = radius of the loaded tires, as declared by the manufacturer.

(e) Use speed control with a loop rate of at least 100 Hz to program the dynamometer to follow the test cycle, as follows:

(1) Calculate the transmission output shaft's angular speed target for the dynamometer, $f_{nref,dyno,}$ from the measured linear speed at the dynamometer rolls using the following equation:

$$f_{\mathrm{nrefi,dyno}} = \frac{v_{\mathrm{refi}} \cdot k_{\mathrm{d}}}{2 \cdot \pi \cdot r}$$

Where:

$$v_{\mathrm{refi}} = \left(\frac{k_{\mathrm{d}} \cdot T_{\mathrm{i-1}}}{r} - \left(A + B \cdot v_{\mathrm{ref,i-1}} + C \cdot v_{\mathrm{ref,i-1}}{}^{2} \right) - F_{\mathrm{brake,i-1}} \right) \frac{t_{\mathrm{i}} - t_{\mathrm{i-1}}}{M} + v_{\mathrm{ref,i-1}}$$

T = instantaneous measured torque at the transmission output shaft.

F_{brake} = instantaneous brake force applied by the driver model to add force to slow down the vehicle.

t = elapsed time in the driving schedule as measured by the dynamometer, in seconds.

(2) For each test, validate the measured transmission output shaft's speed with the corresponding reference values according to 40 CFR 1065.514(e). You may delete points when the vehicle is stopped. Perform the validation based on speed values at the transmission output shaft. For steady-state tests (55 mph and 65 mph cruise), apply cycle-validation criteria by treating the sampling periods from the two tests as a continuous sampling period. Perform this validation based on the following parameters:

TABLE 1 OF § 1037.550—STATISTICAL CRITERIA FOR VALIDATING DUTY CYCLES

Parameter	Speed control
Slope, a_1	$0.950 \le a_1 \le 1.030$.
Absolute value of intercept, $\lvert a_0 \rvert$.	≤ 2.0% of maximum test speed.
Standard error of estimate, *SEE*.	≤ 5% of maximum test speed.
Coefficient of determination, r^2.	≥ 0.970.

(f) Send a brake signal when throttle position is equal to zero and vehicle speed is greater than the reference vehicle speed from the test cycle. Set a delay before changing the brake state to prevent the brake signal from dithering, consistent with good engineering judgment.

(g) The driver model should be designed to follow the cycle as closely as possible and must meet the requirements of § 1037.510 for steady-state testing and 40 CFR 1066.430(e) for transient testing. The driver model should be designed so that the brake and throttle are not applied at the same time.

* * * * *

Subpart G—[Amended]

■ 28. Section 1037.615 is amended by revising paragraph (b)(1), redesignating paragraph (b)(3) as (b)(4), and adding a new paragraph (b)(3) to read as follows:

§ 1037.615 Hybrid vehicles and other advanced technologies.

* * * * *

(b) * * *

(1) Measure the effectiveness of the advanced system by chassis testing a vehicle equipped with the advanced system and an equivalent conventional vehicle, or by testing the hybrid systems and the equivalent non-hybrid systems as described in § 1037.550. Test the vehicles as specified in subpart F of this part. For purposes of this paragraph (b), a conventional vehicle is considered to be equivalent if it has the same footprint (as defined in 40 CFR 86.1803), vehicle service class, aerodynamic drag, and other relevant factors not directly related to the hybrid powertrain. If you

use § 1037.525 to quantify the benefits of a hybrid system for PTO operation, the conventional vehicle must have the same number of PTO circuits and have equivalent PTO power. If you do not produce an equivalent vehicle, you may create and test a prototype equivalent vehicle. The conventional vehicle is considered Vehicle A and the advanced vehicle is considered Vehicle B. We may specify an alternate cycle if your vehicle includes a power take-off.

* * * * *

(3) If you apply an improvement factor to multiple vehicle configurations using the same advanced technology, use the vehicle configuration with the smallest potential reduction in greenhouse gas emissions resulting from the hybrid capability.

* * * * *

■ 29. Section 1037.620 is amended by revising paragraph (a)(3) to read as follows:

§ 1037.620 Shipment of incomplete vehicles to secondary vehicle manufacturers.

* * * * *

(a) * * *

(3) *Uncertified vehicles that will be certified by secondary vehicle manufacturers.* Manufacturers may introduce into U.S. commerce partially complete vehicles for which they do not hold a certificate of conformity only as allowed by paragraph (b) of this section; however, the requirements of this section do not apply if vehicles produced by a secondary vehicle manufacturer are excluded from the standards of this part under § 1037.150(c).

* * * * *

■ 30. Section 1037.660 is amended by revising the introductory text and paragraph (c) to read as follows:

§ 1037.660 Automatic engine shutdown systems.

This section specifies requirements that apply for certified automatic engine shutdown (AES) systems modeled under § 1037.520. It does not apply for AES systems you do not model under § 1037.520.

* * * * *

(c) *Adjustments to AES systems.* (1) The AES system may include an expiration point (in miles) after which the AES system may be disabled. If your vehicle is equipped with an AES system that expires before 1,259,000 miles, adjust the model input as follows, rounded to the nearest 0.1 g/ton-mile: AES Input = 5 g CO_2/ton-mile × (miles at expiration/1,259,000 miles)

(2) For AES systems designed to limit idling to a specific number of hours less than 1,800 hours over any 12-month period, calculate an adjusted AES input using the following equation, rounded to the nearest 0.1 g/ton-mile: AES Input = 5 g CO_2/ton-mile × (1–(maximum allowable number of idling hours per year/1,800 hours)). This is an annual allowance that starts when the vehicle is new and resets every 12 months after that. Manufacturers may propose an alternative method based on operating hours or miles instead of years.

* * * * *

Subpart H—[Amended]

■ 31. Section 1037.745 is amended by revising the section heading and adding paragraph (d) to read as follows:

§ 1037.745 End-of-year CO_2 credit deficits.

* * * * *

(d) For purposes of calculating the statute of limitations, the following actions are all considered to occur at the expiration of the deadline for offsetting debits as specified in paragraph (a) of this section:

(1) Failing to meet the requirements of paragraph (a) of this section.

(2) Failing to satisfy the conditions upon which a certificate was issued relative to offsetting debits.

(3) Selling, offering for sale, introducing or delivering into U.S. commerce, or importing vehicles that are found not to be covered by a certificate as a result of failing to offset debits.

Subpart I—[Amended]

■ 32. Section 1037.801 is amended by adding a definition for ''Preliminary approval'' in alphabetical order and revising the definition for ''Regulatory sub-category'' to read as follows:

§ 1037.801 Definitions.

* * * * *

Preliminary approval means approval granted by an authorized EPA representative prior to submission of an application for certification, consistent with the provisions of § 1037.210.

* * * * *

Regulatory sub-category means one of the following groups:

(1) All vehicles subject to the standards of § 1037.104. Note that this category includes most gasoline-fueled and diesel-fueled heavy-duty pickup trucks and vans.

(2) [Reserved]

(3) Vocational vehicles at or below 19,500 pounds GVWR.

(4) Vocational vehicles above 19,500 pounds GVWR but at or below 33,000 pounds GVWR.

(5) Vocational vehicles over 33,000 pounds GVWR.

(6) Low-roof tractors above 26,000 pounds GVWR but at or below 33,000 pounds GVWR.

(7) Mid-roof tractors above 26,000 pounds GVWR but at or below 33,000 pounds GVWR.

(8) High-roof tractors above 26,000 pounds GVWR but at or below 33,000 pounds GVWR.

(9) Low-roof day cab tractors above 33,000 pounds GVWR.

(10) Low-roof sleeper cab tractors above 33,000 pounds GVWR.

(11) Mid-roof day cab tractors above 33,000 pounds GVWR.

(12) Mid-roof sleeper cab tractors above 33,000 pounds GVWR.

(13) High-roof day cab tractors above 33,000 pounds GVWR.

(14) High-roof sleeper cab tractors above 33,000 pounds GVWR.

* * * * *

■ 33. Section 1037.805 is amended by adding an entry for ''AES'' in alphabetical order to read as follows:

§ 1037.805 Symbols, acronyms, and abbreviations.

* * * * *

AES Automatic engine shutdown.

* * * * *

■ 34. Section 1037.810 is amended by revising paragraph (c)(1) to read as follows:

§ 1037.810 Incorporation by reference.

* * * * *

(c) * * *

(1) Greenhouse gas Emissions Model (GEM) simulation tool, Version 2.0.1, September 2012; IBR approved for § 1037.520. The computer code for this model is available as noted in paragraph (a) of this section. A working version of this software is also available for download at *http://www.epa.gov/otaq/climate/gem.htm.*

* * * * *

PART 1039—CONTROL OF EMISSIONS FROM NEW AND IN-USE NONROAD COMPRESSION-IGNITION ENGINES

■ 35. The authority citation for part 1039 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart B—[Amended]

■ 36. Section 1039.104 is amended by revising paragraph (g) to read as follows:

§ 1039.104 Are there interim provisions that apply only for a limited time?

* * * * *

(g) *Alternate FEL caps.* You may certify engines to the FEL caps in Table 1 of this section instead of the otherwise applicable FEL caps in § 1039.101(d)(1), § 1039.102(e), or § 1039.102(g)(2) for the indicated model years, subject to the following provisions:

(1) [Reserved]

(2) If your engine is not certified to transient emission standards under the provisions of § 1039.102(a)(1)(iii), you must adjust your FEL upward by a temporary compliance adjustment factor (TCAF) before calculating your negative emission credits under § 1039.705, as follows:

(i) The temporary compliance adjustment factor for NO_X and for NO_X + NMHC is 1.1.

(ii) The temporary compliance adjustment factor for PM is 1.5.

(iii) The adjusted FEL (FEL_{adj}) for calculating emission credits is determined from the steady-state FEL (FEL_{ss}) using the following equation:

$$FEL_{adj} = (FEL_{ss}) \times (TCAF)$$

(iv) The unadjusted FEL (FEL_{ss}) applies for all purposes other than credit calculation.

(3) These alternate FEL caps may not be used for phase-in engines.

(4) Do not apply TCAFs to gaseous emissions for phase-out engines that you certify to the same numerical standards (and FELs if the engines are certified using ABT) for gaseous pollutants as you certified under the Tier 3 requirements of 40 CFR part 89.

TABLE 1 OF § 1039.104—ALTERNATE FEL CAPS

Maximum engine power	PM FEL cap, g/kW-hr	Model years for the alternate PM FEL cap	NO_X FEL cap, g/kW-hr [1]	Model years for the alternate NO_X FEL cap
19 ≤ kW < 56	0.30	[2] 2012–2015		
56 ≤ kW < 130 [3]	0.30	2012–2015	3.8	[4] 2012–2015
130 ≤ kW ≤ 560	0.20	2011–2014	3.8	[5] 2011–2014
kW > 560 [6]	0.10	2015–2018	3.5	2015–2018

[1] The FEL cap for engines demonstrating compliance with a NO_X + NMHC standard is equal to the previously applicable NO_X + NMHC standard specified in 40 CFR 89.112 (generally the Tier 3 standards).

[2] For manufacturers certifying engines under Option #1 of Table 3 of § 1039.102, these alternate FEL caps apply to all 19–56 kW engines for model years from 2013 through 2016 instead of the years indicated in this table. For manufacturers certifying engines under Option #2 of Table 3 of § 1039.102, these alternate FEL caps do not apply to 19–37 kW engines except in model years 2013 to 2015.

[3] For engines below 75 kW, the FEL caps are 0.40 g/kW-hr for PM emissions and 4.4 g/kW-hr for NO_X emissions.

[4] For manufacturers certifying engines in this power category using a percentage phase-in/phase-out approach instead of the alternate NO_X standards of § 1039.102(e)(1), the alternate NO_X FEL cap in the table applies only in the 2014–2015 model years if certifying under § 1039.102(d)(1), and only in the 2015 model year if certifying under § 1039.102(d)(2).

[5] For manufacturers certifying engines in this power category using the percentage phase-in/phase-out approach instead of the alternate NO_X standard of § 1039.102(e)(2), the alternate NO_X FEL cap in the table applies only for the 2014 model year.

[6] For engines above 560 kW, the provision for alternate NO_X FEL caps is limited to generator-set engines.

(5) You may certify engines under this paragraph (g) in any model year provided for in Table 1 of this section without regard to whether or not the engine family's FEL is at or below the otherwise applicable FEL cap. For example, a 200 kW engine certified to the NO_X + NMHC standard of § 1039.102(e)(3) with an FEL equal to the FEL cap of 2.8 g/kW-hr may nevertheless be certified under this paragraph (g).

(6) For engines you produce under this paragraph (g) after the Tier 4 final standards take effect, you may certify based on a NO_X + NMHC FEL as described in Table 1 of this section. Calculate emission credits for these engines relative to the applicable NO_X standard in § 1039.101 or § 1039.102, plus 0.1 g/kW-hr.

* * * * *

Subpart G—[Amended]

■ 37. Section 1039.625 is amended by revising paragraphs (e), (j), and (m) to read as follows:

§ 1039.625 What requirements apply under the program for equipment-manufacturer flexibility?

* * * * *

(e) *Standards.* If you produce equipment with exempted engines under this section, the engines must meet emission standards specified in this paragraph (e), or more stringent standards. Note that we consider engines to be meeting emission standards even if they are certified with a family emission limit that is higher than the emission standard that would otherwise apply.

(1) If you are using the provisions of paragraph (d)(4) of this section, engines must meet the applicable Tier 1 or Tier 2 emission standards described in 40 CFR 89.112.

(2) If you are using the provisions of paragraph (a)(2) of this section, engines must be identical in all material respects to engines certified under this part 1039 as follows:

Engines in the following power category . . .	Must meet all standards and requirements that applied in the following model year . . .
(i) 19 ≤ kW < 56	2008 (Option 1, where applicable).
(ii) 56 ≤ kW < 130	2012 (Phase-out).
(iii) 130 ≤ kW ≤ 560	2011 (Phase-out).
(iv) kW > 560	2011.

(3) In all other cases, engines at or above 56 kW and at or below 560 kW must meet the appropriate Tier 3 standards described in 40 CFR 89.112. Engines below 56 kW and engines above 560 kW must meet the appropriate Tier 2 standards described in 40 CFR 89.112.

* * * * *

(j) *Provisions for engine manufacturers.* As an engine manufacturer, you may produce exempted engines as needed under this section. You do not have to request this exemption for your engines, but you must have written assurance from equipment manufacturers that they need a certain number of exempted engines under this section. Send us an annual report of the engines you produce under this section, as described in § 1039.250(a). Exempt engines must meet the emission standards in paragraph (e) of this section and you must meet all the requirements of 40 CFR 1068.265, except that engines produced under the provisions of paragraph (a)(2) of this section must be identical in all material respects to engines previously certified under this part 1039. If you show under 40 CFR 1068.265(c) that the engines are identical in all material respects to engines that you have previously

certified to one or more FELs above the standards specified in paragraph (e) of this section, you must supply sufficient credits for these engines. Calculate these credits under subpart H of this part using the previously certified FELs and the alternate standards. You must meet the labeling requirements in 40 CFR 89.110 or § 1039.135, as applicable, with the following exceptions:

* * * * *

(m) *Additional exemptions for technical or engineering hardship.* You may request additional engine allowances under paragraph (b) of this section; however, you may use these extra allowances only for those equipment models for which you, or an affiliated company, do not also produce the engine. Additional allowances under this paragraph (m) must be used within the specified seven-year period. After considering the circumstances, we may permit you to introduce into U.S. commerce equipment with such engines that do not comply with Tier 4 emission standards, as follows:

(1) We may approve additional exemptions if extreme and unusual circumstances that are clearly outside your control and that could not have been avoided with reasonable discretion have resulted in technical or engineering problems that prevent you from meeting the requirements of this part. You must show that you exercised prudent planning and have taken all reasonable steps to minimize the scope of your request for additional allowances.

(2) To apply for exemptions under this paragraph (m), send the Designated Compliance Officer a written request as soon as possible before you are in violation. In your request, include the following information:

(i) Describe your process for designing equipment.

(ii) Describe how you normally work cooperatively or concurrently with your engine supplier to design products.

(iii) Describe the engineering or technical problems causing you to request the exemption and explain why you have not been able to solve them. Describe the extreme and unusual circumstances that led to these problems and explain how they were unavoidable.

(iv) Describe any information or products you received from your engine supplier related to equipment design—such as written specifications, performance data, or prototype engines—and when you received it.

(v) Compare the design processes of the equipment model for which you need additional exemptions and that for other models for which you do not need additional exemptions. Explain the technical differences that justify your request.

(vi) Describe your efforts to find and use other compliant engines, or otherwise explain why none is available.

(vii) Describe the steps you have taken to minimize the scope of your request.

(viii) Include other relevant information. You must give us other relevant information if we ask for it.

(ix) Estimate the increased percent of production you need for each equipment model covered by your request, as described in paragraph (m)(3) of this section. Estimate the increased number of allowances you need for each equipment model covered by your request, as described in paragraph (m)(4) of this section.

(3) We may approve your request to increase the allowances under paragraph (b)(1) of this section, subject to the following limitations:

(i) You must use up the allowances under paragraph (b)(1) of this section before using any additional allowance under this paragraph (m).

(ii) You may use these allowances only for the specific equipment models covered by your request.

(4) We may approve your request to increase the small-volume allowances under paragraph (b)(2) of this section, subject to the following limitations:

(i) You are eligible for additional allowances under this paragraph (m)(4) only if you do not use the provisions of paragraph (m)(3) of this section to obtain additional allowances within a given power category.

(ii) We may approve additional allowances in the form of waiving the annual limits specified in paragraph (b)(2) of this section instead of or in addition to increasing the total number of allowances under this paragraph (m)(4).

(iii) If we increase the total number of allowances, you may use these allowances only for the specific equipment models covered by your request.

PART 1042—CONTROL OF EMISSIONS FROM NEW AND IN-USE MARINE COMPRESSION-IGNITION ENGINES AND VESSELS

■ 38. The authority citation for part 1042 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart B—[Amended]

■ 39. Section 1042.145 is amended by adding paragraph (j) to read as follows:

§ 1042.145 Interim provisions.

* * * * *

(j) Vessel manufacturers and marine equipment manufacturers may apply the provisions of § 1042.605 to land-based engines with maximum engine power at or above 19 kW and below 600 kW produced under the allowances provided in 40 CFR 1039.625 for model year 2013 marine engines. All the provisions of § 1042.605 apply as if those engines were certified to emission standards under 40 CFR part 1039. Similarly, engine manufacturers, vessel manufacturers, and marine equipment manufacturers must comply with all the provisions of 40 CFR 1039.625 as if those engines were installed in land-based equipment.

Subpart G—[Amended]

■ 40. Section 1042.615 is amended as follows:

■ a. By revising the introductory text and paragraphs (a) introductory text and (a)(1).

■ b. By redesignating paragraphs (b) through (d) as paragraphs (c) through (e).

■ c. By adding a new paragraph (b).

§ 1042.615 Replacement engine exemption.

For Category 1 and Category 2 replacement engines, the provisions of 40 CFR 1068.240 apply except as described in this section. In unusual circumstances, you may ask us to allow you to apply these provisions for a new Category 3 engine.

(a) This paragraph (a) applies instead of the provisions of 40 CFR 1068.240(b)(2). The prohibitions in 40 CFR 1068.101(a)(1) do not apply to a new replacement engine if all the following conditions are met:

(1) You use good engineering judgment to determine that no engine certified to the current requirements of this part is produced by any manufacturer with the appropriate physical or performance characteristics to repower the vessel. We have determined that engines certified to Tier 4 standards do not have the appropriate physical or performance characteristics to replace uncertified engines or engines certified to emission standards that are less stringent than the Tier 4 standards.

* * * * *

(b) The 25-year limit specified in 40 CFR 1068.240(a) does not apply for engines subject to this part 1042. You may accordingly omit the statement on the permanent labels specified in 40 CFR 1068.240 describing this limitation.

* * * * *

PART 1048—CONTROL OF EMISSIONS FROM NEW, LARGE NONROAD SPARK-IGNITION ENGINES

■ 41. The authority citation for part 1048 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart B—[Amended]

■ 42. Section 1048.105 is amended by revising paragraph (a) to read as follows:

§ 1048.105 What evaporative emission standards and requirements apply?

* * * * *

(a) *Fuel line permeation.* For nonmetallic fuel lines, you must specify and use products that meet the Category 1 specifications for permeation in the November 1996 or November 2004 versions of SAE J2260 (both incorporated by reference in § 1048.810).

* * * * *

Subpart I—[Amended]

■ 43. Section 1048.810 is revised to read as follows:

§ 1048.810 What materials does this part reference?

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Environmental Protection Agency must publish a notice of the change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at U.S. EPA, Air and Radiation Docket and Information Center, 1301 Constitution Ave. NW., Room B102, EPA West Building, Washington, DC 20460, (202) 202–1744, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) Society of Automotive Engineers, 400 Commonwealth Dr., Warrendale, PA 15096–0001, (877) 606–7323 (U.S. and Canada) or (724) 776–4970 (outside the U.S. and Canada), *http://www.sae.org.*

(1) SAE J2260, Nonmetallic Fuel System Tubing with One or More Layers, November 2004; IBR approved for § 1048.105(a).

(2) SAE J2260, Nonmetallic Fuel System Tubing with One or More Layers, November 1996; IBR approved for § 1048.105(a).

(c) International Organization for Standardization, Case Postale 56, CH–1211 Geneva 20, Switzerland, (41) 22749 0111, *http://www.iso.org,* or *central@iso.org.*

(1) ISO 9141–2 Road vehicles—Diagnostic systems— Part 2: CARB requirements for interchange of digital information, February 1994; IBR approved for § 1048.110(g).

(2) ISO 14230–4 Road vehicles—Diagnostic systems—Keyword Protocol 2000—Part 4: Requirements for emission-related systems, June 2000; IBR approved for § 1048.110(g).

PART 1054—CONTROL OF EMISSIONS FROM NEW, SMALL NONROAD SPARK–IGNITION ENGINES AND EQUIPMENT

■ 44. The authority citation for part 1054 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart B—[Amended]

■ 45. Section 1054.145 is amended by revising paragraphs (c)(3) and (n) to read as follows:

§ 1054.145 Are there interim provisions that apply only for a limited time?

* * * * *

(c) * * *

(3) Engines subject to Phase 3 emission standards must meet the standards at or above barometric pressures of 96.0 kPa in the standard configuration and are not required to meet emission standards at lower barometric pressures. This is intended to allow testing under most weather conditions at all altitudes up to 1,100 feet above sea level. In your application for certification, identify the altitude above which you rely on an altitude kit and describe your plan for making information and parts available such that you would reasonably expect that altitude kits would be widely used at all such altitudes.

* * * * *

(n) *California test fuel.* Through model year 2019, you may perform testing with a fuel meeting the requirements for certifying the engine in California instead of the fuel specified in § 1054.501(b)(2), as follows:

(1) You may certify individual engine families using data from testing conducted with California Phase 2 test fuel. Any EPA testing with such an engine family may use either this same certification fuel or the test fuel specified in § 1054.501.

(2) Starting in model year 2013, you may certify individual engine families using data from testing conducted with California Phase 3 test fuel. Any EPA testing with such an engine family may use either this same certification fuel or the test fuel specified in § 1054.501, unless you certify to the more stringent CO standards specified in this paragraph (n)(2). If you meet these alternate CO standards, we will also use California Phase 3 test fuel for any testing we perform with engines from that engine family. The following alternate CO standards apply instead of the CO standards specified in § 1054.103 or § 1054.105:

TABLE 1 TO § 1054.145—ALTERNATE CO STANDARDS FOR TESTING WITH CALIFORNIA PHASE 3 TEST FUEL

[g/kW-hr]

Engine type	Alternate CO standard
Class I	549
Class II	549
Class III	536
Class IV	536
Class V	536
Marine generators	4.5

* * * * *

Subpart F—[Amended]

■ 46. Section 1054.501 is amended by revising paragraph (b)(2) to read as follows:

§ 1054.501 How do I run a valid emission test?

* * * * *

(b) * * *

(2) Use the appropriate fuels and lubricants specified in 40 CFR part 1065, subpart H, for all the testing we require in this part. Except as specified in paragraph (d) of this section, use gasoline specified for general testing. For service accumulation, use the test fuel or any commercially available fuel that is representative of the fuel that in-use engines will use. Note that § 1054.145(n) allows for testing with gasoline test fuels specified by the California Air Resources Board for any individual engine family through model year 2019.

* * * * *

PART 1065—Engine-Testing Procedures

■ 47. The authority citation for part 1065 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart C—[Amended]

■ 48. Section 1065.275 is amended by revising the section heading to read as follows:

§ 1065.275 N_2O measurement devices.

* * * * *

Subpart G—[Amended]

■ 49. Section 1065.610 is amended by revising paragraph (c)(3) to read as follows:

§ 1065.610 Duty cycle generation.

* * * * *

(c) * * *

(3) *Intermediate speed.* If your normalized duty cycle specifies a speed as ''intermediate speed,'' use your torque-versus-speed curve to determine the speed at which maximum torque occurs. This is peak torque speed. If maximum torque occurs in a flat region of the torque-versus-speed curve, your peak torque speed is the midpoint between the lowest and highest speeds at which the trace reaches the flat region. For purposes of this paragraph (c)(3), a flat region is one in which measured torque values are within 2% of the maximum recorded value. Identify your reference intermediate speed as one of the following values:

(i) Peak torque speed if it is between (60 and 75) % of maximum test speed.

(ii) 60% of maximum test speed if peak torque speed is less than 60% of maximum test speed.

(iii) 75% of maximum test speed if peak torque speed is greater than 75% of maximum test speed.

* * * * *

PART 1066—VEHICLE-TESTING PROCEDURES

■ 50. The authority citation for part 1066 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart D—[Amended]

■ 51. Section 1066.310 is amended by:

■ a. Revising the section heading and the introductory text;

■ b. Revising paragraphs (b)(2), (b)(3) introductory text, and (b)(3)(i);

■ c. Removing and reserving paragraph (b)(3)(ii);

■ d. Revising paragraphs (b)(6) and (b)(7); and

■ e. Adding paragraph (b)(8) to read as follows:

§ 1066.310 Coastdown procedures for vehicles with GVWR above 14,000 lbs.

This section describes coastdown procedures that are unique to heavy-duty vehicles with GVWR above 14,000 lbs. These procedures are valid for calculating road-load coefficients for chassis and post-transmission powerpack testing and for calculating drag area (C_DA) for use in the Greenhouse gas Emissions Model (GEM) simulation tool under 40 CFR part 1037.

* * * * *

(b) * * *

(2) Operate the vehicle at a top speed above 70 mph, or at its maximum achievable speed if it cannot reach 70 mph. If a vehicle is equipped with a vehicle speed limiter that is set for a maximum speed below 70 mph, you must disable the vehicle speed limiter. Start the test at or above 70 mph or at the vehicle's maximum achievable speed if it cannot reach 70 mph. Data collection must occur through a minimum speed at or below 15 mph. Data analysis for valid coastdown runs must include a maximum speed as described in this paragraph (b)(2) and a minimum speed of 15 mph.

(3) Gather data regarding wind speed and direction, in coordination with time-of-day data, using at least one stationary electro-mechanical anemometer and suitable data loggers meeting the specifications of SAE J1263, as well as the following additional specifications for the anemometer placed adjacent to the test surface:

(i) Calibrate the equipment by running the zero-wind and zero-angle calibrations within 24 hours before conducting the coastdown procedures. If the coastdown procedures are not complete 24 hours after calibrating the equipment, repeat the calibration for another 24 hours of data collection.

(ii) [Reserved]

* * * * *

(6) All valid coastdown run times in each direction must be within 2.0 standard deviations of the mean of the valid coastdown run times (from 70 mph down to 15 mph) in that direction. Eliminate runs outside this range. After eliminating these runs you must have at least eight valid runs in each direction. You may use coastdown run times that do not meet these standard deviation requirements if we approve it in advance. In your request, describe why the vehicle is not able to meet the specified standard deviation requirements and propose an alternative set of requirements.

(7) Analyze data for chassis and post-transmission powerpack testing or for use in the GEM simulation tool as follows:

(i) Follow the procedures specified in Section 10 of SAE J1263 or Section 11 of SAE J2263 to calculate coefficients for chassis and post-transmission powerpack testing.

(ii) For the GEM simulation tool, determine drag area, C_DA, as follows instead of using the procedure specified in Section 10 of SAE J1263:

(A) Measure vehicle speed at fixed intervals over the coastdown run (generally at 10 Hz), including speeds at or above 15 mph and at or below 70 mph. Establish the height or altitude corresponding to each interval as described in SAE J2263 if you need to incorporate the effects of road grade.

(B) Calculate the vehicle's effective mass, M_e, in kg by adding 56.7 kg to the vehicle mass for each tire making road contact. This accounts for the rotational inertia of the wheels and tires.

(C) Calculate the road-load force for each measurement interval, F_i, using the following equation:

$$F_i = -M_e \cdot \frac{v_i - v_{i-1}}{\Delta t}$$

Where:

M_e = the vehicle's effective mass, expressed to the nearest 0.1 kg.

v = vehicle speed at the beginning and end of the measurement interval. Let $v_0 = 0$ m/s.

Δt = elapsed time over the measurement interval, in seconds.

(D) Plot the data from all the coastdown runs on a single plot of F_i vs. v_i^2 to determine the slope correlation, D, based on the following equation:

$$F_i - M_e \cdot g \cdot \frac{\Delta h}{\Delta s} = A_m + D \cdot v_i^2$$

Where:

g = gravitational acceleration = 9.81 m/s^2.

Δh = change in height or altitude over the measurement interval, in m. Assume $\Delta h = 0$ if you are not correcting for grade.

Δs = distance the vehicle travels down the road during the measurement interval, in m.

A_m = the calculated value of the y-intercept based on the curve-fit.

(E) Calculate drag area, C_DA, in m^2 using the following equation:

$$C_D A = \frac{2 \cdot D_{adj}}{\rho}$$

Where:

ρ = air density at reference conditions = 1.17 kg/m^3.

$$D_{adj} = D \cdot \left(\frac{\overline{T}}{293}\right) \cdot \left(\frac{98.21}{\overline{P}_B}\right)$$

$\overline{T}$ = average ambient temperature during testing, in K.

$\overline{P}_B$ = average ambient pressuring during the test, in kPa.

(8) Determine the A, B, and C coefficients identified in § 1066.210 as follows:

(i) For chassis and post-transmission powerpack testing, follow the procedures specified in Section 10 of SAE J1263 or Section 12 of SAE J2263.

(ii) For the GEM simulation tool, use the following values:

$A = A_m$
$B = 0$
$C = D_{adj}$

PART 1068—GENERAL COMPLIANCE PROVISIONS FOR HIGHWAY, STATIONARY, AND NONROAD PROGRAMS

■ 52. The authority citation for part 1068 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart A—[Amended]

■ 53. Section 1068.1 is amended by revising paragraph (b) to read as follows:

§ 1068.1 Does this part apply to me?

* * * * *

(b) This part does not apply to any of the following engine or vehicle categories:

(1) Light-duty motor vehicles (see 40 CFR part 86).

(2) Highway motorcycles (see 40 CFR part 86).

(3) Heavy-duty motor vehicles and motor vehicle engines, except as specified in 40 CFR parts 85 and 86.

(4) Aircraft engines, except as specified in 40 CFR part 87.

(5) Land-based nonroad compression-ignition engines we regulate under 40 CFR part 89.

(6) Small nonroad spark-ignition engines we regulate under 40 CFR part 90.

(7) Marine spark-ignition engines we regulate under 40 CFR part 91.

(8) Locomotive engines we regulate under 40 CFR part 92.

(9) Marine compression-ignition engines we regulate under 40 CFR parts 89 or 94.

* * * * *

Subpart C—[Amended]

■ 54. Section 1068.240 is revised to read as follows:

§ 1068.240 What are the provisions for exempting new replacement engines?

The prohibitions in § 1068.101(a)(1) do not apply to a new engine if it is exempt under this section as a replacement engine. For purposes of this section, a replacement engine is a new engine that is used to replace an engine that has already been placed into service (whether the previous engine is replaced in whole or in part with a new engine).

(a) *General provisions.* You are eligible for the exemption for new replacement engines only if you are a certificate holder. Note that this exemption does not apply for locomotives (40 CFR 1033.601) and that unique provisions apply to marine compression-ignition engines (40 CFR 1042.615).

(1) Paragraphs (b), (c), and (d) of this section describe different approaches for exempting new replacement engines where the engines are specially built to correspond to an engine model from an earlier model year that was subject to less stringent standards than those that apply for current production (or is no longer covered by a certificate of conformity).

(2) Paragraph (e) of this section describes a simpler approach for exempting partially complete new replacement engines that are built under a certificate of conformity that is valid for producing engines for the current model year.

(3) For all the different approaches described in paragraphs (b) through (e) of this section, the exemption applies only for equipment that is 25 years old or less at the time of installation.

(b) *Previous-tier replacement engines with tracking.* You may produce any number of new engines to replace an engine already placed into service in a piece of equipment, as follows:

(1) The engine being replaced must have been either not originally subject to emission standards or originally subject to less stringent emission standards than those that apply to a new engine meeting current standards. The provisions of this paragraph (b) also apply for engines that were originally certified to the same standards that apply for the current model year if you no longer have a certificate of conformity to continue producing that engine configuration.

(2) The following requirements and conditions apply for engines exempted under this paragraph (b):

(i) You must determine that you do not produce an engine certified to meet current requirements that has the appropriate physical or performance characteristics to repower the equipment. If the engine being replaced was made by a different company, you must make this determination also for engines produced by this other company.

(ii) In the case of premature engine failure, if the old engine was subject to emission standards, you must make the new replacement engine in a configuration identical in all material respects to the old engine and meet the requirements of § 1068.265. You may alternatively make the new replacement engine in a configuration identical in all material respects to another certified engine of the same or later model year as long as the engine is not certified with a family emission limit higher than that of the old engine.

(iii) For cases not involving premature engine failure, you must make a separate determination for your own product line addressing every tier of emission standards that is more stringent than the emission standards for the engine being replaced. For example, if the engine being replaced was built before the Tier 1 standards started to apply and engines of that size are currently subject to Tier 3 standards, you must also consider whether any Tier 1 or Tier 2 engines that you produce have the appropriate physical and performance characteristics for replacing the old engine; if you produce a Tier 2 engine with the appropriate physical and performance characteristics, you must use it as the replacement engine.

(iv) You must keep records to document your basis for making the determinations in paragraphs (b)(2)(i) and (iii) of this section.

(3) The old engine block may be reintroduced into U.S. commerce as part of an engine that meets either the current standards for new engines, the provisions for new replacement engines in this section, or another valid exemption. Otherwise, you must destroy the old engine block or confirm that it has been destroyed.

(4) If the old engine was subject to emission standards, the replacement engine must meet the appropriate emission standards as specified in § 1068.265. This generally means you must make the new replacement engine in a previously certified configuration.

(5) Except as specified in paragraph (d) of this section, you must add a permanent label, consistent with § 1068.45, with your corporate name and trademark and the following additional information:

(i) Add the following statement if the new engine may only be used to replace an engine that was not subject to any emission standards under this chapter:

THIS REPLACEMENT ENGINE IS EXEMPT UNDER 40 CFR 1068.240. SELLING OR INSTALLING THIS ENGINE FOR ANY PURPOSE OTHER THAN TO REPLACE AN UNREGULATED ENGINE MAY BE A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY. THIS ENGINE MAY NOT BE INSTALLED IN

EQUIPMENT THAT IS MORE THAN 25 YEARS OLD AT THE TIME OF INSTALLATION.

(ii) Add the following statement if the new engine may replace an engine that was subject to emission standards:

THIS ENGINE COMPLIES WITH U.S. EPA EMISSION REQUIREMENTS FOR [Identify the appropriate emission standards (by model year, tier, or emission levels) for the replaced engine] ENGINES UNDER 40 CFR 1068.240. SELLING OR INSTALLING THIS ENGINE FOR ANY PURPOSE OTHER THAN TO REPLACE A [Identify the appropriate emission standards for the replaced engine, by model year(s), tier(s), or emission levels)] ENGINE MAY BE A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY. THIS ENGINE MAY NOT BE INSTALLED IN EQUIPMENT THAT IS MORE THAN 25 YEARS OLD AT THE TIME OF INSTALLATION.

(6) Engines exempt under this paragraph (b) may not be introduced into U.S. commerce before you make the determinations under paragraph (b)(2) of this section, except as specified in this paragraph (b)(6). We may waive this restriction for engines excluded under paragraph (c)(5) of this section that you ship to a distributor. Where we waive this restriction, you must take steps to ensure that the engine is installed consistent with the requirements of this paragraph (b). For example, at a minimum you must report to us annually whether engines we allowed you to ship to a distributor under this paragraph (b)(6) have been placed into service or remain in inventory. After an engine is placed into service, your report must describe how the engine was installed consistent with the requirements of this paragraph (b). Send these reports to the Designated Compliance Officer by the deadlines we specify.

(c) *Previous-tier replacement engines without tracking.* You may produce a limited number of new replacement engines that are not from a currently certified engine family under the provisions of this paragraph (c). If you produce new engines under this paragraph (c) to replace engines subject to emission standards, the new replacement engine must be in a configuration identical in all material respects to the old engine and meet the requirements of § 1068.265. You may make the new replacement engine in a configuration identical in all material respects to another certified engine of the same or later model year as long as the engine is not certified with a family emission limit higher than that of the old engine. The provisions of this paragraph (c) also apply for engines that were originally certified to the same standards that apply for the current model year if you no longer have a certificate of conformity to continue producing that engine configuration. This would apply, for example, for engine configurations that were certified in an earlier model year but are no longer covered by a certificate of conformity. You must comply with the requirements of paragraph (b) of this section for any number of replacement engines you produce in excess of what we allow under this paragraph (c). Engines produced under this paragraph (c) may be redesignated as engines subject to paragraph (b) of this section, as long as you meet all the requirements and conditions of paragraph (b) of this section before the deadline for the report specified in paragraph (c)(3) of this section. The following provisions apply to engines exempted under this paragraph (c):

(1) You may produce a limited number of replacement engines under this paragraph (c) representing 0.5 percent of your annual production volumes for each category and subcategory of engines identified in Table 1 to this section (1.0 percent through 2013). Calculate this number by multiplying your annual U.S.-directed production volume by 0.005 (or 0.01 through 2013) and rounding to the nearest whole number. Determine the appropriate production volume by identifying the highest total annual U.S.-directed production volume of engines from the previous three model years for all your certified engines from each category or subcategory identified in Table 1 to this section, as applicable. In unusual circumstances, you may ask us to base your production limits on U.S.-directed production volume for a model year more than three years prior. You may include stationary engines and exempted engines as part of your U.S.-directed production volume. Include U.S.-directed engines produced by any parent or subsidiary companies and those from any other companies you license to produce engines for you.

(2) Count every exempted new replacement engine from your total U.S.-directed production volume that you produce in a given calendar year under this paragraph (c), including partially complete engines, except for the following:

(i) Engines built to specifications for an earlier model year under paragraph (b) of this section.

(ii) Partially complete engines exempted under paragraph (e) of this section.

(3) Send the Designated Compliance Officer a report by March 31 of the year following any year in which you produced exempted replacement engines under this paragraph (c). In your report include the total number of replacement engines you produce under this paragraph (c) for each category or subcategory, as appropriate, and the corresponding total production volumes determined under paragraph (c)(1) of this section. If you send us a report under this paragraph (c)(3), you must also include the total number of replacement engines you produced under paragraphs (b), (d), and (e) of this section. You may include this information in production reports required under the standard-setting part.

(4) Add a permanent label as specified in paragraph (b)(5) of this section. For partially complete engines, you may alternatively add a permanent or removable label as specified in paragraph (d) of this section.

(5) You may not use the provisions of this paragraph (c) for any engines in the following engine categories or subcategories:

(i) Land-based nonroad compression-ignition engines we regulate under 40 CFR part 1039 with a per-cylinder displacement at or above 7.0 liters.

(ii) Marine compression-ignition engines we regulate under 40 CFR part 1042 with a per-cylinder displacement at or above 7.0 liters.

(iii) Locomotive engines we regulate under 40 CFR part 1033.

(d) *Partially complete engines.* The following requirements apply if you ship a partially complete replacement engine under this section:

(1) Provide instructions specifying how to complete the engine assembly such that the resulting engine conforms to the applicable certificate of conformity or the specifications of § 1068.265. Where a partially complete engine can be built into multiple different configurations, you must be able to identify all the engine models and model years for which the partially complete engine may properly be used for replacement purposes. Your instructions must make clear how the final assembler can determine which configurations are appropriate for the engine they receive.

(2) You must label the engine as follows:

(i) If you have a reasonable basis to believe that the fully assembled engine will include the original emission control information label, you may add a removable label to the engine with your corporate name and trademark and the statement: ''This replacement engine is exempt under 40 CFR 1068.240.'' This

would generally apply if all the engine models that are compatible with the replacement engine were covered by a certificate of conformity and they were labeled in a position on the engine or equipment that is not included as part of the partially complete engine being shipped for replacement purposes. Removable labels must meet the requirements specified in § 1068.45.

(ii) If you do not qualify for using a removable label in paragraph (d)(1) of this section, you must add a permanent label in a readily visible location, though it may be obscured after installation in a piece of equipment. Include on the permanent label your corporate name and trademark, the engine's part number (or other identifying information), and the statement: ''THIS REPLACEMENT ENGINE IS EXEMPT UNDER 40 CFR 1068.240; IT MAY NOT BE INSTALLED IN EQUIPMENT THAT IS MORE THAN 25 YEARS OLD AT THE TIME OF INSTALLATION.'' If there is not enough space for this statement, you may alternatively add: ''REPLACEMENT'' or ''SERVICE ENGINE''. For purposes of this paragraph (d)(2), engine part numbers permanently stamped or engraved on the engine are considered to be included on the label.

(e) *Partially complete current-tier replacement engines.* The provisions of paragraph (d) of this section apply for partially complete engines you produce from a current line of certified engines or vehicles. This applies for engine-based and equipment-based standards as follows:

(1) Where engine-based standards apply, you may introduce into U.S. commerce short blocks or other partially complete engines from a currently certified engine family as replacement components for in-use equipment powered by engines you originally produced. You must be able to identify all the engine models and model years for which the partially complete engine may properly be used for replacement purposes.

(2) Where equipment-based standards apply, you may introduce into U.S. commerce engines that are identical to engines covered by a current certificate of conformity by demonstrating compliance with currently applicable standards where the engines will be installed as replacement engines. These engines might be fully assembled, but we would consider them to be partially complete engines because they are not yet installed in the equipment.

(f) *Emission credits.* Replacement engines exempted under this section may not generate or use emission credits under the standard-setting part nor be part of any associated credit calculations.

TABLE 1 TO § 1068.240—ENGINE CATEGORIES AND SUBCATEGORIES FOR NEW REPLACEMENT ENGINES EXEMPTED WITHOUT TRACKING

Engine category	Standard-setting part [1]	Engine subcategories
Highway CI	40 CFR part 86	disp. < 0.6 L/cyl. 0.6 ≤ disp. < 1.2 L/cyl. disp. ≥ 1.2 L/cyl.
Nonroad CI, Stationary CI, and Marine CI	40 CFR part 1039, or 40 CFR part 1042	disp. < 0.6 L/cyl. 0.6 ≤ disp. < 1.2 L/cyl. 1.2 ≤ disp. < 2.5 L/cyl. 2.5 ≤ disp. < 7.0 L/cyl.
Marine SI	40 CFR part 1045	outboard. personal watercraft.
Large SI, Stationary SI, and Marine SI (sterndrive/inboard only).	40 CFR part 1048 or 40 CFR part 1045	all engines.
Recreational vehicles	40 CFR part 1051	off-highway motorcycle. all-terrain vehicle. snowmobile.
Small SI and Stationary SI	40 CFR part 1054	handheld. Class I. Class II.

[1] Include an engine as being subject to the identified standard-setting part if it will eventually be subject to emission standards under that part. For example, if you certify marine compression-ignition engines under part 94, count those as if they were already subject to part 1042.

For the reasons set forth in the preamble, the National Highway Traffic Safety Administration is amending title 49, chapter V of the Code of Federal Regulations as follows:

PART 523—VEHICLE CLASSIFICATION

■ 55. The authority citation for part 523 is revised to read as follows:

Authority: 49 U.S.C. 32901, delegation of authority at 49 CFR 1.95

■ 56. Section 523.2 is amended by revising the definitions of ''Complete vehicle'' and ''Incomplete vehicle'' to read as follows:

§ 523.2 Definitions.

* * * * *

Complete vehicle means a vehicle, other than in § 523.7, that requires no further manufacturing operations to perform its intended function and is a functioning vehicle that has the primary load carrying device or container (or equivalent equipment) attached or that is designed to pull a trailer. Examples of equivalent equipment would include fifth wheel trailer hitches, firefighting equipment, and utility booms.

* * * * *

Incomplete vehicle means a vehicle, other than in § 523.7, which does not have the primary load carrying device or container attached when it is first sold as a vehicle or any vehicle that does not meet the definition of a complete vehicle. This may include vehicles sold to secondary vehicle manufacturers. Incomplete vehicles include cab-complete vehicles.

* * * * *

■ 57. Section 523.7 is revised to read as follows:

§ 523.7 Heavy-duty pickup trucks and vans.

Heavy-duty pickup trucks and vans are pickup trucks and vans with a gross vehicle weight rating between 8,501 pounds and 14,000 pounds (Class 2b

through 3 vehicles) manufactured as complete vehicles by a single or final stage manufacturer or manufactured as incomplete vehicles as designated by a manufacturer. A manufacturer may also optionally designate as a heavy-duty pickup truck or van any cab-complete or complete vehicle having a GVWR over 14,000 pounds and below 26,001 pounds equipped with a spark ignition engine or any spark ignition engine certified and sold as a loose engine manufactured for use in a heavy-duty pickup truck or van. See references in 49 CFR 535.5(a), 40 CFR 1037.104 and 40 CFR 1037.150. Complete and incomplete vehicles between 8,501 pounds and 14,000 pounds have the meaning for complete and incomplete heavy-duty vehicles given in 40 CFR 86.1803.

PART 535—MEDIUM- AND HEAVY-DUTY VEHICLE FUEL EFFICIENCY PROGRAM

■ 58. The authority citation for part 535 is revised to read as follows:

Authority: 49 U.S.C 32901, delegation of authority at 49 CFR 1.95.

■ 56. Revise § 535.3(b) and (c) to read as follows:

§ 535.3 Applicability.

* * * * *

(b) Complete vehicle manufacturers, for the purpose of this part, include primary and secondary stage manufacturers meeting the criteria in 40 CFR 1037.620 that produce heavy-duty pickup trucks and vans or truck tractors as complete vehicles and, that hold the EPA certificate of conformity.

(c) Chassis manufacturers, for the purpose of this part, include primary and secondary stage manufacturers meeting the criteria in 40 CFR 1037.620 that produce incomplete vehicles constructed for use as heavy-duty pickup trucks or vans or heavy-duty vocational vehicles and that hold the EPA certificate of conformity. Some vocational vehicle manufacturers are both chassis and complete vehicle manufacturers. These manufacturers will be regulated as chassis manufacturers under this program.

* * * * *

■ 57. Amend § 535.4 by adding a definition of ''Credit holder'' in alphabetical order and revising the definitions for ''Configuration'' and ''Subconfiguration'' to read as follows:

§ 535.4 Definitions.

* * * * *

Configuration means a subclassification within a test group which is based on engine code, transmission type and gear ratios, final drive ratio and other parameters which EPA designates. Transmission type means the basic type of the transmission (e.g. automatic, manual, automated manual, semi-automatic, or continuously variable) and does not include the drive system of the vehicle (e.g. front-wheel drive, rear-wheel drive, and four-wheel drive). Engine code means the combination of both ''engine code'' and ''basic engine'' as defined in the provisions of 40 CFR 600.002.

Credit holder (or *holder*) means a legal person that has credits, either because they are the manufacturer who earned the credits by exceeding the applicable fuel consumption standard and are the certificate holder, or because they are a designated recipient who has received credits from another holder. Credit holders need not be manufacturers but credit holders that are not manufacturers may only purchase and hold credits for the purpose of retiring them as specified in 40 CFR 1036.701(h) and 1037.701(e).

* * * * *

Subconfiguration means a unique combination within a vehicle configuration of equivalent test weight, road-load horsepower, and any other operational characteristics or parameters that EPA determines may significantly affect CO_2 emissions within a vehicle configuration. Note that for vehicles subject to heavy-duty pickup truck and van standards, equivalent test weight (ETW) is based on the ALVW of the vehicle as outlined in paragraph 40 CFR 1037.104(d)(11).

* * * * *

■ 58. Amend § 535.5 by:

■ a. Revising paragraph (a)(4)(i) and adding paragraphs (a)(4)(v) and (vi);

■ b. Revising paragraph (a)(6);

■ c. Revising paragraph (b)(2)(i) and adding paragraphs (b)(2)(iii) and (iv); and

■ d. Revising paragraph (c)(2)(i) and adding paragraphs (c)(2)(iii), (c)(2)(iv), and (c)(5).

The revisions and additions read as follows:

§ 535.5 Standards.

(a) * * *

(4) * * *. (i) Manufacturers may choose voluntarily to comply early with fuel consumption standards for model years 2013 through 2015, as determined in paragraphs (a)(4)(iii) and (iv) of this section, for example, in order to begin accumulating credits through over-compliance with the applicable standard. A manufacturer choosing early compliance must comply with all the vehicles and engines it manufactures in each regulatory category for a given model year except as provided in paragraphs (a)(4)(v) and (vi) of this section.

* * * * *

(v) For model year 2013, a manufacturer can choose to comply with the standards in paragraph (a) of this section and generate early credits under § 535.7(b) by using the entire U.S.-directed production volume of vehicles other than electric vehicles as specified in 40 CFR 1037.150. The model year 2014 standards in paragraph (a) of this section apply for vehicles complying in model year 2013. If some test groups are certified by EPA after the start of the model year, the manufacturer may only generate credits under § 535.7(b) for the production that occurs after all test groups are certified in accordance with 40 CFR 1037.150 (a)(2).

(vi) For model year 2014, a manufacturer producing model year 2014 vehicles before January 1, 2014, may optionally elect to comply with these standards for a partial model year that begins on January 1, 2014, and ends on the day the manufacturer's model year would normally end if it meets the provisions in 40 CFR 1037.150(g).

* * * * *

(6) Optional certification under this section. A manufacturer may optionally certify any spark ignition (or gasoline) cab-complete or complete vehicle weighing over 14,000 pounds GVWR and below 26,001 pounds GVWR to the requirements under this paragraph (a) that applies to a comparable complete sister vehicle as determined in accordance with 40 CFR 1037.150(l). Calculate the target standard value under paragraph (a)(2) of this section based on the same work factor value that applies for the complete sister vehicle.

* * * * *

(b) * * *

(2) * * * (i) For model years 2013 through 2015, a manufacturer may choose voluntarily to comply early with the fuel consumption standards provided in paragraph (b)(3) of this section. For example, a manufacturer may choose to comply early in order to begin accumulating credits through over-compliance with the applicable standards. A manufacturer choosing early compliance must comply with all the vehicles and engines it manufacturers in each regulatory category for a given model year except as provided in paragraphs (b)(2)(iii) through (iv) of this section.

* * * * *

(iii) For model year 2013, a manufacturer can choose to comply with the standards in paragraph (b) of this section and generate early credits under 535.7(c) by using the entire U.S.-directed production volume within any of its regulatory sub-categories of vehicles other than electric vehicles as specified in 40 CFR 1037.150. The model year 2014 standards in paragraph (b) of this section apply for vehicles complying in model year 2013. If some vehicle families within a regulatory subcategory are certified by EPA after the start of the model year, manufacturers may generate credits under § 535.7(c) only for production that occurs after all families are certified in accordance with 40 CFR 1037.150(a)(1).

(iv) For model year 2014, a manufacturer producing model year 2014 vehicles before January 1, 2014, may optionally elect to comply with these standards for a partial model year that begins on January 1, 2014, and ends on the day the manufacturer's model year would normally end if it meets the provisions in 40 CFR 1037.150(g).

* * * * *

(c) * * *

(2) * * * (i) For model years 2013 through 2015, a manufacturer may choose voluntarily to comply early with the fuel consumption standards provided in paragraph (c)(3) of this section. For example, a manufacturer may choose to comply early in order to begin accumulating credits through over-compliance with the applicable standards. A manufacturer choosing early compliance must comply with all the vehicles and engines it manufacturers in each regulatory category for a given model year except as provided in paragraphs (c)(2)(iii) through (iv) of this section.

* * * * *.

(iii) For model year 2013, a manufacturer can choose to comply with the standards in paragraph (c) of this section and generate early credits under § 535.7(c) by using the entire U.S.-directed production volume within any of its regulatory sub-categories of vehicles other than electric vehicles as specified in 40 CFR 1037.150. The model year 2014 standards in paragraph (c) of this section apply for vehicles complying in model year 2013. If some vehicle families within a regulatory subcategory are certified by EPA after the start of the model year, manufacturers may generate credits under § 535.7(c) only for production that occurs after all families are certified in accordance with 40 CFR 1037.150(a)(1).

(iv) For model year 2014, a manufacturer producing model year 2014 vehicles before January 1, 2014, may optionally elect to comply with these standards for a partial model year that begins on January 1, 2014, and ends on the day the manufacturer's model year would normally end if it meets the provisions in 40 CFR 1037.150(g).

* * * * *

(5) *Vocational tractors.* Tractors meeting the definition of vocational tractors in 49 CFR 523.2 for purposes of certifying vehicles to fuel consumption standards, are divided into families of vehicles as specified in 40 CFR 1037.230(a)(1) and must comply with standards for heavy-duty vocational vehicles and engines of the same weight class specified in paragraphs (b) and (d) of this section. Class 7 and Class 8 tractors certified or exempted as vocational tractors are limited in production to no more than 21,000 vehicles in any three consecutive model years. If a manufacturer is determined as not applying this allowance in good faith by the EPA in its applications for certification in accordance with 40 CFR 1037.205 and 1037.630, a manufacturer must comply with the tractor fuel consumption standards in paragraph (c)(3) of this section. Vocational tractors generating credits can trade and transfer credits in the same averaging sets as tractors and vocational vehicles in the same weight class.

* * * * *

■ 59. Revise § 535.6(b)(3) to read as follows:

§ 535.6 Measurement and calculation procedures.

* * * * *

(b) * * *

(3) From the GEM results, select the CO_2 family emissions level (FEL) and equivalent fuel consumption values for vocational vehicle and tractor families in each regulatory subcategories for each model year. Equivalent fuel consumption FELs are derived in GEM from the CO_2 FEL value rounded to the nearest whole number and are expressed to the nearest 0.1 gallons per 1000 ton-mile. For families containing multiple subfamilies, identify the FELs for each subfamily.

* * * * *

■ 60. Amend § 535.7 by revising paragraphs (a), (b)(9), (c)(11)(i), (d)(11)(i), (e)(1)(i), (e)(1)(ii)(A) introductory text, (e)(1)(ii)(A)(*1*), (e)(1)(ii)(A)(*2*), and (e)(1)(ii)(B) to read as follows:

§ 535.7 Averaging, banking, and trading (ABT) program.

(a) *Fuel consumption credits (FCC).* At the end of each model year, primary and secondary manufacturers as specified in § 535.3 may earn credits for heavy-duty vehicles and engines exceeding the fuel consumption standards in § 535.5 or by using one or more of the flexibilities in this paragraph (a) to gain credits. Manufacturers may average, bank, and trade fuel consumption credits for purposes of complying with fuel consumption standards. The following criteria and restrictions apply to averaging, banking and trading FCC.

(1) *Averaging.* Averaging is the exchange of FCC among a manufacturer's engines or vehicle families or test groups within an averaging set. With the exception of FCC earned for advance technologies as further clarified below, a manufacturer may average FCC only within the same averaging set. The principle averaging sets are defined in § 535.4.

(2) *Banking.* Banking is the retention of surplus FCC by the manufacturer generating the credits for use in future model years for averaging or trading. Banked FCC retain the designation from the averaging set and model year in which they were generated and expire after five model years.

(3) *Trading.* Trading is a transaction that moves FCC between manufacturers for averaging, banking, or further trading transactions. Traded FCC, other than advanced technology credits, may be used by a manufacturer only within the averaging set in which they were generated. Entities other than manufacturers may only obtain traded FCC for the purpose of retiring them.

(b) * * *

(9) Calculate the value of credits generated in a model year for this regulatory subcategory or averaging set using the following equation:

$$\text{Total MY Fleet FCC (gallons)} = (\text{Std} - \text{Act}) \times (\text{Volume}) \times (\text{UL}) \times (10^{-2})$$

Where:

Std = Fleet average fuel consumption standard (gal/100 mile).

Act = Fleet average actual fuel consumption value (gal/100 mile).

Volume = the total U.S.-directed production of vehicles in the regulatory subcategory.

UL = the useful life for the regulatory subcategory (120,000 miles).

* * * * *

(c) * * *

(11) * * *

(i) Calculate the value of credits generated in a model year for each vehicle family or subfamily within an averaging set using the following equation:

Vehicle Family FCC (gallons) = (Std − FEL) × (Payload) × (Volume) × (UL) × (10^{-3})

Where:

Std = the standard for the respective vehicle family regulatory subcategory (gal/1000 ton-mile).

FEL = family emissions limit for the vehicle family or subfamily (gal/1000 ton-mile).

Payload = the prescribed payload in tons for each regulatory subcategory as shown in the following table:

Regulatory subcategory	Payload (tons)
LHD Vocational Vehicles	2.85
MHD Vocational Vehicles ...	5.60
HHD Vocational Vehicles ...	7.5
Class 7 Tractor	12.50
Class 8 Tractor	19.00

Volume = the number of U.S. directed production volume of vehicles in the corresponding vehicle family.

UL = the useful life for the regulatory subcategory (miles) as shown in the following table:

Regulatory subcategory	UL (miles)
LHD Vocational Vehicles	110,000
MHD Vocational Vehicles	185,000
HHD Vocational Vehicles	435,000
Class 7 Tractor	185,000
Class 8 Tractor	435,000

* * * * *

(d) * * *

(11) * * *

(i) The value of credits generated in a model year for each engine family within a regulatory subcategory equals:

Engine Family FCC (gallons) = (Std − FCL) × (CF) × (Volume) × (UL) × (10^{-2})

Where:

Std = the standard for the respective engine regulatory subcategory (gal/100 bhp-hr).

FCL = family certification level for the engine family (gal/100 bhp-hr).

CF = a transient cycle conversion factor in bhp-hr/mile which is the integrated total cycle brake horsepower-hour divided by the equivalent mileage of the applicable test cycle. For spark-ignition heavy-duty engines, the equivalent mileage is 6.3 miles. For compression-ignition heavy-duty engines, the equivalent mileage is 6.5 miles.

Volume = the number of engines in the corresponding engine family.

UL = the useful life of the given engine family (miles) as shown in the following table:

Regulatory subcategory	UL (miles)
Class 2b–5 Vocational Vehicles, Spark Ignited (SI), and Light Heavy-Duty Diesel Engines	110,000
Class 6–7 Vocational Vehicles and Medium Heavy-Duty Diesel Engines	185,000
Class 8 Vocational Vehicles and Heavy Heavy-Duty Diesel Engines	435,000

Regulatory subcategory	UL (miles)
Class 7 Tractors and Medium Heavy-Duty Diesel Engines	185,000
Class 8 Tractors and Heavy Heavy-Duty Diesel Engines	435,000

* * * * *

(e) * * *

(1) * * *

(i) *Heavy-duty vehicles.* (A) This paragraph (e)(1)(i) specifies how to generate advanced technology-specific fuel consumption credits for hybrid vehicles, vehicles equipped with Rankine-cycle engines and fuel cell vehicles (or other vehicle specific advanced technologies) for which the manufacturer is requesting a vehicle certificate from EPA. Calculate the advanced technology credits as follows:

(1) Determine the equivalent fuel consumption for hybrid systems with power take-off devices either from chassis or powertrain testing emissions rates derived in accordance with 40 CFR 1037.525. Determine the equivalent fuel consumption for hybrid systems with pre- or post-transmissions and for vehicles with other non-hybrid advanced technology systems from chassis testing emissions rates derived in accordance with 40 CFR 1037.550. Determine the equivalent fuel consumption in accordance with this paragraph unless EPA approves an alternative test procedure for the manufacturer. Measure the effectiveness of the advanced system by chassis testing a vehicle equipped with the advanced system and an equivalent conventional system in accordance with 40 CFR 1037.525, 1037.550 and 1037.615.

(2) For purposes of this paragraph (e)(1)(i) a conventional vehicle is considered to be equivalent if it has the same footprint, intended vehicle service class, aerodynamic drag, and other relevant factors not directly related to the advanced system powertrain. If there is no equivalent vehicle, the manufacturer may create and test a prototype equivalent vehicle. The conventional vehicle is considered Vehicle A, and the advanced technology vehicle is considered Vehicle B.

(3) The benefit associated with the advanced system for fuel consumption is determined from the weighted fuel consumption results from the chassis tests of each vehicle using the following equation:

Benefit (gallon/1000 ton mile) = Improvement Factor × GEM Fuel Consumption Result_B

Where:

Improvement Factor = (Fuel Consumption_A − Fuel Consumption_B)/(Fuel Consumption_A)

Fuel Consumption Rates A and B are the gallons per 1000 ton-mile of the conventional and advanced vehicles, respectively as measured under the test procedures specified by EPA.

GEM Fuel Consumption Result B is the estimated gallons per 1000 ton-mile rate resulting from emission modeling of the advanced vehicle as specified in 40 CFR 1037.520 and § 535.6(b).

(4) The manufacturer may apply the improvement factor to multiple vehicle configurations, if it uses the vehicle configuration with the smallest potential reduction in fuel consumption performance as a result of the hybrid capability.

(5) Calculate the benefit in credits using the equation in paragraph (c)(11) of this section and replacing the term (Std-FEL) with the benefit.

(B) For electric vehicles calculate the fuel consumption credits using an FEL of 0 g/1000 ton-mile.

(ii) *Heavy-duty engines.* (A) This paragraph (e)(1)(ii) specifies how to generate advanced technology-specific fuel consumption credits for hybrid engines and for engines that include Rankine-cycle (or other bottoming cycle) exhaust energy recovery systems for which the manufacturer is requesting an engine certificate from EPA. Calculate the advanced technology credits as follows:

(1) Determine the equivalent fuel consumption for hybrid engine systems

with features that recover and store energy during engine motoring operation from the emissions rates derived in accordance with 40 CFR 1036.525.

(*2*) Determine the equivalent fuel consumption for hybrid pre-transmission powertrains that include energy storage systems and regenerative braking (including regenerative engine braking) and for engines that include Rankine-cycle exhaust energy recovery systems from the emissions rates derived in accordance with 40 CFR 1036.615. Hybrid pre-transmission powertrains are engine systems that include features that recover and store energy during engine motoring operation but not from the vehicle wheels. Determine the equivalent fuel consumption of hybrid engines in accordance with this paragraph unless EPA approves an alternative test procedure for the manufacturer.

* * * * *

(B) Calculate credits as specified in paragraph (d) of this section. Credits generated from engines complying with this section may be used in other averaging sets as described in 40 CFR 1036.740(d).

* * * * *

■ 61. Amend § 535.8 by:

■ a. Adding paragraph (a)(4); and

■ b. Revising paragraphs (d) introductory text, (d)(2), (e) introductory text, and (e)(2).

The additions and revisions read as follows:

§ 535.8 Reporting requirements.

(a) * * *

(4) Manufacturers submitting petitions for the off-road exemption in paragraph (h) of this section should consider the timing to submit petitions early enough in advance of the model year to ensure that a determination can be made by the agencies and should a vehicle fail to be excluded the manufacturer has sufficient time to submit and obtain approval from EPA for the certificate of conformity required in 40 CFR 1037.201 prior to first commercial sale of the vehicle.

* * * * *

(d) *End-of-the-year-report.* Heavy-duty vehicle and engine manufacturers participating and not-participating in the ABT program are required to submit an end-of-the-year (EOY) report containing information for NHTSA as specified in paragraph (d)(2) of this section and in accordance with 40 CFR 1036.250, 1036.730, 1037.104, 1037.250 and 1037.730. The EOY reports are used to review a manufacturer's preliminary or final compliance information and to identify manufacturers that might have a credit deficit for the given model year. For model years 2013 and later, heavy-duty vehicle and engine manufacturers complying with NHTSA's voluntary and mandatory standards must submit EOY reports through the EPA database including both GHG emissions and fuel consumption information for each given model year.

* * * * *

(2) *Contents.* Each EOY report must be submitted including the following fuel consumption information for each model year. EOY reports for manufacturers participating in the ABT program must include preliminary final estimates. EOY reports for manufacturers not participating in the ABT program and for heavy-duty pickup truck and van manufacturers must include finalized data.

(i) Engine and vehicle family designations and averaging sets.

(ii) Engine and vehicle regulatory subcategory and fuel consumption standards including any alternative standards used.

(iii) Engine and vehicle family FCLs and FELs in terms of fuel consumption.

(iv) Production volumes for engines and vehicles.

(v) A credit plan (for manufacturers participating in the ABT program) identifying the manufacturers actual fuel consumption credit balances, credit flexibilities, credit trades and a credit deficit plan if needed demonstrating how it plans to resolve any credit deficits that might occur for a model year within a period of up to three model years after that deficit has occurred.

(vi) A final summary as specified in paragraph (h)(6) of this section describing the vocational vehicles and vocational tractors that were exempted as heavy-duty off-road vehicles. This applies to manufacturers participating and not participating in the ABT program.

(vii) A summary describing any advanced or innovative technology engines or vehicles including alternative fueled vehicles that were produced for the model year identifying the approaches used to determinate compliance and the production volumes.

(viii) A list of each unique subconfiguration included in a manufacturer's fleet of heavy-duty pickup trucks and vans identifying the attribute based-values (GVWR, GCWR, Curb Weight and drive configurations) and standards. This provision applies only to manufacturers producing heavy-duty pickup trucks and vans.

(ix) The fuel consumption fleet average standard derived from the unique vehicle configurations. This provision applies only to manufacturers producing heavy-duty pickup trucks and vans.

(x) The subconfiguration and test group production volumes. This provision applies only to manufacturers producing heavy-duty pickup trucks and vans.

(xi) The fuel consumption test group results and fleet average performance. This provision applies only to manufacturers producing heavy-duty pickup trucks and vans.

(xii) Under limited conditions, NHTSA may also ask a manufacturer to provide additional information directly to the Administrator if necessary to verify the fuel consumption requirements of this regulation.

* * * * *

(e) *Final reports.* Manufacturers participating in the ABT program are required to submit year end final reports in accordance with 40 CFR 1036.730 and 1037.730 to NHTSA and EPA. Manufacturers of heavy-duty pickup trucks and vans are excluded from this requirement and are required to submit only one EOY report as specified in paragraph (d) of this section. The final reports are used to review a manufacturer's final data and to identify manufacturers that might have a credit deficit for the given model year. For model years 2013 and later, heavy-duty vehicle and engine manufacturers complying with NHTSA's voluntary and mandatory standards must submit final reports through the EPA database including both GHG emissions and fuel consumption information for each given model year.

* * * * *

(2) *Contents.* Each final report must be submitted including the following fuel consumption information for each model year.

(i) Final engine and vehicle family designations and averaging sets.

(ii) Final engine and vehicle fuel consumption standards including any alternative standards used.

(iii) Final engine and vehicle family FCLs and FELs in terms of fuel consumption.

(iv) Final production volumes for engines and vehicles.

(v) A final credit plan identifying the manufacturers actual fuel consumption credit demonstrating how it plans to resolve any credit deficits that might occur for a model year within a period of up to three model years after that deficit has occurred.

(vi) A final plan describing any advanced or innovative technology

engines or vehicles including alternative fueled vehicles that were produced for the model year identifying the approaches used to determinate compliance and the production volumes.

(vii) Under limited conditions, NHTSA may also ask a manufacturer to provide additional information directly to the Administrator if necessary to verify the fuel consumption requirements of this part.

* * * * *

Dated: May 9, 2013.

Ray LaHood,

Secretary, Department of Transportation.

Dated: May 9, 2013.

Bob Perciasepe,

Acting Administrator, Environmental Protection Agency.

[FR Doc. 2013–11980 Filed 6–14–13; 8:45 am]

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