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Presidential Documents

Title 3—

The President

Notice of February 28, 2014

Continuation of the National Emergency With Respect to Zimbabwe

On March 6, 2003, by Executive Order 13288, the President declared a national emergency and blocked the property of certain persons, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), to deal with the unusual and extraordinary threat to the foreign policy of the United States constituted by the actions and policies of certain members of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions. These actions and policies had contributed to the deliberate breakdown in the rule of law in Zimbabwe, to politically motivated violence and intimidation in that country, and to political and economic instability in the southern African region.

On November 22, 2005, the President issued Executive Order 13391 to take additional steps with respect to the national emergency declared in Executive Order 13288 by ordering the blocking of the property of certain persons who undermine democratic processes or institutions in Zimbabwe.

On July 25, 2008, the President issued Executive Order 13469, which expanded the scope of the national emergency declared in Executive Order 13288 and authorized the blocking of the property of certain persons determined to have engaged in actions or policies to undermine democratic processes or institutions in Zimbabwe, to commit acts of violence and other human rights abuses against political opponents, and to engage in public corruption.

The actions and policies of these persons continue to pose an unusual and extraordinary threat to the foreign policy of the United States. For this reason, the national emergency declared on March 6, 2003, and the measures adopted on that date, on November 22, 2005, and on July 25, 2008, to deal with that emergency, must continue in effect beyond March 6, 2014. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13288.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
February 28, 2014.

[FR Doc. 2014–04866
Filed 3–3–14; 8:45 am]
Billing code 3295–F4

Rules and Regulations

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

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 920 and 944

[Doc. No. AMS–FV–13–0032; FV13–920–1 FIR]

Kiwifruit Grown in California and Imported Kiwifruit; Relaxation of Minimum Grade Requirement

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that relaxed the minimum grade requirement under the marketing order for kiwifruit grown in California (order), and for kiwifruit imported into the United States that are shipped to the fresh market, by increasing the tolerance of kiwifruit which is ''badly misshapen'' from 7 percent to 16 percent. This change is intended to facilitate the packing of fruit to meet the minimum grade requirement of ''KAC No. 1,'' and reduce costs associated with re-sorting and repacking this grade of fruit.

DATES: Effective March 7, 2014.

FOR FURTHER INFORMATION CONTACT: Kathie M. Notoro, Marketing Specialist, or Martin Engeler, Regional Director, California Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or Email: *Kathie.Notoro@ams.usda.gov* or *Martin.Engeler@ams.usda.gov*.

Small businesses may obtain information on complying with this and other marketing order regulations by viewing a guide at the following Web site: *http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide*; or by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Jeffrey.Smutny@ams.usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 920, as amended (7 CFR part 920), regulating the handling of kiwifruit in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

This rule is also issued under section 8e of the Act, which provides that whenever certain specified commodities, including kiwifruit, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866 and 13563.

The handling of kiwifruit grown in California is regulated by 7 CFR part 920. Prior to this change, the minimum grade requirement under the definition for KAC No. 1 kiwifruit quality allowed a tolerance of 7 percent for ''badly misshapen'' fruit. Increasing the tolerance for badly misshapen fruit to 16 percent is expected to reduce the incidence of containers of KAC No. 1 fruit failing to meet grade requirements, thereby reducing costs associated with repacking and re-sorting failing fruit. It is also expected to help facilitate and streamline the packing process by avoiding disruptions associated with repacking and re-sorting fruit.

Imported kiwifruit is subject to regulations specified in 7 CFR part 944. Under those regulations, imported kiwifruit must meet the same minimum size requirements as specified for domestic kiwifruit under the order. Therefore, the tolerance of kiwifruit which is ''badly misshapen'' was also relaxed from 7 percent to 16 percent for kiwifruit imported into the United States.

This rule continues in effect the rule that relaxed the minimum grade requirement for both domestic and imported kiwifruit.

In an interim rule that was published in the **Federal Register** on July 22, 2013, (78 FR 43758, Doc. No. AMS–FV–13–0032; FV13–920–1 IR), §§ 920.302 and 944.550 were amended by changing the definition of KAC No. 1 quality to allow a tolerance of 16 percent for kiwifruit that is ''badly misshapen.''

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Import regulations issued under the Act are based on those established under Federal marketing orders.

There are approximately 178 kiwifruit growers subject to regulation under the marketing order and approximately 28 handlers in the production area. There are approximately 53 importers of kiwifruit. Small agricultural service firms, which include kiwifruit handlers and importers, are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000.

The California Agricultural Statistical Service (CASS) reported total California kiwifruit production for the 2011–12 season at 37,700 tons, with an average price of $775 per ton. Based on the average price and shipment information provided by the CASS and the Kiwifruit Administrative Committee (Committee), the majority of kiwifruit handlers would be considered small businesses under the SBA definition. Based on kiwifruit production and price information, as well as the total number of California kiwifruit growers, the average annual grower revenue is less than $750,000. Thus, the majority of California

kiwifruit producers may also be classified as small entities. In addition, based on data from the U.S. Census Bureau, Department of Commerce, the value of imported kiwifruit for 50 of the 53 importers was less than $7,000,000. Thus, it can be concluded that the majority of kiwifruit importers may be classified as small entities.

This rule continues in effect the action that relaxed the minimum grade requirement for KAC No. 1 kiwifruit grown in California and for imported kiwifruit. This rule relaxes the tolerance for kiwifruit that is ''badly misshapen'' from 7 percent to 16 percent under the provisions of §§ 920.302(b) and 944.550 of the order. Authority for the change in the order's rules and regulations is provided in § 920.53. The change in the import regulation is provided under section 8e of the Act.

This action is not expected to increase costs associated with the order requirements or the kiwifruit import regulation. Rather, this action is expected to reduce costs to handlers and growers of kiwifruit, and to increase efficiencies in the packing process. Increasing the tolerance for misshapen fruit will reduce the amount of product that fails to meet the minimum grade, thus reducing re-sorting and repacking costs and reducing inefficiencies in the packing process. The quality of fruit to consumers is not expected to be significantly affected.

Importers also benefit from this change as a greater volume of fruit is available for shipment to the United States. The opportunities and benefits of this rule are equally available to all kiwifruit handlers, growers, and importers, regardless of their size.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0189, Generic Fruit Crops. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large kiwifruit handlers in California or importers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the Committee's meeting where this change was recommended was widely publicized throughout the California kiwifruit industry. All interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the March 27, 2013, meeting was a public meeting. All entities, both large and small, were able to express their views on this issue.

Comments on the interim rule were required to be received on or before September 20, 2013. One comment was received. The commenter supported this action, stating that increasing the tolerance for misshapen fruit would decrease food waste and increase the availability of affordable fresh fruit for consumers. No changes are being made to the interim rule based on comments received.

Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to: *http://www.regulations.gov/#!documentDetail;D=AMS-FV-13-0032-0001*.

This action also affirms information contained in the interim rule concerning Executive Orders 12866 and 12988, the Paperwork Reduction Act (44 U.S.C. Chapter 35), and the E-Gov Act (44 U.S.C. 101).

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this final rule.

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (78 FR 43758, July 22, 2013) will tend to effectuate the declared policy of the Act.

List of Subjects

7 CFR Part 920

Kiwifruit, Marketing agreements.

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

§§ 920 AND 944 [AMENDED]

Accordingly, the interim rule that amended 7 CFR parts 920 and 944 and that was published at 78 FR 43758 on July 22, 2013, is adopted as a final rule, without change.

Dated: February 25, 2014.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–04689 Filed 3–3–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 993

[Doc. No. AMS–FV–13–0065; FV13–993–1 FR]

Dried Prunes Produced in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the Prune Marketing Committee (Committee) for the 2013–14 and subsequent crop years from $0.22 to $0.28 per ton of salable dried prunes handled. The Committee locally administers the marketing order, which regulates the handling of dried prunes grown in California. Assessments upon dried prune handlers are used by the Committee to fund reasonable and necessary expenses of the program. The crop year begins August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: *Effective Date:* March 5, 2014.

FOR FURTHER INFORMATION CONTACT: Jerry L. Simmons, Marketing Specialist, or Martin Engeler, Regional Director, California Marketing Field Office, Fruit and Vegetable Program, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or Email: *Jerry.Simmons@ams.usda.gov* or *Martin.Engeler@ams.usda.gov*.

Small businesses may request information on complying with this regulation by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Jeffrey.Smutny@ams.usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 110 and Order No. 993, both as amended (7 CFR part 993), regulating the handling of dried prunes grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act

of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866 and 13563.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California dried prune handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable dried prunes beginning on August 1, 2013, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule increases the assessment rate established for the Committee for the 2013–14 and subsequent crop years from $0.22 to $0.28 per ton of salable dried prunes handled.

The California dried prune marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of California dried prunes. They are familiar with the Committee's needs and with the costs for goods and services in their local area. Therefore, they are in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2011–12 and subsequent crop years, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from crop year to crop year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on June 25, 2013, and unanimously recommended 2013–14 expenditures of $43,791 and an assessment rate of $0.28 per ton of salable dried prunes. The assessment rate of $0.28 is $0.06 higher than the rate currently in effect, even though last year's budgeted expenditures of $44,968 were higher than those recommended for this year.

The Committee unanimously recommended the higher assessment rate because the production estimate of 105,000 tons of salable dried prunes for the 2013–14 crop year is substantially lower than the 137,285 tons produced during the 2012–13 crop year. Using the proposed assessment rate, assessment income for the 2013–14 crop year will be $29,400. Assessment income, combined with funds carried over from the prior crop year and interest income, is expected to be adequate to cover budgeted expenses for the year.

The major expenditures recommended by the Committee for the 2013–14 year include $26,944 for salaries, $9,538 for operating expenses, and $7,308 for contingencies. Budgeted expenses for these items in 2012–13 were $22,997, $9,970, and $12,001, respectively.

The assessment rate recommended by the Committee was derived by considering the funds needed to meet anticipated expenses, the estimated salable tons of California dried prunes, excess funds in the amount of $14,384 carried forward into the 2013–14 crop year, and estimated interest income in the amount of $7. As mentioned earlier, dried prune production for the year is estimated at 105,000 salable tons, which should provide $29,400 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public, and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2013–14 budget and those for subsequent crop years would be reviewed and, as appropriate, approved by USDA.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small businesses. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 800 producers of dried prunes in the production area and approximately 21 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,000,000.

Committee data indicates that about 64 percent of the handlers ship less than $7,000,000 worth of dried prunes. Dividing the average prune crop value for 2012 reported by the National Agricultural Statistics Service (NASS) of $172,500,000 by the number of producers (800) yields an average annual producer revenue estimate of about $215,625. Based on the foregoing, the majority of handlers and producers of dried prunes may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 2013–14 and subsequent crop years from $0.22 to $0.28 per ton of salable dried prunes. The Committee unanimously recommended 2013–14 expenditures of $43,791 and an assessment rate of $0.28 per ton of salable dried prunes. The assessment rate of $0.28 is $0.06 higher

than the 2012–13 rate. The quantity of assessable dried prunes for the 2013–14 crop year is estimated at 105,000 tons. Thus, the $0.28 rate should provide $29,400 in assessment income, and when combined with carry-in funds and interest income, should be adequate to meet this year's expenses.

The major expenditures recommended by the Committee for the 2013–14 year include $26,944 for salaries, $9,538 for operating expenses, and $7,308 for contingencies. Budgeted expenses for these items in 2012–13 were $22,997, $9,970, and $12,001, respectively.

The Committee unanimously recommended the higher assessment rate because the production estimate of 105,000 tons of salable dried prunes for this year is substantially lower than the 137,285 tons produced last year. At the current assessment rate, the anticipated crop would not generate sufficient revenue to meet the 2013–14 budgeted expenses.

Prior to arriving at this budget and assessment rate, the Committee considered information from various sources, including the Committee's Executive Subcommittee. The assessment rate of $0.28 per ton of salable dried prunes was recommended after considering various factors, including the amount of handler assessment revenue needed to meet anticipated expenses, the estimated quantity of salable tons of California dried prunes for the 2013–14 crop year, excess funds carried forward into the 2013–14 crop year, and estimated interest income. An alternative to this action would be to continue with the $0.22 per ton assessment rate. However, an assessment rate of $0.28 per ton of salable dried prunes, along with excess funds from the 2012–13 crop year, is needed to provide sufficient income to fund the Committee's operations.

A review of historical crop and price information, as well as preliminary information pertaining to the 2013–14 season, indicates that the producer price for salable dried prunes for the 2013–14 season could average about $1,300 per ton. Utilizing this estimate and the proposed assessment rate of $0.28, estimated assessment revenue as a percentage of total estimated producer revenue should be about 0.02 percent for the 2013–14 season ($0.28 divided by $1,300 per ton).

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived from the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the California dried prune industry. All interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 25, 2013, meeting was a public meeting. All entities, both large and small, were able to express views on this issue.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This rule imposes no additional reporting or recordkeeping requirements on either small or large California dried prune handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

A proposed rule concerning this action was published in the **Federal Register** on October 23, 2013 (78 FR 63128). Copies of the proposed rule were also mailed or sent via facsimile to all dried prune handlers. Finally, the proposal was made available through the Internet by USDA and the Office of the Federal Register. A 15-day comment period ending November 7, 2013, was provided for interested persons to respond to the proposal.

One comment was received during the comment period in response to the proposal. The commenter expressed disagreement with the proposed increase in the assessment rate and that the increase in the assessment should be reconsidered. The commenter also asserted that the proposal failed to explain how the additional cost coupled with the substantial decrease in production of dried prunes for the 2013–14 year would harm handlers and producers. We disagree.

The proposal stated that the members of the Committee that unanimously recommended the increased assessment rate are producers and handlers of California dried prunes, and represent those who are affected by the assessment rate. They are familiar with the Committee's needs and with the costs for goods and services in their local area. The assessment rate was formulated and the increase was thoroughly discussed in a public meeting. The Committee members and other interested parties did not believe that the increase in the assessment rate, as proposed, would harm either handlers or producers. Further, the increase to $0.28 is approximately .022% of the producer price for salable dried prunes, which could average about $1,300 per ton for the 2013–14 season. The percent of producer price for the last four years was .017%, .023%, .012%, and .020%, respectively. Therefore, AMS has concluded that the proposed assessment rate, as proposed, is reasonable and in line with previous years' rates. Further, the increase is the minimal amount necessary to fund basic Committee operations. Accordingly, no change to the assessment rate as proposed is made in the final rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/AMSv1.0/MarketingOrdersSmallBusinessGuide*. Any questions about the compliance guide should be sent to Jeffrey Smutny at the previously-mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2013–14 crop year began on August 1, 2013, and the marketing order requires that the rate of assessment for each crop year apply to all assessable dried prunes handled during such crop year; (2) the Committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis; and (3) handlers are aware of this rule, which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years. Also, a 15-day

comment period was provided for in the proposed rule.

List of Subjects in 7 CFR Part 993

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 993 is amended as follows:

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 993 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 993.347 is revised to read as follows:

§ 993.347 Assessment rate.

On and after August 1, 2013, an assessment rate of $0.28 per ton of salable dried prunes is established for California dried prunes.

Dated: February 25, 2014.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–04691 Filed 3–3–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1220

[Docket No. AMS–LPS–13–0066]

Soybean Promotion, Research, and Consumer Information Program: Amendment of Procedures and Notification of Request for Referendum

AGENCY: Agricultural Marketing Service (AMS); U.S. Department of Agriculture (USDA).

ACTION: Interim final rule with opportunity for comments.

SUMMARY: This interim final rule would amend the procedures to Request a Referendum by removing the specific number of soybean producers eligible to request a referendum under the Soybean Promotion, Research, and Consumer Information program, commonly known as the Soybean Checkoff Program. The number of soybean producers will be replaced with language that allows the Secretary of Agriculture (Secretary) to update this number based on information provided by USDA. Additionally, this action would remove specific USDA and Farm Service Agency (FSA) Web site and office addresses and replace them with more flexible language. These changes will enable AMS to announce future Requests for Referendum without engaging in additional notice-and-comment rulemaking. This rule also serves as AMS' official notice that soybean producers may request a referendum to determine if producers want a referendum on the Soybean Promotion and Research Order (Order), as authorized under the Soybean Promotion, Research, and Consumer Information Act (Act). If at least 10 percent (not in excess of one-fifth of which may be producers in any one State) of eligible producers, as determined by USDA, participate in the Request for Referendum, a referendum will be held within 1 year from that determination. If results of the Request for Referendum indicate that a referendum is not supported, a referendum would not be conducted. The results of the Request for Referendum will be published in the **Federal Register**.

DATES: Effective March 5, 2014. Comments must be received by April 3, 2014.

ADDRESSES: Comments may be posted online at *www.regulations.gov,* or sent to James R. Brow, Agricultural Marketing Specialist, Research and Promotion Division, Livestock, Poultry and Seed Program, AMS, USDA, Room 2610–S, STOP 0251, 1400 Independence Avenue SW., Washington, DC, 20250–0251; or via Fax to (202) 720–1125. Comments will be made available for public inspection at the above address during regular business hours or via the Internet at *www.regulations.gov.* Comments received will be posted without change, including any personal information provided. All comments should reference the document number, Document No. AMS–LPS–13–0066; the date of submission; and the page number of this issue in the **Federal Register**.

AMS also announces that soybean producers may request a referendum during a 4-week period beginning on May 5, 2014, and ending May 30, 2014. To be eligible to participate in the Request for Referendum, producers must certify that they or the producer entity they are authorized to represent paid an assessment at any time between January 1, 2012, and December 31, 2013.

Form LS–51–1, Soybean Promotion and Research Order Request for Referendum, may be obtained by mail, fax, or in person from FSA county offices from May 5, 2014, to May 30, 2014. Form LS–51–1 may also be obtained via the internet at *http://www.ams.usda.gov/AMSv1.0/SoybeanInformationontheSoybeanRequestforReferendum* during the same time period. Completed forms and supporting documentation must be returned to the appropriate county FSA office by fax or in person no later than close of business May 30, 2014; or if returned by mail, must be postmarked by midnight May 30, 2014, and received in the county FSA office by close of business on June 6, 2014.

FOR FURTHER INFORMATION CONTACT: James Brow, Agricultural Marketing Specialist, Research and Promotion Division, Livestock, Poultry and Seed Program, AMS, USDA, Room 2092–S, STOP 0251, 1400 Independence Avenue SW., Washington, DC, 20250–0251; Telephone 202/720–0633; Fax 202/720–1125; email to *James.Brow@ams.usda.gov* or Rick Pinkston, Field Operations Staff, FSA, USDA, at Telephone 202/720–1857, Fax 202/720–1096, or by email at *Rick.Pinkston@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This action has been designated as a ''non-significant regulatory action'' under § 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget (OMB) has waived the review process.

Executive Order 13175

This interim final rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this interim final rule would not have substantial and direct effects on Tribal Governments and would not have significant tribal implications.

Executive Order 12988

This interim final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have a retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 1971 of the Act, a person subject

to the Order may file a petition with USDA stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not in accordance with the law and request a modification of the Order or an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, USDA would rule on the petition. The Act provides that district courts of the United States in any district in which such person is an inhabitant, or has their principal place of business, has jurisdiction to review USDA's ruling on the petition, if a complaint for this purpose is filed within 20 days after the date of the entry of the ruling.

Further, section 1974 of the Act provides, with certain exceptions, that nothing in the Act may be construed to preempt or supersede any other program relating to soybean promotion, research, consumer information, or industry information organized under the laws of the United States or any State. One exception in the Act concerns assessments collected by Qualified State Soybean Boards (QSSBs). The exception provides that to ensure adequate funding of the operations of QSSBs under the Act, no State law or regulation may limit or have the effect of limiting the full amount of assessments that a QSSB in that State may collect, and which is authorized to be credited under the Act. Another exception concerns certain referenda conducted during specified periods by a State relating to the continuation of a QSSB or State soybean assessment.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), USDA is required to examine the impact of the interim final rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened.

For the purpose of the Request for Referendum, the Secretary would use the most recent number of soybean producers identified by FSA. The latest number of soybean producers identified by FSA is 569,998 and was obtained using information from 2011 and 2012 acreage reports. The data were sorted in such a manner as to include all producers that were engaged in the production of soybeans in at least one of the 2 years and exclude counting a producer more than once if that producer engaged in production during both years. The majority of producers subject to the Order are small businesses under the criteria established by the Small Business Administration (SBA) [13 CFR 121.201]. SBA defines small agricultural producers as those having annual receipts of less than $750,000.

This interim final rule would amend the procedures to request a referendum by removing the specific number of soybean producers eligible to request a referendum under the Soybean Promotion, Research, and Consumer Information program, commonly known as the Soybean Checkoff Program. The number of soybean producers will be replaced with language that allows the Secretary to update this number based on information provided by USDA. Additionally, this action would remove specific USDA and FSA Web site and office addresses in §§ 1220.619, 1220.622, 1220.628, and replace them with more flexible language. Further, the information collection requirements are minimal. Requesting form LS–51–1 to participate in a Request for Referendum may be done by mail, in-person, by facsimile, or via the Internet and would not impose a significant economic burden on participants.

Accordingly, the Administrator of AMS has determined that this interim final rule will not have a significant economic impact on a substantial number of small business entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the reporting and recordkeeping requirements included in 7 CFR part 1220 were previously approved by OMB and were assigned control number 0581–0093.

Background

The Act (7 U.S.C. 6301–6311) provides for the establishment of a coordinated program of promotion and research designed to strengthen the soybean industry's position in the marketplace, and to maintain and expand domestic and foreign markets and uses for soybeans and soybean products. The program is financed by an assessment of 0.5 of 1 percent of the net market price of soybeans sold by producers. The final rule establishing a Soybean Promotion, Research, and Consumer Information program was published in the July 9, 1991, issue of the **Federal Register** (56 FR 31043), and assessments began on September 1, 1991.

The Act required that an initial referendum be conducted no earlier than 18 months and not later than 36 months after the issuance of the Order to determine whether the Order should be continued. The initial referendum was conducted on February 9, 1994. On April 1, 1994, the Secretary announced that of the 85,606 valid ballots cast, 46,060 (53.8 percent) were in favor of continuing the Order and the remaining 39,546 votes (46.2 percent) were against continuing the Order. The Act required approval by a simple majority for the Order to continue.

The Act also required that within 18 months after the Secretary announced the results of the initial referendum, the Secretary would conduct a poll among producers to determine if producers favored a referendum on the continuance of the payment of refunds under the Order.

A July 25, 1995, nationwide poll of soybean producers did not generate sufficient support for a refund referendum to be held. A refund referendum would have been held if at least 20 percent (not in excess of one-fifth of which may be producers in any one State) of the 381,000 producers (76,200) nationwide requested it. Only 48,782 soybean producers participated in the poll. Consequently, refunds were discontinued on October 1, 1995.

The Act also specifies that the Secretary shall, 5 years after the conduct of the initial referendum and every 5 years thereafter, provide soybean producers an opportunity to request a referendum on the Order. Additionally, the Act specifies that these subsequent polls require that at least 10 percent (not in excess of one-fifth in any one State) of all producers must request a referendum in order to trigger the conduct of a referendum. If a referendum is requested, it will be held within 1 year of that determination.

From October 1 to November 16, 1999, a nationwide Request for Referendum was conducted to determine if there was sufficient interest among soybean producers to vote on whether to continue the soybean checkoff program. Ten percent of the eligible 600,813 soybean producers nationwide (not in excess of one-fifth of which may be producers in any one State) were needed to participate in the Request for Referendum to trigger a referendum. Only 17,970 eligible soybean producers completed valid requests.

Five years later, another Request for Referendum was conducted May 1, 2004, through May 28, 2004. As in the prior Request for Referendum, the purpose was to determine if there was sufficient interest among soybean producers to vote on whether to continue the soybean checkoff program. To be eligible to participate in the Request for Referendum, producers or the producer entity that they are

authorized to represent had to certify and provide supporting documentation showing that they or the producer entity they represent paid an assessment sometime during the representative period between January 1, 2002, and December 31, 2003. Ten percent of the total eligible 663,880 soybean producers nationwide (not in excess of one-fifth of which may be producers in any one State) were needed to participate in the Request for Referendum to trigger a referendum. Only 3,206 eligible soybean producers completed valid Requests for Referendum. This number did not meet the requisite number of 66,388; therefore, a referendum was not conducted.

The most recent Request for Referendum was conducted from May 4, 2009, to May 29, 2009, at FSA county offices. To trigger the referendum, ten percent of the total eligible 589,180 soybean producers (not in excess of one-fifth of which may be producers in any one State) needed to complete the Request for Referendum. A total of 759 valid Requests for Referendum were completed. This number did not meet the requisite number of 58,918. Therefore, a referendum was not conducted.

Changes to the Regulations

AMS is amending the language in § 1220.616 to remove the specific number of soybean procedures from the regulatory language. Data provided by FSA has been used to amend the number of soybean procedures prior to any Request for Referendum. The data were sorted in such a manner as to include all producers that were engaged in the production of soybeans in at least one of the 2 years and exclude counting a producer more than once if that producer engaged in production during both years. Using the last two crop year acreage reports for which complete data is available ensures that all eligible producers are counted, as some producers use soybeans in rotation with other crops and do not plant soybeans every year or the market for some producers in a particular crop year may not have been conducive to growing soybeans. This methodology is consistent with that used during the last amendment to § 1220.616 in 2009.

Further, this change will enable AMS to announce future requests for referendum without engaging in additional notice-and-comment rulemaking.

In addition to the changes relating to the number of eligible soybean producers, AMS also will amend §§ 1220.619, 1220.622, and 1220.628 regarding Web site addresses and office locations as a result of internal changes within USDA, including AMS and FSA.

This interim final rule also provides official notice for the upcoming Request for Referendum.

Notice of Request for Referendum

Soybean producers may request a referendum to determine if they want a referendum on the Order, as authorized under the Act. To be eligible to participate, producers must certify that they or the entity they are authorized to represent paid an assessment at sometime between January 1, 2012, and December 31, 2013. They must complete form LS 51–1, Soybean Promotion and Research Order, Request for Referendum, in its entirety in person, by mail, or by facsimile from May 5, 2014, through May 30, 2014. Individual producers and other producer entities would request a referendum at the county FSA office where FSA maintains and processes the producer's, corporation's, or other entity's administrative farm records. For the producer, corporation, or other entity not participating in FSA programs, the opportunity to request a referendum would be provided at the county FSA office serving the county where the producer, corporation, or other entity owns or rents land. Form LS 51–1 may also be obtained via the Internet at *http://www.ams.usda.gov/AMSv1.0/SoybeanInformationonthe SoybeanRequestforReferendum.* If obtained by the Internet, Form LS 51–1 must be completed in its entirety and returned with the supporting documentation to the county FSA office where FSA maintains and processes the producer's, corporation's, or other entity's administrative farm records. For the producer, corporation, or other entity not participating in FSA programs, the opportunity to request a referendum would be provided at the county FSA office serving the county where the producer, corporation, or other entity owns or rents land.

Form LS 51–1 and accompanying supporting documentation may be returned in person, by mail, or facsimile to the appropriate county FSA office. Forms and supporting documentation returned in person or by facsimile must be received in the appropriate county office prior to the close of business of May 30, 2014. If returned by mail, Form LS 51–1 and accompanying documentation must be postmarked no later than midnight of May 30, 2014, and received in the county FSA office by close of business on June 6, 2014. Supporting documentation could include proof that an assessment was paid between January 1, 2012, through December 31, 2013, sales receipt, etc.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of the rule until 30 days after publication in the **Federal Register** in order to conduct the Request for Referendum in a timely manner, consistent with the provisions of the Act and regulations.

A 30-day comment period is provided for interested persons to comment on the changes to § 1220.616. For the same reasons, this comment period is deemed appropriate.

List of Subjects in 7 CFR Part 1220

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Reporting and recordkeeping requirements, Soybeans and soybean products.

For the reasons set forth in the preamble, 7 CFR Part 1220 is amended as follows:

PART 1220—SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION

■ 1. The authority citation for part 1220 continues to read as follows:

Authority: 7 U.S.C. 6301–6311 and 7 U.S.C. 7401.

Subpart F—Procedures to Request a Referendum

■ 2. In § 1220.616, paragraph (d) is revised to read as follows:

§ 1220.616 General.

* * * * *

(d) For purposes of paragraphs (b) and (c) of this section, the number of soybean producers in the United States will be determined by the Secretary using data provided by USDA.

■ 3. In § 1220.619, paragraph (b) is revised to read as follows:

§ 1220.619 Time and place for requesting a referendum.

* * * * *

(b) Producers can determine the location of county FSA offices by contacting the nearest county FSA office in their State or by an online search of FSA Web sites.

* * * * *

■ 4. In § 1220.622, paragraph (b) is revised as follows:

§ 1220.622 Certification and request procedures.

* * * * *

(b) To request a referendum, eligible producers may obtain form LS–51–1 in person, by mail, or by facsimile during the request for referendum period from the county FSA office where FSA maintains and processes the producer's, corporation's, or other entity's administrative farm records. For the producer, corporation, or other entity not participating in FSA programs, the opportunity to request a referendum would be provided at the county FSA office serving the county where the producer, corporation, or other entity owns or rents land. Eligible producers may also obtain form LS–51–1 via the Internet at a Web site provided by the Secretary. For those persons who chose to obtain form LS–51–1 via the Internet, the completed form and required documentation must be submitted to the county FSA office where FSA maintains and processes the producer's, corporation's, or other entity's administrative farm records. For producers, corporations, or other entities not participating in FSA programs, the opportunity to request a referendum would be provided at the county FSA office serving the county where the producer, corporation, or other entity owns or rents land.

* * * * *

■ 5. In § 1220.628, paragraph (a) is revised as follows:

§ 1220.628 Results of the request for referendum.

(a) The Administrator, FSA, shall submit to the Administrator, AMS, the reports from all State FSA offices. The Administrator, AMS, shall tabulate the results of the Request for Referendum. USDA will issue an official press release announcing the results of the Request for Referendum and publish the same results in the **Federal Register**. In addition, USDA will post the official results at a Web site address provided by the Secretary. Subsequently, State reports and related papers shall be available for public inspection upon request during normal business hours at an address provided by the Secretary.

* * * * *

Dated: February 25, 2014.

Rex A. Barnes,

Associate Administrator.

[FR Doc. 2014–04690 Filed 3–3–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 36

[Docket No.: FAA–2012–0948; Amdt. No. 36–29]

RIN 2120–AJ96

Stage 3 Helicopter Noise Certification Standards

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rulemaking adopts more stringent noise certification standards for helicopters that are certificated in the United States (U.S.). This rule applies to applications for a new helicopter type design. It also allows applicants to upgrade Stage 1 and Stage 2 helicopters to Stage 3 when applying for a supplemental type certificate. A helicopter type certificated under this standard is designated as a Stage 3 helicopter. This rule adopts the same noise certification standards for helicopters that exist in the standards of the International Civil Aviation Organization (ICAO). These more stringent noise certification standards adopted into U.S. regulations will reduce noise exposure from helicopters certificated in the United Stated and are consistent with the FAA's goal of harmonizing U.S. regulations with international standards.

DATES: Effective May 5, 2014.

ADDRESSES: For information on where to obtain copies of rulemaking documents and other information related to this final rule, see ''How To Obtain Additional Information'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Sandy Liu, AEE–100, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 493–4864; facsimile (202) 267–5594; email: *sandy.liu@faa.gov*.

For legal questions concerning this action, contact Karen Petronis, AGC–210, Office of the Chief Counsel, International Law, Legislation and Regulations Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–3073; email: *karen.petronis@faa.gov*.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44715, Controlling aircraft noise and sonic boom. Under that section, the FAA is charged with prescribing regulations to measure and abate aircraft noise. This regulation is within the scope of that authority since it establishes new noise certification standards for helicopters that are applicable to new type designs.

Overview of Final Rule

This final rule adopts noise standards for helicopters that are to be type certificated in the United States. The standards apply to applications for a new type certificate, and subsequent changes to a type certificate for which application is made after the effective date of this rule. These regulations incorporate the same noise certification standards for helicopters that exist in Annex 16, Volume 1, Chapter 8 and Chapter 11 (Amendment 7) in the standards of International Civil Aviation Organization (ICAO). This action is consistent with the FAA goals of reducing exposure to helicopter noise and of harmonizing U.S. regulations with international standards.

Background

ICAO Noise Certification Standards

The ICAO is the international body with the responsibility for the development of international standards under the Convention on International Civil Aviation (the Chicago Convention). Consistent with their obligations under the Chicago Convention, Contracting States (including the United States) agree to implement ICAO standards in their national regulations to the extent practicable. The standards for aircraft noise are contained in ICAO Annex 16, Environmental Protection, Volume 1, Aircraft Noise.

In 1997, ICAO's Committee on Aviation Environmental Protection (CAEP) chartered the Rotorcraft Task Group (RTG) to study potential increases in the stringency of noise certification standards for helicopters. The FAA participated in the RTG from 1997 to 2000. By the fifth session of CAEP in 2001, more stringent noise standards for helicopters had been

defined. These standards lowered noise limits for new helicopter types while using the same helicopter noise certification test procedures that the United States had incorporated into Title 14 of the Code of the Federal Regulations (CFR) part 36, Appendices H and J.

On June 29, 2001, CAEP's proposed noise stringency increases were adopted by the ICAO Council for incorporation into Annex 16, Volume 1, Chapters 8 and 11 (Amendment 7). The ICAO guidelines became effective on October 29, 2001, with an applicability date of March 21, 2002.

Statement of the Problem

Although ICAO adopted increased noise stringency standards for helicopters in 2002, the United States did not adopt these standards into part 36. Since that time, there has been heightened public awareness of helicopter noise in the United States, and the FAA has determined that the public will benefit from adoption of these more stringent standards. The FAA's adoption of these certification standards into part 36, including Appendices H and J, will also satisfy the goal of harmonizing U.S. regulations with international standards. This rulemaking adopts the same noise certification standards for helicopters that exist in ICAO Annex 16, Volume 1, Chapters 8 and 11 (Amendment 7).

History of U.S. Helicopter Noise Regulations

In 1973, the FAA published an advanced notice of proposed rulemaking (ANPRM) (38 FR 35487, December 28, 1973) requesting comments on the development of standards for aircraft with efficient short stage length operations. This class of aircraft, referred to as ''short-haul'', included aircraft with short, reduced, vertical, or near vertical takeoff and landing capabilities, and included helicopters. At the time of the ANPRM, U.S. noise regulations in part 36 did not include any noise certification regulations applicable to short-haul aircraft.

The ANPRM invited public participation to aid in the identification and development of standards for this separate class of short-haul aircraft for relief and protection to the public health and welfare from all aircraft noise. Following receipt of comments, the FAA issued a notice of proposed rulemaking (NPRM) (44 FR 42410, July 9, 1979) that focused on helicopter noise certification standards and limits on further production of older, noisier helicopter types. Comments to the NPRM indicated that there was no noise abatement technology available at the time that could meet the noise levels proposed in the NPRM. The FAA withdrew the NPRM in 1981 (Notice No. 79–13, 46 FR 61486, December 17, 1981).

In 1982, the National Aeronautics and Space Administration (NASA), the FAA, and American helicopter manufacturers set up an accelerated joint research program to develop helicopter noise abatement technology. This cooperative, $20-million, multi-year program was established to reduce helicopter external noise, and develop noise prediction tools that could significantly lower the costs of applying the technology. The FAA also continued to study the issues of noise certification of helicopters in collaboration with ICAO's noise working group. On March 6, 1986, the FAA issued an NPRM (Notice No. 86–3, 51 FR 7878) that proposed helicopter certification standards that were more consistent with then-current technology, and testing procedures similar to those adopted in ICAO Annex 16.

On February 5, 1988, the FAA adopted the first U.S. helicopter noise certification regulations as an amendment to part 36. These regulations set limits on noise emissions for new helicopter type designs. Helicopters that did not meet the newly established limits or had never been noise tested were designated as Stage 1. Stage 2 helicopters were those that met the new certification standards as defined by the noise limits and test procedures. The new certification standards applied to the issuance of original and amended type certificates for helicopters. In addition, the regulations prohibited changes in the type design of helicopters that might increase their noise levels beyond certain limits. These regulations were substantially similar to the standards adopted in ICAO Annex 16, but included additional test conditions for engine thrust or power.

This rulemaking adopts more stringent noise levels consistent with the most recent international noise standards for helicopters and designates compliant designs as Stage 3. These standards apply to all applications for a new helicopter type design submitted on and after the effective date of the final rule. This rule is consistent with the effort of the fifth session of CAEP (2001) and its approval of the ICAO standards for helicopter noise in Annex 16, Chapters 8 and 11.

Summary of the NPRM

The FAA published an NPRM on September 18, 2012 (77 FR 57524) that proposed changes to part 36 that would establish more stringent noise limits for helicopters to be type certificated in the United States. The lowered helicopter noise limits are identical to the standards adopted in ICAO Annex 16, Volume 1, Chapter 8 and Chapter 11 (Amendment 7), and harmonize the U.S. regulations with those international standards. For helicopters certificated under Appendix H to part 36, the reduction in the noise limits are − 4 EPNdB for flyover, − 3 EPNdB for takeoff and − 1 EPNdB for approach conditions. For helicopters certificated under Appendix J to part 36, the reduction in the noise limit is − 2.5 dB SEL for flyover condition, with the constant lower limit, 82 dB SEL, extending to 3,125 pounds maximum takeoff weight.

Discussion of Public Comments

The comment period for the NPRM closed on November 19, 2012. Four commenters submitted comments to the docket: Bell Helicopter Textron Company (Bell), Sikorsky Aircraft Corporation (Sikorsky), the Helicopter Association International (HAI), and an individual.

Bell and Sikorsky noted an inconsistency between the proposed rule and Annex 16 standards that would result in different noise calculations.

Current § H36.305 uses a value of 3.01 dB and § J36.305 uses a value of 3.0 dB to compute noise limits. The FAA proposed a calculation value of 3.01 dB for both. That value was derived from the noise limit equations in the FAA's 2001 Advisory Circular 36–1H. In 2004, the FAA intended to change the value to 3.0 dB in both Appendices H and J, but only Appendix J was changed in a final rule harmonizing the noise certification regulations for helicopters (69 FR 31226, June 2, 2004).

Bell and Sikorsky each identified this inconsistency in the NPRM for calculation value used to compute the noise limits. Both commenters recommended that the FAA adopt the ICAO harmonized value of 3.0 dB per halving of weight (rather than the 3.01 dB per halving of the weight as proposed) in order to harmonize part 36 with the ICAO Annex 16 standard.

While the goal of harmonization exists, we are unable to change the 3.01 historical value of Appendix H because it would alter the certification basis of several helicopters. Accordingly, this final rule adopts the 3.0 dB value for the newly adopted Stage 3 standard in both Appendices H and J. The values for Stage 2 remain unchanged. The FAA will also update Advisory Circular (AC)

AC 36–1 to reflect the values adopted in this rule for Stage 3 certification.

Bell and Sikorsky also suggested that the FAA rewrite proposed § 36.11 for Stage 2 helicopter acoustical change. Each found that the proposed language did not clearly convey that the rule contains an option for certification applicants to certify to Stage 3 when applying for a supplemental type certificate for a Stage 1 or Stage 2 helicopter. Prior to this rule, Stage 2 was the quietest noise certification available for new or supplemental type certificates. Since new type designs must meet Stage 3 noise levels, this rule provides the option to upgrade a helicopter to Stage 3 as part of an application for a supplemental type certificate. Such voluntary recertification to Stage 3 requires that the helicopter remain Stage 3 thereafter.

Bell and Sikorsky suggested that the voluntary option is best reflected by using the term ''may'' rather than ''must'' in the rule text since the applicant is making the choice. The FAA agrees that the language could be clearer, but disagrees with the suggested change. The introductory text of § 36.11 has been changed to more clearly reflect that applicants have a choice when applying for a supplemental type certificate.

Bell noted that the FAA did not propose an update of the maximum normal operating revolutions per minute (RPM) that would include the current ICAO terminology regarding reference rotor speed. Bell indicted that it should be included.

The FAA agrees. This change was overlooked in § 36.1(h)(7). Since one of the goals of this rulemaking was harmonizing with the ICAO standard, the change is within the scope of this rulemaking.

The HAI supports the proposed rule and states that it is good for the long term growth of the industry. No changes were made based on this comment.

An individual commenter expressed frustration regarding the amount of noise made by airplanes and helicopters in general. This comment is not relevant to this rulemaking and no changes were made based on its content.

Changes Adopted in This Final Rule

This final rule incorporates the following changes from the NPRM:

The FAA is adopting a noise limit calculation value of 3.0 for Stage 3 in § H36.305 and in § J36.305.

The FAA has redrafted the introductory text of § 36.11 to more clearly convey that applicants have an option to certificate to a more stringent Stage 3 standard.

The FAA is amending in § 36.1(h)(7) on reference rotor speed by adopting the term ''reference flight condition,'' to be consistent with ICAO Annex 16 standards.

The incorporation of these changes more fully harmonizes U.S. regulations with the ICAO noise standards for helicopters.

Regulatory Notices and Analyses

Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

Department of Transportation (DOT) Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this final rule. The reasoning for this determination follows.

This final rule:

(1) Imposes no incremental costs and provides benefits;

(2) Is not an economically ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866;

(3) Is not significant as defined in DOT's Regulatory Policies and Procedures;

(4) Will not have a significant economic impact on a substantial number of small entities;

(5) Will not create unnecessary obstacles to the foreign commerce of the United States; and

(6) Will not impose an unfunded mandate on state, local, or tribal governments, or on the private sector by exceeding the monetary threshold identified.

These analyses are summarized below.

Currently, the United States does not have a noise certification standard for Stage 3 helicopters in 14 CFR part 36. Part 36 includes only noise certification standards for Stage 1 and Stage 2 helicopters. There are more stringent international noise standards for helicopters in ICAO Annex 16, Environmental Protection, Volume 1, Aircraft Noise, Chapter 8 and Chapter 11 (Amendment 7). This final rule includes amendments to the part 36 certification requirements that will require more stringent noise limits and allow new helicopter type designs to be designated Stage 3. This final rule will allow a helicopter that meets the ICAO standards to be classified as a Stage 3 helicopter in the United States, and will also apply to new helicopter type certifications submitted after the effective date of this final rule.

This final rule has two major benefits. This final rule will result in quieter helicopter operations for those models type certificated under these standards. This final rule will also make it easier to sell U.S. Stage 3 helicopters outside the United States because the noise standards will be the same as those in ICAO Annex 16, Volume 1, Chapter 8 and 11 standards.

Given the complexity and expense in developing new helicopter models, the FAA estimates that applications for two new helicopter type designs will be submitted in the next 10 year period; this would mirror the development of helicopter type designs in the last decade.

This final rule is not expected to result in additional costs. The U.S. testing procedures for helicopter noise certification already exist and will not change when certificating a helicopter to Stage 3 standards. Further, these standards are not retroactive. This final rule does not include any requirements to modify existing Stage 1 and Stage 2 helicopters. Therefore, there will be no incremental costs for certificating a helicopter to Stage 3 standards.

Although the FAA cannot quantify the benefits of this final rule, this rule will provide for quieter future helicopter models, will be consistent with international standards, and will not increase the cost of certification or noise testing. Thus the FAA finds that the benefits exceed the costs of the final rule.

In the NPRM, the FAA stated that the expected outcome would be a minimal impact with positive net benefits, and a full regulatory evaluation was not prepared. The FAA received no comments on that minimal cost determination.

Therefore, the FAA has determined that this final rule has benefits which exceed costs and is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

Helicopter Manufacturers

Size standards for small entities are published by the Small Business Administration (SBA) on its Web site at *http://www.sba.gov/size*. The size standards used herein are from ''SBA U.S. Small Business Administration, Table of Small Business Size Standards, Matched to North American Industry Classification System Codes''. Aircraft manufacturer size standards are listed in the above table of small business size standards under Sector 31–33—Manufacturing; Subsector 336—Transportation Equipment Manufacturing; NAICS Code 336411—Aircraft Manufacturing. The small entity size standard is 1,500 employees.

American helicopter manufacturers range in size from several hundred employees to thousands of employees. Therefore, some American helicopter manufacturers are small entities. However, this final rule will not have a significant economic impact on any small entity because the final rule imposes no incremental costs.

The FAA received no comments on this RFA determination that was part of the proposed rule when it was published.

If an agency determines that a rulemaking will not result in a significant economic impact on a substantial number of small entities, the head of the agency may so certify under section 605(b) of the RFA. Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking will not result in a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

The FAA assessed the potential effect of the proposed rule in the NPRM and determined that it would encourage international trade by adopting the same standards for Stage 3 helicopters in U.S. regulations that have been adopted by the ICAO.

The FAA received no comments on this determination. Therefore, the FAA determines that this final rule will encourage international trade by adopting the same noise standards for Stage 3 helicopters.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $151.0 million in lieu of $100 million.

This final rule does not contain such a mandate. Therefore, the requirements of Title II do not apply.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there is no new requirement for information collection associated with this final rule.

International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. In 2001, ICAO adopted stringent helicopter noise standards. This regulation harmonizes U.S. noise standards with the international standards by adopting the same requirements, adapted for U.S. regulatory format.

Executive Order (EO) 13609, Promoting International Regulatory Cooperation, (77 FR 26413, May 4, 2012) promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policy and agency responsibilities of Executive Order 13609, Promoting International Regulatory Cooperation. The agency has determined that this action would eliminate differences between U.S. aviation standards and those of other civil aviation authorities by adopting

international standards, adapted for U.S. regulatory format.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act (NEPA) in the absence of extraordinary circumstances. This rule adopts the same noise certification standards for helicopters adopted by ICAO. This rule promulgates these noise limits to control the maximum noise levels of newly certificated helicopters. The FAA finds the applicability of these stricter noise standards to be environmentally consistent with available technology. The adoption of more stringent noise standards requires new type certificated helicopters in the U.S. to comply with lower noise levels, thus offering increased environmental protection.

The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312f of NEPA and involves no extraordinary circumstances.

Executive Order Determinations

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. The agency determined that this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have Federalism implications.

Executive Order 13211, Regulations that Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it is not a ''significant energy action'' under the executive order and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

How To Obtain Additional Information

Rulemaking Documents

An electronic copy of a rulemaking document may be obtained by using the Internet—

1. Search the Federal eRulemaking Portal (*http://www.regulations.gov*);

2. Visit the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies/* or

3. Access the Government Printing Office's Web page at *http://www.gpo.gov/fdsys/*.

Copies may also be obtained by sending a request (identified by notice, amendment, or docket number of this rulemaking) to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680.

Comments Submitted to the Docket

Comments received may be viewed by going to *http://www.regulations.gov* and following the online instructions to search the docket number for this action. Anyone is able to search the electronic form of all comments received into any of the FAA's 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.).

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document, may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the Internet, visit *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/*.

List of Subjects in 14 CFR Part 36

Aircraft, Noise control.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of title 14, Code of Federal Regulations as follows:

PART 36 —NOISE STANDARDS: AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

■ 1. The authority citation for part 36 continues to read as follows:

Authority: 42 U.S.C. 4321 *et seq.;* 49 U.S.C. 106(g), 40113, 44701–44702, 44704, 44715; sec. 305, Pub. L. 96–193, 94 Stat. 50, 57; E.O. 11514, 35 FR 4247, 3 CFR, 1966–1970 Comp., p. 902.

■ 2. Amend § 36.1 as follows:

■ A. Redesignate paragraph (h)(5) as (h)(7).

■ B. Add new paragraph (h)(5);

■ C. Add new paragraph (h)(6);.

■ D. Revise newly redesignated paragraph (h)(7).

The additions and revision read as follows:

§ 36.1 Applicability and definitions.

* * * * *

(h) * * *

(5) A ''Stage 3 noise level'' means a takeoff, flyover, or approach noise level at or below the Stage 3 noise limits prescribed in section H36.305 of appendix H of this part, or a flyover noise level at or below the Stage 3 noise limit prescribed in section J36.305 of appendix J of this part.

(6) A ''Stage 3 helicopter'' means a helicopter that has been shown under this part to comply with the Stage 3 noise limits (including applicable tradeoffs) prescribed in section H36.305 of appendix H of this part, or a helicopter that has been shown under this part to comply with the Stage 3 noise limit prescribed in section J36.305 of appendix J of this part.

(7) *Maximum normal operating RPM* means the highest rotor speed corresponding to the airworthiness limit imposed by the manufacturer and approved by the FAA. Where a tolerance on the highest rotor speed is specified, the maximum normal operating rotor speed is the highest rotor speed for which that tolerance is given. If the rotor speed is automatically linked with flight condition, the maximum normal operating rotor speed corresponding with the reference flight condition must be used during the noise certification procedure. If rotor speed can be changed by pilot action, the highest normal operating rotor speed specified in the flight manual limitation section for reference conditions must be used during the noise certification procedure.

* * * * *

■ 3. Amend § 36.11 by revising paragraph (c) and adding paragraph (d) to read as follows:

§ 36.11 Acoustical change: Helicopters.

* * * * *

(c) *Stage 2 helicopters.* For each helicopter that is Stage 2 prior to a change in type design, after a change in type design the helicopter must either:

(1) Remain a Stage 2 helicopter; or

(2) Comply with Stage 3 requirements and remain a Stage 3 helicopter thereafter.

(d) *Stage 3 helicopters.* For a helicopter that is a Stage 3 helicopter prior to a change in type design, the helicopter must remain a Stage 3 helicopter after a change in type design.

■ 4. Amend § 36.805 by revising paragraphs (b)(1) and (2) to read as follows:

§ 36.805 Noise limits.

* * * * *

(b) * * *

(1) When an application for issuance of a type certificate in the primary, normal, transport, or restricted category is made on and after March 6, 1986 and before May 5, 2014, that the noise levels of the helicopter are no greater than the Stage 2 noise limits prescribed in either section H36.305 of appendix H of this part or section J36.305 of appendix J of this part, as applicable; or

(2) When an application for issuance of a type certificate in the primary, normal, transport, or restricted category is made on or after May 5, 2014, that the noise levels of the helicopter are no greater than the Stage 3 noise limits prescribed in either section H36.305 of appendix H of this part, or section J36.305 of appendix J of this part, as applicable.

* * * * *

■ 5. In Appendix H to part 36 in section H36.305:

■ A. Revise paragraph (a) introductory text;

■ B. Add paragraph (a)(3).

The additions and revisions read as follows:

Appendix H to Part 36—Noise Requirements for Helicopters Under Subpart H

* * * * *

Section H36.305 * * *

(a) *Limits.* For compliance with this appendix, the applicant must show by flight test that the calculated noise levels of the helicopter, at the measuring points described in section H36.305(a) of this appendix, do not exceed the following, (with appropriate interpolation between weights):

* * * * *

(3) *Stage 3* noise limits are as follows:

(i) For takeoff—For a helicopter having a maximum certificated takeoff weight of 176,370 pounds (80,000 kg) or more, the noise limit is 106 EPNdB, which decreases linearly with the logarithm of the helicopter weight (mass) at a rate of 3.0 EPNdB per halving of the weight (mass) down to 86 EPNdB, after which the limit is constant.

(ii) For flyover—For a helicopter having a maximum certificated takeoff weight of 176,370 pounds (80,000 kg) or more, the noise limit is 104 EPNdB, which decreases linearly with the logarithm of the helicopter weight (mass) at a rate of 3.0 EPNdB per halving of the weight (mass) down to 84 EPNdB, after which the limit is constant.

(iii) For approach—For a helicopter having a maximum certificated takeoff weight of 176,370 pounds (80,000 kg) or more, the noise limit is 109 EPNdB, which decreases linearly with the logarithm of the helicopter weight (mass) at a rate of 3.0 EPNdB per halving of the weight (mass) down to 89 EPNdB, after which the limit is constant.

* * * * *

■ 6. Amend Appendix J of part 36 by revising section J36.305 paragraph (a) to read as follows:

Appendix J to Part 36—Alternative Noise Certification Procedure for Helicopters Under Subpart H Having a Maximum Certificated Takeoff Weight of Not More Than 7,000 Pounds

* * * * *

Section J36.305 * * *

(a) For primary, normal, transport, and restricted category helicopters having a maximum certificated takeoff weight of not more than 7,000 pounds that are noise tested under this appendix:

(1) Stage 2 noise limit is constant at 82 decibels SEL for helicopters up to 1,737 pounds (787 kg) maximum certificated takeoff weight (mass) and increases linearly with the logarithm of the helicopter weight at a rate of 3.0 decibels SEL per the doubling of weight thereafter. The limit may be calculated by the equation:

$L_{AE}(\text{limit}) = 82 + 3.0\ [\log_{10}(\text{MTOW}/1737)/\log_{10}(2)]$ dB,

where MTOW is the maximum takeoff weight, in pounds, for which certification under this appendix is requested.

(2) Stage 3 noise limit is constant at 82 decibels SEL for helicopters up to 3,125 pounds (1,417 kg) maximum certificated takeoff weight (mass) and increases linearly with the logarithm of the helicopter weight at a rate of 3.0 decibels SEL per the doubling of weight thereafter. The limit may be calculated using the equation:

$L_{AE}(\text{limit}) = 82 + 3.0\ [\log10(\text{MTOW}/3125)/\log10(2)]$ dB,

where MTOW is the maximum takeoff weight, in pounds.

* * * * *

Issued in Washington, DC, on February 20, 2014.

Michael P. Huerta,

Administrator.

[FR Doc. 2014–04479 Filed 3–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0694; Directorate Identifier 2013–NM–097–AD; Amendment 39–17775; AD 2014–05–02]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2002–10–11, which applied to certain The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. AD 2002–10–11 required repetitive inspections for cracking and corrosion of the aft pressure bulkhead, and corrective actions if necessary; and, for certain airplanes, enlargement of frame chord drain holes, and repetitive inspections of the frame chord drain path for debris, and corrective actions if necessary. This new AD specifies a drain path inspection for all airplanes. For certain airplanes, this new AD reduces the repetitive inspection interval; and adds repetitive inspections of the frame chord drain path for obstructions and debris, and corrective actions if necessary. This AD was prompted by three reports of severe corrosion in the area affected by AD 2002–10–11. We are issuing this AD to detect and correct corrosion or cracking of the aft pressure bulkhead, which could result in loss of the aft pressure bulkhead web and stiffeners, and consequent rapid decompression of the airplane.

DATES: This AD is effective April 8, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 27, 2002 (67 FR 36085, May 23, 2002).

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0694; 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 address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Alan Pohl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6450; fax: 425–917–6590; email: *alan.pohl@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002). AD 2002–10–11 applied to certain The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. The NPRM published in the **Federal Register** on August 16, 2013 (78 FR 49978). The NPRM was prompted by three reports of severe corrosion in the area affected by AD 2002–10–11. The NPRM proposed to continue to require repetitive inspections for cracking and corrosion of the aft pressure bulkhead, and corrective actions if necessary; and, for certain airplanes, enlargement of frame chord drain holes, repetitive inspections of the frame chord drain path for obstructions and debris, and corrective actions if necessary. The NPRM also proposed to specify a drain path inspection for all airplanes. For certain airplanes, the NPRM also proposed to reduce the repetitive inspection interval; and add repetitive inspections of the frame chord drain path for obstructions and debris, and corrective actions if necessary. Additionally, the NPRM proposed to limit corrosion and cracking repairs of the aft pressure bulkhead accomplished after the effective date of this AD to those approved by the FAA. We are issuing this AD to detect and correct corrosion or cracking of the aft pressure bulkhead, which could result in loss of the aft pressure bulkhead web and stiffeners, and consequent rapid decompression of the airplane.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (78 FR 49978, August 16, 2013) and the FAA's response to each comment.

Support for the NPRM (78 FR 49978, August 16, 2013)

Boeing stated that it concurs with the contents of the proposed rule (78 FR 49978, August 16, 2013).

Clarification of Effect of Winglet Installation

Aviation Partners Boeing (the commenter) stated that the installation of winglets per STC ST01219SE does not affect the accomplishment of the manufacturer's service instructions.

We concur with the commenter. We have re-designated paragraph (c) as paragraph (c)(1) and added paragraph (c)(2) to this final rule to state that installation of STC ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/be866b732f6cf31086257b9700692796/$FILE/ST01219SE.pdf*) does not affect the ability to accomplish the actions required by this final rule.

Request To Clarify Corrosion Inhibiting Compound (CIC) Replacement

Alaska Airlines requested that we clarify whether the intent of paragraph (n) of the NPRM (78 FR 49978, August 16, 2013) is to require CIC removal and replacement following every inspection, or only when the CIC is deteriorated.

We agree to clarify. CIC removal is not required at each inspection. This was not the intent of paragraph (n) of the NPRM (78 FR 49978, August 16, 2013). The Accomplishment Instructions in Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000, specify when removal and replacement of CIC is required. We have revised paragraph (n) of this final rule to specify performing the CIC treatment as specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000.

Request To Delay Issuance of the Final Rule

All Nippon Airways (ANA) requested we consider issuing this final rule after Revision 4 to Boeing Service Bulletin 737–53A1075 is released, or include required repair methods in this final rule. ANA stated that paragraph (m) of the NPRM (78 FR 49978, August 16, 2013) would require approval of an alternative method of compliance (AMOC) if corrosion or cracking is found. ANA commented that having to request repair methods with an AMOC for any damage will burden operators during any new inspection.

We disagree with ANA's request. We do not consider that delaying this final rule while waiting for additional service information is warranted due to the history and severity of corrosion reports from the fleet. Boeing Commercial Airplanes has received an Organization Designation Authorization (ODA). This authorization allows delegation of the authority to approve an AMOC for any repair required by this AD to the Boeing Commercial Airplanes ODA. We have not changed this final rule in this regard.

Request To Clarify Drain Path Inspection Requirements

ANA requested we clarify the inspection requirements for the drain path in the chord frame. ANA stated that the inspection area is not clear because the NPRM (78 FR 49978, August 16, 2013) has no figure of the inspection area.

We agree to clarify. We have revised paragraph (n) of this final rule to specify a figure in the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000, for doing the drain path inspection.

Request To Clarify Aft Pressure Bulkhead Inspection

ANA requested that we clarify paragraph (o) of the NPRM (78 FR 49978, August 16, 2013) for the optional aft pressure bulkhead inspection, to specify whether the actions terminate the requirements of paragraph (l) of the NPRM. ANA also stated that the last sentence of paragraph (o) of the NPRM incorrectly refers to paragraph (k) of the NPRM instead of paragraph (l) of the NPRM.

We agree to clarify paragraph (o) of this final rule. We have revised paragraph (o) of this final rule to clarify that the requirement for the first inspection done after the effective date of this final rule that is required by paragraph (l)(2) of this final rule may be satisfied by doing the actions specified in paragraph (o) of this final rule. We have also revised paragraph (o) in this final rule to clarify that the repetitive inspection requirements are required at intervals not to exceed 90 days for a period not to exceed 2 years, until the actions required by paragraph (l)(2) of this final rule are accomplished.

Changes to This Final Rule

We have revised paragraph (i)(1) of this final rule to clarify that contacting the FAA or a Boeing Company Designated Engineering Representative for repairs, as specified in AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), is still acceptable.

We have also revised paragraph (m)(2) of this final rule to clarify that the compliance time is on or after the effective date of this final rule.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (78 FR 49978, August 16, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 49978, August 16, 2013).

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

Costs of Compliance

We estimate that this AD affects 419 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
Inspection	4 work-hours × $85 per hour = $340 per inspection cycle.	$0	$340 per inspection cycle	$142,460 per inspection cycle.

The new requirements of this AD add no additional economic burden.

We estimate the following costs to do any necessary repairs that would be required based on the results of the inspection. We have no way of determining the number of aircraft that might need these repairs.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repair	Up to 136 work-hours × $85 per hour = Up to $11,560.	$5,217	Up to $16,777.

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

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

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

(2) Is not a ''significant rule'' under 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 removing Airworthiness Directive (AD) 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), and adding the following new AD:

2014–05–02 The Boeing Company: Amendment 39–17775 ; Docket No. FAA–2013–0694; Directorate Identifier 2013–NM–097–AD.

(a) Effective Date

This AD is effective April 8, 2014.

(b) Affected ADs

This AD supersedes AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002).

(c) Applicability

(1) This AD applies to The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category, line numbers 1 through 3132 inclusive.

(2) Installation of Supplemental Type Certificate (STC) ST01920SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/be866b732f6cf31086257b9700692796/$FILE/ST01219SE.pdf*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01920SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to

comply with the requirements of 14 CFR 39.17.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by three reports of severe corrosion in the area affected by AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002). We are issuing this AD to detect and correct corrosion or cracking of the aft pressure bulkhead, which could result in loss of the aft pressure bulkhead web and stiffeners, and consequent rapid decompression of the airplane.

(f) Compliance

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

(g) Retained Initial Aft Pressure Bulkhead Inspection

This paragraph restates the requirements of paragraph (a) of AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), with clarification of the drain path inspection. For Model 737 series airplanes having line numbers (L/N) 1 through 929 inclusive, with more than 20,000 hours time-in-service or 7 years since date of manufacture, whichever occurs first: Within 120 days after January 20, 1986 (the effective date of AD 84–20–03 R1, Amendment 39–5183 (50 FR 51235, December 16, 1985)), unless already accomplished within 21 months before January 20, 1986, visually inspect the body station (BS) 1016 pressure bulkhead, including inspecting for cracking and corrosion of the pressure bulkhead, and for debris in the drain path in the chord frame, according to Boeing Alert Service Bulletin 737–53A1075, Revision 1, dated September 2, 1983; Revision 2, dated July 13, 1984; or Revision 3, dated June 8, 2000. Remove any obstruction to the drain hole in the frame chord and replace any deteriorated leveling compound as noted in Boeing Alert Service Bulletin 737–53A1075, Revision 1, dated September 2, 1983; Revision 2, dated July 13, 1984; or Revision 3, dated June 8, 2000. Treat the area of inspection with corrosion inhibitor BMS 3–23, or equivalent. After the effective date of this AD, use only Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000, to do the actions required by this paragraph.

(h) Retained Drain Hole Enlargement

This paragraph restates the requirements of paragraph (b) of AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), with revised service bulletin requirements. For airplanes identified in paragraph (g) of this AD: Within 1 year after January 20, 1986 (the effective date of AD 84–20–03 R1, Amendment 39–5183 (50 FR 51235, December 16, 1985)), accomplish the drain hole enlargement as shown in Boeing Alert Service Bulletin 737–53A1075, Revision 1, dated September 2, 1983; Revision 2, dated July 13, 1984; or Revision 3, dated June 8, 2000. After the effective date of this AD, use only Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000, to do the actions required by this paragraph.

(i) Retained Corrective Action

This paragraph restates the requirements of paragraph (c) of AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), with revised compliance methods. If cracking or corrosion is found during any inspection required by paragraph (g) or (j) of this AD: Before further flight, repair according to paragraph (i)(1) or (i)(2) of this AD, as applicable.

(1) If the inspection was done before the effective date of this AD: Repair according to Boeing Alert Service Bulletin 737–53A1075, Revision 1, dated September 2, 1983; Revision 2, dated July 13, 1984; or Revision 3, dated June 8, 2000; or according to a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

(2) If the inspection was done on or after the effective date of this AD: Repair using a method approved in accordance with the procedures specified in paragraph (p) of this AD.

(j) Retained Repetitive Visual Inspections of Aft Pressure Bulkhead

This paragraph restates the requirements of paragraph (d) of AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), with revised actions. For airplanes identified in paragraph (g) of this AD: Repeat the visual inspections and corrosion inhibitor treatment specified in paragraph (g) of this AD at intervals not to exceed 2 years. Accomplishment of the initial aft pressure bulkhead inspection required by paragraph (k) of this AD terminates the inspection required by this paragraph.

(k) Retained Aft Pressure Bulkhead Detailed Inspection

This paragraph restates the requirements of paragraph (e) of AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), with revised terminating action. Do a detailed inspection for cracking or corrosion of the aft pressure bulkhead at BS 1016 (including the forward and aft sides of the pressure web, forward and aft sides of the pressure chord, pressure chord radius, forward and aft sides of the angle stiffener, forward and aft chord, stringer end fitting, system penetration doublers, channel stiffeners and fasteners, ''Z'' stiffeners and fasteners, and fasteners common to the pressure chord and pressure web), according to Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000. Do this inspection at the applicable time shown in paragraph (k)(1), (k)(2), or (k)(3) of this AD.

(1) For airplanes on which an inspection has previously been done according to the requirements of paragraph (g) of this AD: Do the inspection within 2 years since the most recent inspection according to paragraph (g) or (j) of this AD, as applicable. For the airplanes identified in paragraph (g) of this AD, accomplishment of the inspection required by paragraph (k) of this AD terminates the inspections for cracking and corrosion required by paragraph (j) of this AD.

(2) For airplanes having L/Ns 930 through 1042 inclusive, on which an inspection has not previously been done according to paragraph (g) of this AD: Do the inspection within 2 years after June 27, 2002 (the effective date AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002)).

(3) For airplanes having L/Ns 1043 through 3132 inclusive, on which an inspection has not previously been done according to paragraph (g) of this AD: Do the inspection within 6 years since the airplane's date of manufacture, or within 2 years after June 27, 2002 (the effective date AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002)), whichever occurs later.

(l) Retained Repetitive Detailed Inspections of Aft Pressure Bulkhead

This paragraph restates the requirements of paragraph (f) of AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), with revised compliance times. Repeat the inspection in paragraph (k) of this AD at the applicable time shown in paragraph (l)(1) or (l)(2) of this AD.

(1) For airplanes having L/Ns 1 through 1042 inclusive: Repeat the inspection thereafter at intervals not to exceed 2 years.

(2) For airplanes having L/Ns 1043 through 3132 inclusive: Repeat the inspection thereafter within 2 years since the last inspection or within 120 days after the effective date of this AD, whichever occurs later.

(m) Retained Repair

This paragraph restates the requirements of paragraph (g) of AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), with revised repair requirements. If any corrosion or cracking is found during any inspection according to paragraph (k) or (l) of this AD: Do the applicable action specified in paragraph (m)(1) or (m)(2) of this AD.

(1) If the inspection was done prior to the effective date of this AD: Before further flight, repair according to Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000. Exception: If corrosion or cracking of the web and stiffeners is outside the limits specified in Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000, or if corrosion or cracking is found in any structure not covered by the repair instructions in Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000, before further flight, repair according to a method approved by the Manager, Seattle ACO, or per data meeting the type certification basis of the airplane approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's

approval letter must specifically reference this AD.

(2) On or after the effective date of this AD, if any corrosion or cracking is found during any inspection required by this AD: Before further flight, repair the corrosion or cracking using a method approved in accordance with the procedures specified in paragraph (p) of this AD.

(n) New Repetitive Drain Path Inspections

For airplanes having L/N 1 through 3132 inclusive: Within 2 years since the last inspection in accordance with paragraph (k) of this AD or within 2 years after the effective date of this AD, whichever occurs later: Do a general visual inspection of the drain path in the chord frame for debris, in accordance with Figure 2, Steps 1 through 6, of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000. Remove any obstruction to the drain hole in the frame chord and replace any deteriorated leveling compound. Treat the area of inspection with corrosion inhibitor BMS 3–23, or equivalent, as specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000. Repeat the actions required by this paragraph at intervals not to exceed 2 years. Do all actions required by this paragraph in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000. For the purposes of this AD, a general visual inspection is a visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.

(o) New Optional Repetitive Aft Pressure Bulkhead Inspections and Corrective Action

For airplanes having L/Ns 1043 through 3132 inclusive: In lieu of performing the first inspection after the effective date of this AD required by paragraph (l)(2) of this AD, operators may do the actions specified in this paragraph. Within 2 years from the most recent aft pressure bulkhead inspection done as specified in the service information identified in paragraph (o)(1), (o)(2), or (o)(3) of this AD, or within 120 days after the effective date of this AD, whichever occurs later: Do a detailed inspection for cracking or corrosion of the aft side of the aft pressure bulkhead at BS 1016 (including the aft sides of the pressure web, aft sides of the pressure chord, pressure chord radius, aft chord, stringer end fitting, system penetration doublers, and fasteners common to the pressure chord and pressure web), in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000. If any corrosion or cracking is found: Before further flight, repair the corrosion or cracking using a method approved in accordance with the procedures specified in paragraph (p) of this AD. Repeat the inspection thereafter at intervals not to exceed 90 days for a period not to exceed 2 years, until the actions required by paragraph (l)(2) of this AD are accomplished.

(1) Boeing Alert Service Bulletin 737–53A1075, Revision 1, dated September 2, 1983.

(2) Boeing Alert Service Bulletin 737–53A1075, Revision 2, dated July 13, 1984.

(3) Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000.

(p) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO, 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 paragraph (q) 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.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes ODA that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved previously in accordance with AD 2002–10–11, Amendment 39–12757 (67 FR 36085, May 23, 2002), are approved as AMOCs for the corresponding provisions of this AD.

(q) Related Information

For more information about this AD, contact Alan Pohl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6450; fax: (425) 917–6590; email: *alan.pohl@faa.gov*.

(r) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on June 27, 2002 (67 FR 36085, May 23. 2002).

(i) Boeing Alert Service Bulletin 737–53A1075, Revision 1, dated September 2, 1983.

(ii) Boeing Alert Service Bulletin 737–53A1075, Revision 2, dated July 13, 1984.

(iii) Boeing Alert Service Bulletin 737–53A1075, Revision 3, dated June 8, 2000.

(4) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*.

(5) You may view this service information at 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.

(6) 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 February 18, 2014.

Ross Landes,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–04546 Filed 3–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0917; Airspace Docket No. 13–ACE–16]

Amendment of Class D Airspace; St. Joseph, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class D airspace at St. Joseph, MO. Additional controlled airspace is necessary to accommodate new Area Navigation (RNAV) Standard Instrument Approach Procedures at Rosecrans Municipal Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rule (IFR) operations at the airport.

DATES: *Effective date:* 0901 UTC, May 29, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone 817–321–7716.

SUPPLEMENTARY INFORMATION:

History

On December 9, 2013, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend Class D airspace for the St. Joseph, MO, area, creating additional controlled airspace at Rosecrans Municipal Airport (78 FR 73749) Docket No. FAA–2013–0917. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class D airspace designations are published in paragraph 5000 of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class D airspace at Rosecrans Municipal Airport, St. Joseph, MO, to contain aircraft executing new standard instrument approach procedures at the airport. Accordingly, additional segments will extend from the 4.3-mile radius of the airport to 4.9 miles northwest and 4.5 miles southeast of the airport, to retain the safety and management of IFR aircraft in Class D airspace to/from the en route environment.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Rosecrans Municipal Airport, St. Joseph, MO.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ACE MO D St. Joseph, MO [Amended]

St. Joseph, Rosecrans Memorial Airport, MO (Lat. 39°46′19″ N., long. 94°54′35″ W.)

That airspace extending upward from the surface to and including 3,300 feet MSL within a 4.3-mile radius of Rosecrans Memorial Airport, and within 1.2 miles each side of the 136° bearing from the airport extending from the 4.3-mile radius to 4.5 miles southeast of the airport, and within 1.2 miles each side of the 316° bearing from the airport extending from the 4.3-mile radius to 4.9 miles northwest of the airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in Fort Worth, Texas, on February 10, 2014.

Kent M. Wheeler,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–04456 Filed 3–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0954; Airspace Docket No. 13–AGL–35]

Amendment of Class D Airspace; St. Paul, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, technical amendment.

SUMMARY: This action amends Class D airspace within the St. Paul, MN, area by updating the geographic coordinates for St. Paul Downtown Airport/Holman Field, and South St. Paul Municipal Airport-Richard E. Fleming Field. This action does not change the boundaries or operating requirements of the airspace.

DATES: *Effective date:* 0901 UTC, May 29, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone 817–321–7716.

SUPPLEMENTARY INFORMATION:

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by adjusting the geographic coordinates, within Class D airspace, of St. Paul Downtown Airport/Holman Field, and South St. Paul Municipal Airport-Richard E. Fleming Field, St. Paul, MN, to coincide with the FAA's aeronautical database. This is an administrative change and does not affect the boundaries, altitudes, or operating requirements of the airspace, therefore, notice and public procedures under 5 U.S.C. 553(b) are unnecessary.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace in the St. Paul, MN, area.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AGL MN D St. Paul, MN [Amended]

St. Paul Downtown Airport/Holman Field, MN
(Lat. 44°56′05″ N., long. 93°03′37″ W.)
South St. Paul Municipal Airport-Richard E. Fleming Field, MN
(Lat. 44°51′2605″ N., long. 93°01′58″ W.)

That airspace extending upward from the surface to and including 3,200 feet MSL within a 4.1-mile radius of St. Paul Downtown Airport/Holman Field, excluding that airspace within the Minneapolis, MN, Class B airspace area, and excluding that airspace within a 1-mile radius of South St. Paul Municipal Airport-Richard E. Fleming Field. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in Fort Worth, Texas, on February 4, 2014.

Kent M. Wheeler,

Manager Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–04447 Filed 3–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0955; Airspace Docket No. 13–AGL–36]

Amendment of Class D and Class E Airspace; Wheeling, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, technical amendment.

SUMMARY: This action amends Class D and Class E airspace within the Wheeling, IL, area by updating the airport name and geographic coordinates for Chicago Executive Airport, formerly known as Palwaukee Municipal Airport. This action does not change the boundaries or operating requirements of the airspace.

DATES: *Effective date:* 0901 UTC, April 3, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone 817–321–7716.

SUPPLEMENTARY INFORMATION:

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by adjusting the airport name and geographic coordinates, within Class D and Class E airspace, of Chicago Executive Airport, formerly called Palwaukee Municipal Airport, Wheeling, IL, to coincide with the FAA's aeronautical database. This is an administrative change and does not affect the boundaries, altitudes, or operating requirements of the airspace, therefore, notice and public procedures under 5 U.S.C. 553(b) are unnecessary.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace in the Wheeling, IL area.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AGL IL D Wheeling, IL [Amended]

Wheeling, Chicago Executive Airport, IL
(Lat. 42°06′51″ N., long. 87°54′06″ W.)

That airspace extending upward from the surface to but not including 3,000 feet MSL within a 4.4-mile radius of Chicago Executive Airport, excluding that airspace within the Chicago, IL, Class B airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6002 Class E Airspace Areas Designated as a Surface Area.

* * * * *

AGL IL E2 Wheeling, IL [Amended]

Wheeling, Chicago Executive Airport, IL
(Lat. 42°06′51″ N., long. 87°54′06″ W.)

Within a 4.4-mile radius of Chicago Executive Airport, excluding that airspace within the Chicago, IL, Class B airspace area. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in Fort Worth, Texas, on February 2, 2014.

Kent M. Wheeler,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–04494 Filed 3–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0593; Airspace Docket No. 13–AGL–22]

Amendment of Class E Airspace; Hamilton, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Hamilton, OH. Decommissioning of the Hamilton non-directional radio beacon (NDB) at Butler County Regional Airport has made reconfiguration necessary for standard instrument approach procedures and for the safety and management of Instrument Flight Rule (IFR) operations at the airport. The airport's name and geographic coordinates are also adjusted.

DATES: Effective date: 0901 UTC, May 29, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone 817–321–7716.

SUPPLEMENTARY INFORMATION:

History

On December 9, 2013, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend Class E airspace for the Hamilton, OH, area, creating additional controlled airspace at Butler County Regional Airport (78 FR 73750) Docket No. FAA–2013–0593. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E airspace extending upward from 700 feet above the surface for standard instrument approach procedures at Butler County Regional Airport, formerly Hamilton-Fairfield Airport, Hamilton, OH. Airspace reconfiguration to within a 6.6-mile radius of the airport is necessary due to the decommissioning of the Hamilton NDB and the cancellation of the NDB approach. Controlled airspace is necessary for the safety and management of IFR operations at the airport. Geographic coordinates are updated to coincide with the FAA's aeronautical database.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Butler County Regional Airport, Hamilton, OH.

Environmental Review

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

that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface.

* * * * *

AGL OH E5 Hamilton, OH [Amended]

Butler County Regional Airport, OH
(Lat. 39°21′50″ N., long. 84°31′19″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Butler County Regional Airport.

Issued in Fort Worth, Texas, on February 10, 2014.

Kent M. Wheeler,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–04458 Filed 3–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0590; Airspace Docket No. 13–AGL–20]

Amendment of Class E Airspace; Lawrenceville, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Lawrenceville, IL. Decommissioning of the Mount Carmel non-directional radio beacon (NDB) at Mount Carmel Municipal Airport has made reconfiguration necessary for standard instrument approach procedures and for the safety and management of Instrument Flight Rule (IFR) operations at the airport. Geographic coordinates are also updated.

DATES: *Effective date:* 0901 UTC, May 29, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone 817–321–7716.

SUPPLEMENTARY INFORMATION:

History

On October 1, 2013, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend Class E airspace for the Lawrenceville, IL, area, modifying controlled airspace at Mount Carmel Municipal Airport (78 FR 60236) Docket No. FAA–2013–0590. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order. Except for an administrative change clarifying removal of the southwest segment of airspace, this rule is the same as published in the NPRM.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E airspace extending upward from 700 feet above the surface to for standard instrument approach procedures at Lawrenceville, IL. Airspace reconfiguration is necessary due to the decommissioning of the Mount Carmel NDB and the cancellation of the NDB approach, thereby removing the 7-mile southwest segment extending from the 6.5-mile radius of Mount Carmel Municipal Airport. The south extension remains unchanged. Controlled airspace is necessary for the safety and management of IFR operations at the airport. Geographic coordinates of the airport also are updated to coincide with the FAA's aeronautical database.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace in the Lawrenceville, IL area.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface.

* * * * *

AGL IL E5 Lawrenceville, IL [Amended]

Lawrenceville—Vincennes International Airport, IL
(Lat. 38°45′51″ N., long. 87°36′20″ W.)
Mount Carmel Municipal Airport, IL
(Lat. 38°36′24″ N., long. 87°43′36″ W.)
Lawrenceville VOR/DME
(Lat. 38°46′12″ N., long. 87°36′14″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Lawrenceville-Vincennes International Airport, and within 4.8 miles either side of the Lawrenceville VOR/DME 018° radial, extending from the 7-mile radius to 7 miles northeast of the VOR/DME; and within a 6.5-mile radius of Mount Carmel Municipal Airport, and within 2.7 miles either side of the 196° bearing from Mount Carmel Municipal Airport, extending from the 6.5-mile radius to 7.4 miles south of the airport.

Issued in Fort Worth, Texas, on February 2, 2014.

Kent M. Wheeler,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–04463 Filed 3–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0594; Airspace Docket No. 13–ASW–14]

Amendment of Class E Airspace; Burnet, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Burnet, TX. Decommissioning of the Burnet non-directional radio beacon (NDB) at Burnet Municipal Airport—Kate Craddock Field has made reconfiguration necessary for standard instrument approach procedures and for the safety and management of Instrument Flight Rule (IFR) operations at the airport.

DATES: *Effective date:* 0901 UTC, May 29, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone 817–321–7716.

SUPPLEMENTARY INFORMATION:

History

On October 1, 2013, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend Class E airspace for the Burnet, TX, area, creating additional controlled airspace at Burnet Municipal Airport (78 FR 60237) Docket No. FAA–2013–0594. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E airspace extending upward from 700 feet above the surface for standard instrument approach procedures at Burnet Municipal Airport—Kate Craddock Field, Burnet, TX. Airspace reconfiguration is necessary due to the decommissioning of the Burnet NDB and the cancellation of the NDB approach, thereby removing the 7.4-mile segment southwest extending from the 6.7-mile radius of the airport. The segments north and south of the airport remain unchanged. Controlled airspace is necessary for the safety and management of IFR operations at the airport.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace in the Burnet, TX, area.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface.

* * * * *

ASW TX E5 Burnet, TX [Amended]

Burnet Municipal Airport—Kate Craddock Field, TX
(Lat. 30°44′20″ N., long. 98°14′19″ W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Burnet Municipal Airport—Kate Craddock Field, and within 2 miles each side of the 016° bearing from the airport extending from the 6.7-mile radius to 10.2 miles north of the airport, and within 2 miles each side of the 196° bearing from the airport extending from the 6.7-mile radius to 10.3 miles south of the airport.

Issued in Fort Worth, Texas, on February 2, 2014.

Kent M. Wheeler,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–04469 Filed 3–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0585; Airspace Docket No. 13–ACE–7]

Amendment of Class E Airspace; Hampton, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Hampton, IA. Decommissioning of the Hampton non-directional beacon (NDB) at Hampton Municipal Airport has made reconfiguration necessary for standard instrument approach procedures and for the safety and management of Instrument Flight Rule (IFR) operations at the airport.

DATES: *Effective date:* 0901 UTC, May 29, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone 817–321–7716.

SUPPLEMENTARY INFORMATION:

History

On August 12, 2013, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend Class E airspace for the Hampton, IA, area, creating additional controlled airspace at Hampton Municipal Airport (78 FR 48840) Docket No. FAA–2013–0585. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E airspace extending upward from 700 feet above the surface to for standard instrument approach procedures at Hampton Municipal Airport, Hampton, IA. Airspace reconfiguration to within a 6.4-mile radius of the airport, with a segment extending from the 6.4-mile radius to 7.7 miles south of the airport is necessary due to the decommissioning of the Hampton NDB and the cancellation of the NDB approach. Controlled airspace is necessary for the safety and management of IFR operations at the airport.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Hampton Municipal Airport, Hampton, IA.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface.

* * * * *

ACE IA E5 Hampton, IA [Amended]

Hampton Municipal Airport, IA
(Lat. 42°43′25″ N., long. 93°13′35″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Hampton Municipal Airport, and within 2 miles each side of the 177° bearing from the airport extending from the 6.4-mile radius to 7.7 miles south of the airport.

Issued in Fort Worth, Texas, on February 2, 2014.

Kent M. Wheeler,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–04471 Filed 3–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0916; Airspace Docket No. 13–AGL–30]

Amendment of Class E Airspace; Philip, SD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Philip, SD. Additional controlled airspace is necessary to accommodate new Area Navigation (RNAV) Standard Instrument Approach Procedures at Philip Airport. Geographic coordinates are also adjusted. The FAA is taking this action to enhance the safety and management of Instrument Flight Rule (IFR) operations at the airport.

DATES: *Effective date:* 0901 UTC, May 29, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone 817–321–7716.

SUPPLEMENTARY INFORMATION:

History

On December 9, 2013, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend Class E airspace for the Philip, SD, area, creating additional controlled airspace at Philip Airport (78 FR 73751) Docket No. FAA–2013–0916. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E airspace extending upward from 700 feet above the surface at Philip Airport, Philip, SD, to contain aircraft executing new standard instrument approach procedures at the airport. Accordingly, additional segments will extend from the 6.4-mile radius of the airport to 11.8 miles northwest and 11.5 miles southeast of the airport, to retain the safety and management of IFR aircraft in Class E airspace to/from the en route environment. Geographic coordinates will also be updated to coincide with the FAA's aeronautical database.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Philip Airport, Philip, SD.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface.

* * * * *

AGL SD E5 Philip, SD [Amended]

Philip Airport, SD
(Lat. 44°02′55″ N., long. 101°35′56″ W.)
Philip VOR/DME
(Lat. 44°03′30″ N., long. 101°39′51″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Philip Airport, and within 2 miles each side of the 308° bearing from the airport extending from the 6.4-mile radius to 11.8 miles northwest of the airport, and within 2 miles each side of the 128° bearing from the airport extending from the 6.4-mile radius to 11.5 miles southeast of the airport, and that airspace bounded by a line 7 miles south of and parallel to the Philip VOR/DME 102°

radial extending from the VOR/DME to 2.7 miles east of the VOR/DME, and within 4 miles north and 8.3 miles south of the Philip VOR/DME 282° radial extending from the VOR/DME to 16.1 miles west of the VOR/DME.

Issued in Fort Worth, Texas, on February 10, 2014.

Kent M. Wheeler,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–04493 Filed 3–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0552; Airspace Docket No. 13–ASO–14]

Amendment of Class E Airspace; Macon, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E Airspace at Macon, GA, as the Bay Creek Non-Directional Beacon (NDB) has been decommissioned and airspace reconfiguration is necessary for the safety and airspace management of Instrument Flight Rules (IFR) operations at Perry-Houston County Airport. This action also amends controlled airspace and updates the name and geographic coordinates of Macon Downtown Airport and amends controlled airspace for Middle Georgia Regional Airport.

DATES: Effective 0901 UTC, May 29, 2014. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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 August 22, 2013, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend Class E airspace in Macon, GA, (78 FR 52114). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 amends Class E airspace extending upward from 700 feet above the surface within a 7.8-mile radius of Middle Georgia Regional Airport, Macon, GA; and within a 9.8-mile radius of Perry-Houston County Airport; and within a 7-mile radius of Robins AFB; and within a 8.8-mile radius of Macon Downtown Airport formerly called Herbert Smart Downtown Airport. Airspace reconfiguration is necessary due to the decommissioning of the Bay Creek NDB and cancellation of the NDB approach, and for continued safety and management of IFR operations at the airports. Also, the geographic coordinates of Macon Downtown Airport are adjusted to coincide with the FAAs aeronautical database.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace in the Macon, GA, area.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment:

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, effective September 15, 2013, is amended as follows:

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

* * * * *

ASO GA E5 Macon, GA [Amended]

Middle Georgia Regional Airport, GA
(Lat. 32°41′34″ N., long. 83°38′57″ W.)
Macon Downtown Airport
(Lat. 32°49′18″ N., long. 83°33′43″ W.)
Robins AFB
(Lat. 32°38′25″ N., long. 83°35′31″ W.)
Perry-Houston County Airport
(Lat. 32°30′38″ N., long. 83°46′02″ W.)

That airspace extending upward from 700 feet above the surface within a 7.8-mile radius of Middle Georgia Regional Airport, and within a 8.8-mile radius of Macon Downtown Airport, and within a 7-mile radius of Robins AFB, and within a 9.8-mile radius of Perry-Houston County Airport.

Issued in College Park, Georgia, on February 21, 2014.

Eric Fox,

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

[FR Doc. 2014–04497 Filed 3–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0174; Airspace Docket No. 13–AGL–10]

Amendment of Class E Airspace; Lapeer, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Lapeer, MI. Additional controlled airspace is necessary to accommodate new Area Navigation (RNAV) Standard Instrument Approach Procedures at Dupont-Lapeer Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rule (IFR) operations at the airport. Geographic coordinates are also updated.

DATES: *Effective date:* 0901 UTC, May 29, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone 817–321–7716.

SUPPLEMENTARY INFORMATION:

History

On November 12, 2013, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend Class E airspace for the Lapeer, MI, area, creating additional controlled airspace at Dupont-Lapeer Airport (78 FR 67324) Docket No. FAA–2013–0174. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E airspace extending upward from 700 feet above the surface at Dupont-Lapeer Airport, Lapeer, MI to contain aircraft executing new standard instrument approach procedures at the airport. Accordingly, a segment extends from the 6.5-mile radius of the airport to 10.9 miles north of the airport to retain the safety and management of IFR aircraft to/from the en route environment. Geographic coordinates of the airport are also updated to coincide with the FAA's aeronautical database.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Dupont-Lapeer Airport, Lapeer, MI.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR Part 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface.

* * * * *

AGL MI E5 Lapeer, MI [Amended]

Dupont-Lapeer Airport, MI

(Lat. 43°03′59″ N., long. 83°16′18″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Dupont-Lapeer Airport, and within 2 miles each side of the 357° bearing from the airport extending from the 6.5-mile radius to 10.9 miles north of the airport.

Issued in Fort Worth, Texas, on February 2, 2014.

Kent M. Wheeler,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–04498 Filed 3–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0592; Airspace Docket No. 13–ASW–13]

Amendment of Class E Airspace; Georgetown, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Georgetown, TX. Decommissioning of the Georgetown non-directional radio beacon (NDB) at Georgetown Municipal Airport has made reconfiguration necessary for standard instrument approach procedures and for the safety and management of Instrument Flight Rule (IFR) operations at the airport.

DATES: *Effective date:* 0901 UTC, May 29, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone 817–321–7716.

SUPPLEMENTARY INFORMATION:

History

On October 1, 2013, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend Class E airspace for the Georgetown, TX, area, creating additional controlled airspace at Georgetown Municipal Airport (78 FR 60235) Docket No. FAA–2013–0592. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E airspace extending upward from 700 feet above the surface to for standard instrument approach procedures at Georgetown Municipal Airport, Georgetown, TX. Airspace reconfiguration is necessary due to the decommissioning of the Georgetown NDB and the cancellation of the NDB approach, thereby removing the 7.4-mile segment north extending from the 6.5-mile radius of Georgetown Municipal Airport. The segments extending northwest and north of the airport remain unchanged. Controlled airspace is necessary for the safety and management of IFR operations at the airport.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace in the Georgetown, TX, area.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface.

* * * * *

ASW TX E5 Georgetown, TX [Amended]

Georgetown Municipal Airport, TX
(Lat. 30°40′44″ N., long. 97°40′46″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Georgetown Municipal Airport, and within 2.2 miles each side of the 301° bearing from the airport extending from the 6.5-mile radius to 9.7 miles northwest of the airport, and within 2 miles each side of the 003° bearing from the airport extending from the 6.5-mile radius to 10.3 miles north of the airport.

Issued in Fort Worth, Texas, on February 2, 2014.

Kent M. Wheeler,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–04652 Filed 3–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0842; Airspace Docket No. 13–AGL–27]

Establishment of Class E Airspace; Mansfield, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Mansfield, OH. A Class E surface area is necessary to accommodate military mission changes when the control tower is closed at Mansfield Lahm Regional Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rule (IFR) operations at the airport.

DATES: *Effective date:* 0901 UTC, May 29, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone 817–321–7716.

SUPPLEMENTARY INFORMATION:

History

On December 9, 2013, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Class E airspace for the Mansfield, OH, area, creating additional controlled airspace at Mansfield Lahm Regional Airport (78 FR 73752) Docket No. FAA–2013–0842. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6002 of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E airspace designated as a surface area within a 4.4-mile radius of Mansfield Lahm Regional Airport, Mansfield, OH, with a small segment extending from the 4.4-mile radius to 4.8 miles northwest of the airport to accommodate military mission changes at the airport. Controlled airspace is needed for the safety and management of IFR operations that the Air National Guard units will need to conduct airdrop and other low level training during hours when the control tower is closed.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Mansfield Lahm Regional Airport, Mansfield, OH.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

AGL OH E2 Mansfield, OH [New]

Mansfield Lahm Regional Airport, OH
(Lat. 40°49′17″ N., long. 82°31′00″ W.)
Mansfield VORTAC
(Lat. 40°52′07″ N., long. 82°35′27″ W.)

Within a 4.4-mile radius of Mansfield Lahm Regional Airport, and within 1.7 miles each side of the Mansfield VORTAC 307° radial extending from the 4.4-mile radius to 4.8 miles northwest of the airport.

Issued in Fort Worth, Texas, on February 10, 2014.

Kent M. Wheeler,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–04468 Filed 3–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

28 CFR Part 0

[AG Order No. 3421–2014]

Authorization To Seize Property Involved in Drug Offenses for Administrative Forfeiture (2012R–9P)

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is amending its regulations to extend the trial period during which the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) may exercise, for an additional one-year

period following the effective date of this rule, the authority under the United States Code to seize and administratively forfeit property involved in controlled substance offenses. The Attorney General has determined that the trial period that ends on February 25, 2014, should be extended for another year to give ATF more time to refine its processes, fully hire and train all necessary staff, and further demonstrate the effectiveness of the delegation in the investigation of violent crimes involving firearms.

DATES: *Effective Date:* This rule is effective March 4, 2014.

Applicability Date: This delegation became operative on February 25, 2014, the date that it was issued by the Attorney General.

FOR FURTHER INFORMATION CONTACT: Denise Brown, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice, 99 New York Avenue NE., Washington, DC 20226, telephone: (202) 648–7070.

SUPPLEMENTARY INFORMATION:

Background

After ATF became part of the Department of Justice in January 2003, pursuant to the Homeland Security Act of 2002 (Public Law 107–296), the Attorney General delegated to ATF the authority to investigate, seize, and forfeit property involved in a violation or attempted violation within its investigative jurisdiction. *See* 28 CFR 0.130(b)(1). ATF investigations focusing on violent crime frequently involve complex criminal organizations with multiple criminal enterprises and uncover drug-related offenses in addition to offenses within ATF's primary jurisdiction, such as violations of the Gun Control Act, 18 U.S.C. Chapter 44, or the Contraband Cigarette Trafficking Act, 18 U.S.C. Chapter 114. In such investigations, ATF historically did not have authority under 21 U.S.C. Chapter 13 to seize for administrative forfeiture property involved in controlled substance offenses. Instead, ATF generally referred such property to the Drug Enforcement Administration (DEA), which is primarily responsible for investigating violations of drug laws contained in title 21 of the United States Code. DEA would then initiate, process, and conclude all necessary forfeiture actions for the controlled-substance-related property.

The Department of Justice believes that forfeiting the assets of criminals is an essential tool in combating criminal activity and provides law enforcement with the capacity to dismantle criminal organizations that would otherwise continue to function after conviction and incarceration of individual participants. The Department further believes that administrative forfeiture permits the expedient and effective use of this crucial law enforcement tool.

An uncontested administrative forfeiture can be perfected in 60–90 days for minimal cost, including the statutorily required advertisement and notice by registered mail. Conversely, the costs associated with judicial forfeiture can amount to hundreds or thousands of dollars and the judicial process generally can take anywhere from 6 months to years. In the meantime, the government incurs additional costs if the property requires storage or maintenance until a final order of forfeiture can be obtained.

One of the primary missions of the ATF is to combat firearm-related violent crime. The nexus between drug trafficking and firearm violence is well established. On review of the current role and mission of ATF within the Department of Justice, the Attorney General decided to authorize a temporary delegation of title 21 seizure and forfeiture authority to determine whether such authority can enhance the effectiveness of ATF in the investigation of violent crimes involving firearms. On August 21, 2012, the Attorney General signed a final rule delegating seizure and forfeiture authority under 21 U.S.C. 881 to the ATF for a trial period of one year, effective February 25, 2013. 77 FR 51698 (Aug. 27, 2012). This final rule amended the regulations in 28 CFR part 0 to authorize the Director of ATF to exercise, for a period of one year from the effective date of the final rule, the authority to seize, forfeit, and remit or mitigate the forfeiture of property in accordance with 21 U.S.C. 881. *See* 28 CFR 0.130(b)(2). After considering the effectiveness of this delegation over the course of the one-year period, the Attorney General decided to extend the trial period for an additional year. This extension will give ATF more time to refine its processes, fully hire and train all necessary staff, and further demonstrate the effectiveness of the delegation in the investigation of violent crimes involving firearms.

Since receiving the authority to seize, forfeit, and remit or mitigate the forfeiture of property in accordance with 21 U.S.C. 881, ATF seized both narcotics-related assets and firearms or explosives in approximately 70 percent of cases in which property was seized. The authority gives ATF the ability to process narcotics-related property seized in criminal investigations in which firearms and explosives also are seized. The delegation of authority has afforded cost savings to the United States government by streamlining the forfeiture process to prevent unnecessary burden on the judicial system and the public and by permitting the government to process forfeitures within a single agency.

From February 25, 2013, to December 25, 2013, ATF seized a total of 339 assets pursuant to the delegation of authority to seize, forfeit, and remit or mitigate the forfeiture of property in accordance with 21 U.S.C. 881. The total value of those assets amounted to $5,376,387.70.

Final Rule

This rule amends the regulations in 28 CFR part 0 to allow the Director of ATF to continue to exercise, for a period of one year from the effective date of this final rule, the authority to seize, forfeit, and remit or mitigate the forfeiture of property in accordance with 21 U.S.C. 881.

Forfeiting the assets of criminals is an essential tool in combating criminal activity and provides law enforcement with the capacity to dismantle criminal organizations that otherwise would otherwise continue to function after conviction and incarceration of individual participants. The Attorney General has decided to extend for a one-year period, beginning February 25, 2014, and ending on February 25, 2015, the delegation of administrative seizure and forfeiture authority to give ATF more time to refine its processes, fully hire and train all necessary staff, and further demonstrate its effectiveness in the investigation of violent crimes involving firearms. ATF may continue to exercise this delegated authority for all property in its possession on or before the end of the extension period, even if this delegation is not otherwise extended.

How This Document Complies With the Federal Administrative Requirements for Rulemaking

Administrative Procedure Act (APA)

Notice and comment rulemaking is not required for this final rule. Under the APA, ''rules of agency organization, procedure or practice,'' 5 U.S.C. 553(b)(A), that do not ''affect[] individual rights and obligations,'' *Morton* v. *Ruiz,* 415 U.S. 199, 232 (1974), are exempt from the general notice and comment requirements of section 553 of title 5 of the United States Code. *See JEM Broad. Co.* v. *FCC,* 22 F.3d 320, 326 (D.C. Cir. 1994) (section 553(b)(A) applies to ''agency actions that do not themselves alter the rights or

interests of parties, although [they] may alter the manner in which the parties present themselves or their viewpoints to the agency'') (quoting *Batterton* v. *Marshall,* 648 F.2d 694, 707 (D.C. Cir. 1980) (internal quotation marks omitted)). The revisions to the regulations in 28 CFR Part 0 are purely a matter of agency organization, procedure, and practice that will not affect individual rights and obligations. This rule does not expand the government's ability as a matter of law to effectuate forfeitures; it simply authorizes the Director of ATF to effectuate such forfeitures. Internal delegations of authority such as in this final rule are ''rules of agency organization, procedure, or practice'' under the APA. In addition, this rule is exempt from the usual requirements of prior notice and comment and a 30-day delay in effective date because, as an internal delegation of authority, it relates to a matter of agency management or personnel. See 5 U.S.D. 553(a)(2).

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities because it pertains to personnel and administrative matters affecting the Department. Further, a Regulatory Flexibility Analysis is not required for this final rule because the Department was not required to publish a general notice of proposed rulemaking for this matter.

Executive Order 12866 and Executive Order 13563

This rule has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review,'' section 1(b), Principles of Regulation, and with Executive Order 13563, ''Improving Regulation and Regulatory Review.'' This rule is limited to agency organization, management, or personnel matters as described by Executive Order 12866, section 3(d)(3) and, therefore, is not a ''regulation'' or ''rule'' as defined by that Executive Order.

Executive Order 12988

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, ''Civil Justice Reform.''

Executive Order 13132

This rule 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. Therefore, in accordance with Executive Order 13132, ''Federalism,'' the Department has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Congressional Review Act

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of non-agency parties. Accordingly, it is not a rule for purposes of the reporting requirement of 5 U.S.C. 801.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies), Privacy, Reporting and recordkeeping requirements, Whistleblowing.

Authority and Issuance

Accordingly, by virtue of the authority vested in me as Attorney General, including 5 U.S.C. 301 and 28 U.S.C. 509, 510, and for the reasons set forth in the preamble, part 0 of title 28 of the Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

■ 1. The authority citation for 28 CFR Part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

■ 2. Section 0.130 is amended by revising the second sentence in paragraph (b)(2) to read as follows:

§ 0.130 General functions.

* * * * *

(b) * * *

(2) * * * This authority is effective during the 24-month period beginning on February 25, 2013, and ending on February 25, 2015, except that it may continue to be exercised after February 25, 2015, with respect to any property in the Bureau's possession on or before that date.

* * * * *

Dated: February 25, 2014.

Eric H. Holder, Jr.,

Attorney General.

[FR Doc. 2014–04621 Filed 3–3–14; 8:45 am]

BILLING CODE 4410–19–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0100]

Drawbridge Operation Regulation; New Jersey Intracoastal Waterway (NJICW), Grassy Sound Channel, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the State Route 47 (George Redding) Bridge across Grassy Sound Channel, NJICW mile 108.9, at Wildwood, NJ. This deviation allows the bridge to remain in the closed-to-navigation position while the safety barrier gates are being replaced.

DATES: This deviation is effective without actual notice from March 4, 2014 until 10 p.m. on March 8, 2014. For the purposes of enforcement, actual notice will be used from 6 a.m. on March 1, 2014, until March 4, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–0100] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line

associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mrs. Jessica Shea, Bridge Management Specialist, Fifth Coast Guard District, telephone: (757) 398–6422, Email: *jessica.c.shea2@uscg.mil*. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The New Jersey Department of Transportation (NJDOT) owns and operates the State Route 47 (George Redding) bascule bridge across Grassy Sound Channel along the NJICW, mile 108.9, in Wildwood, NJ. The bridge has a vertical clearance in the closed position to vessels of 25 feet above mean high water. The current operating regulations are outlined at 33 CFR 117.5, which require the bridge to open when a request is made or signal to open is given.

NJDOT requested a temporary deviation to the existing regulations for the State Route 47 (George Redding) Bridge to facilitate necessary repairs. The repairs will consist of the replacement of bridge barrier gates. These gates prevent vehicles from driving across the bridge when it is in the open position. Under this deviation, the bascule spans of the drawbridge will be maintained in the closed-to-navigation position from 6 a.m. through 10 p.m. on March 1, 2014 and again from 6 a.m. through 10 p.m. on March 8, 2014.

The bridge will be able to open for emergencies during either of the closure periods. Vessels able to pass through the bridge in the closed position may do so at any time. The Atlantic Ocean is an alternate route for vessels with mast heights greater than 25 feet.

Bridge opening data, supplied by NJDOT, revealed that the bridge opened for vessels 20 and 30 times during the months of March 2012 and 2013 respectively. The majority of these opening requests occurred before 6 a.m.

The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: February 21, 2014.

Waverly W. Gregory, Jr.,

Bridge Program Manager, Fifth Coast Guard.

[FR Doc. 2014–04736 Filed 3–3–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0074]

Drawbridge Operation Regulation; Milford Haven Inlet, Hudgins, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the VA State Route 223 Bridge (Gwynn's Island) across the Milford Haven Inlet, mile 0.1, at Hudgins, Virginia. The deviation is necessary to facilitate painting the bridge. This deviation allows the bridge to remain in the closed-to-navigation position during the evening.

DATES: This deviation is effective without actual notice from March 4, 2014 until 4 a.m. on March 31, 2014. For the purposes of enforcement, actual notice will be used from 6 p.m. on February 24, 2014, until March 4, 2014.

ADDRESSES: The docket for this deviation, USCG–2014–0074, is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mrs. Jessica Shea, Bridge Management Specialist, Fifth Coast Guard District, telephone (757) 398–6422. Email *jessica.c.shea2@uscg.mil*. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The bridge owner, the Virginia Department of Transportation (VDOT), is currently conducting maintenance on the Route 223 Swing Bridge over Milford Haven Inlet near Hudgins, Virginia. On August 8, 2013, Coast Guard published a temporary deviation (78 FR 48314) allowing the bridge to remain closed-to-navigation position for four 24-hour non-consecutive periods to accommodate necessary maintenance. The closures dates were announced in the local and broadcast notice to mariners seven days in advance.

Due to unforeseen circumstances, the project has fallen behind and VDOT has requested for an additional deviation to run simultaneously with the aforementioned deviation in order to facilitate the supplemental rehabilitation work that includes painting the bridge. This deviation will allow the bridge to be in the closed-to-navigation position every day from 6 p.m. through 4 a.m. the following morning. The evening closures will commence on February 24, 2014 and continue through March 31, 2014 when both deviations will end.

Under the regular operating schedule for the Route 223 Swing Bridge, the bridge opens on signal, as required by 33 CFR § 117.5 and opens up to ten times every day for commercial fishing vessels and Coast Guard vessels at Station Milford Haven. The 24-hour temporary deviation discussed in the published temporary deviation (78 FR 48314) will not be impacted by this nighttime temporary deviation for painting.

The vertical clearance of the swing bridge in the closed-to-navigation position is 12 feet at mean high water. Vessels able to pass through the bridge in the closed position may do so at any time and are advised to proceed with caution. The bridge will be able to open for emergencies during any of the closure periods. The southern approach to Gwynn's Island by Sandy Point, VA can be used as an alternate route for vessels able to transit in water depths of 2 feet. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 19, 2014.

Waverly W. Gregory, Jr.,

Bridge Program Manager, Fifth Coast Guard.

[FR Doc. 2014–04738 Filed 3–3–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0071]

Drawbridge Operation Regulation; Bishop Cut, Near Stockton, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the San Joaquin County highway bridge across Bishop Cut, mile 1.0 near Stockton, CA. The deviation is necessary to allow PG&E Company to temporarily interrupt electric service to the area while installing new overhead equipment. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

DATES: This deviation is effective from 8 a.m. to 4 p.m. on March 14, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–0071], is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516, email *David.H.Sulouff@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The County of San Joaquin Public Works Department has requested a temporary change to the operation of the San Joaquin County highway bridge, mile 1.0, over Bishop Cut, near Stockton, CA. The drawbridge navigation span provides approximately 6 feet vertical clearance above Mean High Water in the closed-to-navigation position. In accordance with 33 CFR 117.143, the draw opens on signal if at least 12 hours notice is given to the San Joaquin County Department of Public Works at Stockton. Navigation on the waterway is commercial and recreational.

The drawspan will be secured in the closed-to-navigation position from 8 a.m. to 4 p.m. on March 14, 2014 to allow PG&E Company to install new overhead equipment in the vicinity. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridge in the closed position may do so at any time. The bridge will not be able to open for emergencies, and Disappointment Slough can be used as an alternate route for vessels unable to pass through the bridge in the closed position. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: February 21, 2014.

D.H. Sulouff,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2014–04737 Filed 3–3–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–1033]

RIN 1625–AA00

Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard will amend its safety zones regulations for annual events in the Captain of the Port Lake Michigan zone. This amendment updates the locations/and or enforcement times for 23 permanent safety zones; adds 10 new permanent safety zones; and for all permanent safety zones, provides notice that enforcement times are subject to change. We believe these amendments and additions are necessary to protect spectators, participants, and vessels from the hazards associated with annual maritime events, including fireworks displays, boat races, and air shows.

DATES: This final rule is effective April 3, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2013–1033. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, contact MST1 Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7148 or by email at *Joseph.P.McCollum@USCG.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 1–800–647–5527.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

On January 15, 2014, the Coast Guard published an NPRM entitled Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone in the **Federal Register** (79 FR 2597). We did not receive any comments in response to the proposed rule. No public meeting was requested and none was held.

B. Basis and Purpose

The legal basis for this rule is the Coast Guard's authority to establish regulated navigation areas and limited access areas: 33 U.S.C. 1231; 46 U.S.C.

Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

This rule updates 23 permanent safety zones in 33 CFR 165.929. These 23 amendments involve updating the location, size, and/or enforcement times for 21 fireworks displays in various locations, 1 regatta in Spring Lake, Michigan, and 1 Air and Water Show in Gary, Indiana. The Coast Guard updates the safety zones in § 165.929 to ensure that vessels and persons are protected from the specific hazards of the differing events, including firework displays, boat races, and air shows. These specific hazards include: obstructions to the waterway that may cause marine casualties; the explosive danger of fireworks; and flaming debris falling into the water that may cause death or serious bodily harm.

Additionally, this rule adds 10 new safety zones to § 165.929 for annually-reoccurring events in the Lake Michigan Zone. These 10 zones were added in order to protect the public from the safety hazards previously described. The 10 additions include 9 safety zones for fireworks displays, and 1 safety zone for the launch of vessels on the Menominee River by Marinette Marine Corporation in Marinette, Wisconsin.

In this rule, the Coast Guard also reorganized the safety zones in § 165.929 into a compressed chart which is sorted by month. This change of format was made in an effort to improve clarity and readability.

This rule will permit the enforcement dates and times for each of the safety zones listed in Table 165.929 to be subject to change, but the duration of enforcement would remain the same or nearly the same total number of hours as stated in the table. The Coast Guard will issue a Notice of Enforcement for safety zones in § 165.929 reflecting any changes to enforcement dates or times. This will facilitate minor changes in the date and time of an event by publishing a Notice of Enforcement in the **Federal Register**, along with issuing a Broadcast Notice to Mariners. In this way the Coast Guard can quickly inform the public of any changes to the enforcement dates or time for any of the zones listed within this rule.

C. Discussion of Comments, Changes and the Final Rule

As noted, we received no comments in response to the proposed rule, and we did not make any substantive changes from the proposed rule (79 FR 2597, January 15, 2014). We did convert a Table 165.929 reference to Datum NAD 1983 from a table header to a table footnote.

The safety zones in this rule are necessary to ensure the safety of vessels and people during annual marine or triggering events in the Captain of the Port Lake Michigan area of responsibility. Although this rule will be effective year-round, the safety zones in this rule will be enforced only immediately before, during, and after events that pose a hazard to the public, and only upon notice by the Captain of the Port Lake Michigan—either by relying on constructive notice of the dates and times specified for an event in § 165.929 or by issuing a notice of enforcement if the safety zone for an event that year will be enforced on a date or dates other than those stated in § 165.929.

The Captain of the Port Lake Michigan will notify the public that the zones in this rule are or will be enforced by all appropriate means to the affected segments of the public, including publication in the **Federal Register**, as practicable, in accordance with 33 CFR 165.7(a). Such means of notification may also include, but are not limited to, Broadcast Notice to Mariners or Local Notice to Mariners.

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

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zones created by this rule will be relatively small. Also, the safety zones are designed to minimize impact on navigable waters. Furthermore, the safety zones have been designed to allow vessels to transit unrestricted portions of the waterways not affected by the safety zones. Thus, restrictions on vessel movements within the affected area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zones when permitted by the Captain of the Port, Lake Michigan. On the whole, the Coast Guard expects insignificant adverse impact to mariners from the activation of these safety zones.

2. Impact on Small Entities

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

This rule will affect the following entities, some of which might be small entities: the owners and operators of vessels intending to transit or anchor in the areas designated as safety zones during the dates and times the safety zones are being enforced.

These safety zones will not have a significant economic impact on a substantial number of small entities for the reasons cited in the *Regulatory Planning and Review* section. Additionally, before the enforcement of these zones, we would issue a local Broadcast Notice to Mariners so vessel owners and operators can plan accordingly.

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

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If

this rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in **FOR FURTHER INFORMATION CONTACT** section, above. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

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

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 165.929 to read as follows:

§ 165.929 Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone.

(a) *Regulations.* The following regulations apply to the safety zones listed in Table 165.929 of this section.

(1) The general regulations in 33 CFR 165.23.

(2) All vessels must obtain permission from the Captain of the Port Lake Michigan or his or her designated representative to enter, move within, or exit a safety zone established in this section when the safety zone is enforced. Vessels and persons granted permission to enter one of the safety zones listed in this section must obey all lawful orders or directions of the Captain of the Port Lake Michigan or his or her designated representative. Upon being hailed by the U.S. Coast Guard by siren, radio, flashing light or other means, the operator of a vessel must proceed as directed.

(3) The enforcement dates and times for each of the safety zones listed in Table 165.929 are subject to change, but the duration of enforcement would remain the same or nearly the same total number of hours as stated in the table. In the event of a change, the Captain of the Port Lake Michigan will provide notice to the public by publishing a Notice of Enforcement in the **Federal Register**, as well as, issuing a Broadcast Notice to Mariners.

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

(1) *Designated representative* means any Coast Guard commissioned, warrant, or petty officer designated by the Captain of the Port Lake Michigan to monitor a safety zone, permit entry into a zone, give legally enforceable orders to persons or vessels within a safety zone, and take other actions authorized by the Captain of the Port Lake Michigan.

(2) *Public vessel* means a vessel that is owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

(3) *Rain date* refers to an alternate date and/or time in which the safety

zone would be enforced in the event of inclement weather.

(c) *Suspension of enforcement.* The Captain of the Port Lake Michigan may suspend enforcement of any of these zones earlier than listed in this section. Should the Captain of the Port suspend any of these zones earlier than the listed duration in this section, he or she may make the public aware of this suspension by Broadcast Notice to Mariners and/or on-scene notice by his or her designated representative.

(d) *Exemption.* Public vessels, as defined in paragraph (b) of this section, are exempt from the requirements in this section.

(e) *Waiver.* For any vessel, the Captain of the Port Lake Michigan or his or her designated representative may waive any of the requirements of this section, upon finding that operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purposes of safety or security.

TABLE 165.929

Event	Location [1]	Enforcement date and time [2]
(a) March Safety Zones		
(1) St. Patrick's Day Fireworks	Manitowoc, WI. All waters of the Manitowoc River in Manitowoc, WI within the arc of a circle with a 200-foot radius from the fireworks launch site located in position 44°5′29.6″ N, 087°39′23.0″ W.	The third Saturday of March; 5:30 p.m. to 7 p.m.
(b) April Safety Zones		
(1) Michigan Aerospace Challenge Sport Rocket Launch.	Muskegon, MI. All waters of Muskegon Lake, near the West Michigan Dock and Market Corp facility, within the arc of a circle with a 1500-yard radius from the rocket launch site located in position 43°14′21″ N, 086°15′35″ W.	The last Saturday of April; 8 a.m. to 4 p.m.
(2) Lubbers Cup Regatta	Spring Lake, MI. All waters of Spring Lake in Spring Lake, Michigan in the vicinity of Keenan Marina within a rectangle that is approximately 6,300 by 300 feet. The rectangle will be bounded by points beginning at 43°04′55″ N, 086°12′32″ W; then east to 43°04′57″ N, 086°11′6″ W; then south to 43°04′55″ N, 086°11′5″ W; then west to 43°04′52″ N, 086°12′32″ W; then north back to the point of origin.	April 12; 8 a.m. to 6 p.m., and April 13; 8:40 a.m. to 12:30 p.m.
(c) May Safety Zones		
(1) Tulip Time Festival Fireworks ...	Holland, MI. All waters of Lake Macatawa, near Kollen Park, within the arc of a circle with a 1000-foot radius from the fireworks launch site in position 42°47′23″ N, 086°07′22″ W.	The first Saturday of May; 9:30 p.m. to 11:30 p.m. Rain date: The first Friday of May; 9:30 p.m. to 11:30 p.m.
(2) Cochrane Cup	Blue Island, IL. All waters of the Calumet Saganashkee Channel from the South Halstead Street Bridge at 41°39′27″ N, 087°38′29″ W; to the Crawford Avenue Bridge at 41°39′05″ N, 087°43′08″ W; and the Little Calumet River from the Ashland Avenue Bridge at 41°39′7″ N, 087°39′38″ W; to the junction of the Calumet Saganashkee Channel at 41°39′23″ N, 087°39′00″ W.	The first Saturday of May; 6:30 a.m. to 5 p.m.
(3) Rockets for Schools Rocket Launch.	Sheboygan, WI. All waters of Lake Michigan and Sheboygan Harbor, near the Sheboygan South Pier, within the arc of a circle with a 1500-yard radius from the rocket launch site located with its center in position 43°44′55″ N, 087°41′52″ W.	The first Saturday of May; 8 a.m. to 5 p.m.
(4) Celebrate De Pere	De Pere, WI. All waters of the Fox River, near Voyageur Park, within the arc of a circle with a 500 foot radius from the fireworks launch site located in position 44°27′10″ N, 088°03′50″ W.	The Sunday before Memorial Day; 8:30 p.m. to 10 p.m.
(d) June Safety Zones		
(1) International Bayfest	Green Bay, WI. All waters of the Fox River, near the Western Lime Company 1.13 miles above the head of the Fox River, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 44°31′24″ N, 088°00′42″ W.	The second Friday of June; 9 p.m. to 11 p.m.
(2) Harborfest Music and Family Festival.	Racine, WI. All waters of Lake Michigan and Racine Harbor, near the Racine Launch Basin Entrance Light, within the arc of a circle with a 200-foot radius from the fireworks launch site located in position 42°43′43″ N, 087°46′40″ W.	Friday and Saturday of the third complete weekend of June; 9 p.m. to 11 p.m. each day.
(3) Spring Lake Heritage Festival Fireworks.	Spring Lake, MI. All waters of the Grand River within the arc of a circle with a 700-foot radius from a barge in position 43°04'22.5″ N, 086°12′24.07″ W.	The third Saturday of June; 9 p.m. to 11 p.m.
(4) Elberta Solstice Festival	Elberta, MI. All waters of Betsie Lake within the arc of a circle with a 500-foot radius from the fireworks launch site located in approximate position 44°37′36.5″ N 086°13′59.6″ W.	The last Saturday of June; 9 p.m. to 11 p.m.

TABLE 165.929—Continued

Event	Location [1]	Enforcement date and time [2]
(5) World War II Beach Invasion Re-enactment.	St. Joseph, MI. All waters of Lake Michigan in the vicinity of Tiscornia Park in St. Joseph, MI beginning at 42°06′55″ N, 086°29′23″ W; then west/northwest along the north breakwater to 42°06′59″ N, 086°29′41″ W; then northwest 100 yards to 42°07′01″ N, 086°29′44″ W; then northeast 2,243 yards to 42°07′50″ N, 086°28′43″ W; the southeast to the shoreline at 42°07′39″ N, 086°28′27″ W; then southwest along the shoreline to the point of origin.	The last Saturday of June; 8 a.m. to 2 p.m.
(6) Ephraim Fireworks	Ephraim, WI. All waters of Eagle Harbor and Lake Michigan within the arc of a circle with a 750-foot radius from the fireworks launch site located on a barge in position 45°09′18″ N, 087°10′51″ W.	The third Saturday of June; 9 p.m. to 11 p.m.
(7) Thunder on the Fox	Elgin, IL. All waters of the Fox River, near Elgin, Illinois, between Owasco Avenue, located at approximate position 42°03′06″ N, 088°17′28″ W and the Kimball Street bridge, located at approximate position 42°02′31″ N, 088°17′22″ W.	Friday, Saturday, and Sunday of the third weekend in June; 10 a.m. to 7 p.m. each day.
(8) Olde Ellison Bay Days Fireworks.	Ellison Bay, WI. All waters of Lake Michigan, in the vicinity of Ellison Bay Wisconsin, within a 400-foot radius from the fireworks launch site located on a barge in position 45°15′36″ N, 087°05′03″ W.	The fourth Saturday of June; 9 p.m. to 10 p.m.
(9) Sheboygan Harborfest Fireworks.	Sheboygan, WI. All waters of Lake Michigan and Sheboygan Harbor within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 43°44′55″ N, 087°41′54.8″ W.	June 15; 8:45 p.m. to 10:45 p.m.
(e) July Safety Zones		
(1) Town of Porter Fireworks Display.	Porter IN. All waters of Lake Michigan within the arc of a circle with a 1000 foot radius from the fireworks launch site located in position 41°39′56″ N, 087°03′57″ W.	The first Saturday of July; 8:45 p.m. to 9:30 p.m.
(2) City of Menasha 4th of July Fireworks.	Menasha, WI. All waters of Lake Winnebago and the Fox River within an 800-foot radius from the fireworks launch site located in position 44°12′14″ N, 088°25′31.4″ W.	July 4; 9 p.m. to 10:30 p.m.
(3) Pentwater July Third Fireworks	Pentwater, MI. All waters of Lake Michigan and the Pentwater Channel within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 43°46′57″ N, 086°26′38″ W.	July 3; 9 p.m. to 11 p.m. Rain date: July 4; 9 p.m. to 11 p.m.
(4) Taste of Chicago Fireworks	Chicago, IL. All waters of Monroe Harbor and Lake Michigan bounded by a line drawn from 41°53′24″ N, 087°35′59″ W; then east to 41°53′15″ N, 087°35′26″ W; then south to 41°52′49″ N, 087°35′26″ W; then southwest to 41°52′27″ N, 087°36′37″ W; then north to 41°53′15″ N, 087°36′33″ W; then east returning to the point of origin.	July 3; 9 p.m. to 11 p.m. Rain date: July 4; 9 p.m. to 11 p.m.
(5) St. Joseph Fourth of July Fireworks.	St. Joseph, MI. All waters of Lake Michigan and the St. Joseph River within the arc of a circle with a 1000-foot radius from the fireworks launch site in position 42°06′52″ N, 086°29′28.2″ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(6) US Bank Fireworks	Milwaukee, WI. All waters and adjacent shoreline of Milwaukee Harbor, in the vicinity of Veteran's park, within the arc of a circle with a 1,200-foot radius from the center of the fireworks launch site which is located on a barge in approximate position 43°02′22″ N, 087°53′29″ W.	July 3; 9 p.m. to 11 p.m. Rain date: July 4; 9 p.m. to 11 p.m.
(7) Manistee Independence Day Fireworks.	Manistee, MI. All waters of Lake Michigan, in the vicinity of the First Street Beach, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 44°14′51″ N, 086°20′46″ W.	July 3; 9 p.m. to 11 p.m. Rain date: July 4; 9 p.m. to 11 p.m.
(8) Frankfort Independence Day Fireworks.	Frankfort, MI. All waters of Lake Michigan and Frankfort Harbor, bounded by a line drawn from 44°38′06″ N, 086°14′50″ W; then south to 44°37′37″ N, 086°14′48″ W; then west to 44°37′37″ N, 086°15′16″ W; then north to 44°38′06″ N, 086°15′16″ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(9) Freedom Festival Fireworks	Ludington, MI. All waters of Lake Michigan and Ludington Harbor within the arc of a circle with a 800-foot radius from the fireworks launch site located in position 43°57′10.3″ N, 086°27′43.0″ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(10) White Lake Independence Day Fireworks.	Montague, MI. All waters of White Lake, in the vicinity of the Montague boat launch, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 43°24′33″ N, 086°21′28″ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(11) Muskegon Summer Celebration July Fourth Fireworks.	Muskegon, MI. All waters of Muskegon Lake, in the vicinity of Heritage Landing, within the arc of a circle with a 1000-foot radius from a fireworks launch site located on a barge in position 43°14′00″ N, 086°15′50″ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(12) Grand Haven Jaycees Annual Fourth of July Fireworks.	Grand Haven, MI. All waters of the Grand River within the arc of a circle with a 800-foot radius from the fireworks launch site located on the west bank of the Grand River in position 43°3′54.4″ N, 086°14′14.8″ W.	July 4; 9 p.m. to 11:30 p.m. Rain date: July 5; 9 p.m. to 11:30 p.m.

TABLE 165.929—Continued

Event	Location [1]	Enforcement date and time [2]
(13) Celebration Freedom Fireworks.	Holland, MI. All waters of Lake Macatawa in the vicinity of Kollen Park within a 2000-foot radius of an approximate launch position at 42°47′27.5″ N, 086°7′37.1″ W.	The Saturday prior to July 4; 9 p.m. to 11 p.m. Rain date: July 4; 9 p.m. to 11 p.m.
(14) Van Andel Fireworks Show	Holland, MI. All waters of Lake Michigan and the Holland Channel within the arc of a circle with a 1000-foot radius from the fireworks launch site located in approximate position 42°46'21″ N, 086°12′43.5″ W.	July 4; 9 p.m. to 11 p.m. Raindate: July 3; 9 p.m. to 11 p.m.
(15) Saugatuck Independence Day Fireworks.	Saugatuck, MI. All waters of Kalamazoo Lake within the arc of a circle with a 500-foot radius from the fireworks launch site in position 42°39′4.4″ N, 086°12′17.1″ W.	July 4; 8 p.m. to 10 p.m. Rain date: July 5; 8 p.m. to 10 p.m.
(16) South Haven Fourth of July Fireworks.	South Haven, MI. All waters of Lake Michigan and the Black River within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 42°24′7.5″ N, 086°17′11.8″ W.	July 3; 9:30 p.m. to 11:30 p.m.
(17) Town of Dune Acres Independence Day Fireworks.	Dune Acres, IN. All Waters of Lake Michigan within the arc of a circle with a 700-foot radius from the fireworks launch site located in position 41°39′18.1″ N, 087°5′14.3″ W.	The first Saturday of July; 8:45 p.m. to 10:30 p.m.
(18) Gary Fourth of July Fireworks	Gary, IN. All waters of Lake Michigan, approximately 2.5 miles east of Gary Harbor, within the arc of a circle with a 500-foot radius from the fireworks launch site located in position 41°37′19″ N, 087°14′31″ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(19) Joliet Independence Day Celebration Fireworks.	Joliet, IL. All waters of the Des Plains River, at mile 288, within the arc of a circle with a 500-foot radius from the fireworks launch site located in position 41°31′31″ N, 088°05′15″ W.	July 3; 9 p.m. to 11 p.m. Rain date: July 4; 9 p.m. to 11 p.m.
(20) Glencoe Fourth of July Celebration Fireworks.	Glencoe, IL. All waters of Lake Michigan in the vicinity of Lake Front Park, within the arc of a circle with a 500-foot radius from a barge in position 42°08′24.22″ N, 087°44′55.80″ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(21) Lakeshore Country Club Independence Day Fireworks.	Glencoe, IL. All waters of Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 42°08′27″ N, 087°44′57″ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(22) Shore Acres Country Club Independence Day Fireworks.	Lake Bluff, IL. All waters of Lake Michigan within the arc of a circle with a 600-foot radius from approximate position 42°17′50.8″ N, 087°49′50.2″ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(23) Kenosha Independence Day Fireworks.	Kenosha, WI. All waters of Lake Michigan and Kenosha Harbor within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 42°35′17″ N, 087°48′27″ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(24) Fourthfest of Greater Racine Fireworks.	Racine, WI. All waters of Lake Michigan and Racine Harbor in the vicinity of North Beach within a 320-foot radius of a launch position at 42°44′14.1″ N, 087°46′33.7″ W All waters of Lake Michigan and Racine Harbor in the vicinity of North Beach within a 420-foot radius of a launch position at 42°44′17″ N, 087°46′42″ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(25) Sheboygan Fourth of July Celebration Fireworks.	Sheboygan, WI. All waters of Lake Michigan and Sheboygan Harbor, in the vicinity of the south pier, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 43°44′55″ N, 087°41′51″ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(26) Manitowoc Independence Day Fireworks.	Manitowoc, WI. All waters of Lake Michigan and Manitowoc Harbor, in the vicinity of south breakwater, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 44°05′24″ N, 087°38′45″ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(27) Sturgeon Bay Independence Day Fireworks.	Sturgeon Bay, WI. All waters of Sturgeon Bay, in the vicinity of Sunset Park, within the arc of a circle with a 1000-foot radius from the fireworks launch site located on a barge in position 44°50′37″ N, 087°23′18″ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(28) Fish Creek Independence Day Fireworks.	Fish Creek, WI. All waters of Green Bay, in the vicinity of Fish Creek Harbor, within the arc of a circle with a 1000-foot radius from the fireworks launch site located on a barge in position 45°07′52″ N, 087°14′37″ W.	The first Saturday after July 4; 9 p.m. to 11 p.m.
(29) Fire over the Fox Fireworks	Green Bay, WI. All waters of the Fox River including the mouth of the East River from the railroad bridge in approximate position 44°31′28″ N, 088°0′38″ W then southwest to the US 141 bridge in approximate position 44°31′6.1″ N, 088°0′57.8″ W.	July 4; 9:45 p.m. to 11 p.m. Rain date: July 5; 9:45 p.m. to 11 p.m.
(30) Celebrate Americafest Ski Show.	Green Bay, WI. All waters of the Fox River including the mouth of the East River from the West Walnut Street Bridge in approximate position 44°30′54.7″ N, 088°01′06″ W, then northeast to an imaginary line across the river bisecting 44°31′20.2″ N, 088°0′38.4″ W.	July 4 from 2:30 p.m. to 4:30 p.m. Rain date: July 5; 2:30 p.m. to 4:30 p.m.
(31) Marinette Fourth of July Celebration Fireworks.	Marinette, WI. All waters of the Menominee River, in the vicinity of Stephenson Island, within the arc of a circle with a 900 foot radius from the fireworks launch site in position 45°6′13.9″ N, 087°37′45.4″ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.

TABLE 165.929—Continued

Event	Location [1]	Enforcement date and time [2]
(32) Evanston Fourth of July Fireworks.	Evanston, IL. All waters of Lake Michigan, in the vicinity of Centennial Park Beach, within the arc of a circle with a 500-foot radius from the fireworks launch site located in position 42°02′56″ N, 087°40′21″ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(33) Gary Air and Water Show	Gary, IN. All waters of Lake Michigan bounded by a line drawn from 41°37′15″ N, 087°16′45.8″ W; then east to 41°37′26.4″ N, 087°13′49.3″ W; then north to 41°38′1.0″ N, 087°13′52.6″ W; then southwest to 41°37′48.3″ N, 087°16′46.0″ W; then south returning to the point of origin.	July 10 thru 14; 8:30 a.m. to 5 p.m.
(34) Annual Trout Festival Fireworks.	Kewaunee, WI. All waters of Kewaunee Harbor and Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 44°27′29″ N, 087°29′45″ W.	Friday of the second complete weekend of July; 9 p.m. to 11 p.m.
(35) Michigan City Summerfest Fireworks.	Michigan City, IN. All waters of Michigan City Harbor and Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 41°43′42″ N, 086°54′37″ W.	Sunday of the second complete weekend of July; 8:30 p.m. to 10:30 p.m.
(36) Port Washington Fish Day Fireworks.	Port Washington, WI. All waters of Port Washington Harbor and Lake Michigan, in the vicinity of the WE Energies coal dock, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 43°23′07″ N, 087°51′54″ W.	The third Saturday of July; 9 p.m. to 11 p.m.
(37) Bay View Lions Club South Shore Frolics Fireworks.	Milwaukee, WI. All waters of Lake Michigan and Milwaukee Harbor, in the vicinity of South Shore Yacht Club, within the arc of a circle with a 900-foot radius from the fireworks launch site in position 42°59′39.5″ N, 087°52′48.5″ W.	Friday, Saturday, and Sunday of the second or third weekend of July; 9 p.m. to 11 p.m. each day.
(38) Venetian Festival Fireworks	St. Joseph, MI. All waters of Lake Michigan and the St. Joseph River, near the east end of the south pier, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 42°06′48″ N, 086°29′15″ W.	Saturday of the third complete weekend of July; 9 p.m. to 11 p.m.
(39) Joliet Waterway Daze Fireworks.	Joliet, IL. All waters of the Des Plaines River, at mile 287.5, within the arc of a circle with a 300-foot radius from the fireworks launch site located in position 41°31′15″ N, 088°05′17″ W.	Friday and Saturday of the third complete weekend of July; 9 p.m. to 11 p.m. each day.
(40) EAA Airventure	Oshkosh, WI. All waters of Lake Winnebago bounded by a line drawn from 43°57′30″ N, 088°30′00″ W; then south to 43°56′56″ N, 088°29′53″ W, then east to 43°56′40″ N, 088°28′40″ W; then north to 43°57′30″ N, 088°28′40″ W; then west returning to the point of origin.	The last complete week of July, beginning Monday and ending Sunday; 8 a.m. to 8 p.m. each day.
(41) Saugatuck Venetian Night Fireworks.	Saugatuck, MI. All waters of Kalamazoo Lake within the arc of a circle with a 500-foot radius from the fireworks launch site located on a barge in position 42°39′4.4″ N, 086°12′17.1″ W.	The last Saturday of July; 9 p.m. to 11 p.m.
(42) Roma Lodge Italian Festival Fireworks.	Racine, WI. All waters of Lake Michigan and Racine Harbor within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 42°44′04″ N, 087°46′20″ W.	Friday and Saturday of the last complete weekend of July; 9 p.m. to 11 p.m.
(43) Chicago Venetian Night Fireworks.	Chicago, IL. All waters of Monroe Harbor and all waters of Lake Michigan bounded by a line drawn from 41°53′03″ N, 087°36′36″ W; then east to 41°53′03″ N, 087°36′21″ W; then south to 41°52′27″ N, 087°36′21″ W; then west to 41°52′27″ N, 087°36′37″ W; then north returning to the point of origin.	Saturday of the last weekend of July; 9 p.m. to 11 p.m.
(44) New Buffalo Business Association Fireworks.	New Buffalo, MI. All waters of Lake Michigan and New Buffalo Harbor within the arc of a circle with a 800-foot radius from the fireworks launch site located in position 41°48′09″ N, 086°44′49″ W.	July 3rd or July 5th; 9:30 p.m. to 11:15 p.m.
(45) Start of the Chicago to Mackinac Race.	Chicago, IL. All waters of Lake Michigan in the vicinity of the Navy Pier at Chicago IL, within a rectangle that is approximately 1500 by 900 yards. The rectangle is bounded by the coordinates beginning at 41°53′15.1″ N, 087°35′25.8″ W; then south to 41°52′48.7″ N, 087°35′25.8″ W; then east to 41°52′49.0″ N, 087°34′26.0″ W; then north to 41°53′15″ N, 087°34′26″ W; then west, back to point of origin.	July 12; 2 p.m. to 4:30 p.m. and July 13; 9 a.m. to 3 p.m.
(46) Fireworks at Pier Wisconsin	Milwaukee, WI. All waters of Milwaukee Harbor, including Lakeshore Inlet and the marina at Pier Wisconsin, within the arc of a circle with a 300-foot radius from the fireworks launch site on Pier Wisconsin located in approximate position 43°02′10.7″ N, 087°53′37.5″ W.	Dates and times will be issued by Notice of Enforcement and Broadcast Notice to Mariners.
(47) Gills Rock Fireworks	Gills Rock, WI. All waters of Green Bay near Gills Rock WI within a 1000-foot radius of the launch vessel in approximate position at 45°17′28.2″ N, 087°1′43.7″ W.	July 4; 8:30 p.m. to 10:30 p.m.
(48) City of Menominee 4th of July Celebration Fireworks.	Menominee, MI. All Waters of Green Bay, in the vicinity of Menominee Marina, within the arc of a circle with a 1000-foot radius from position 45°06′18.4″ N, 087°35′55.8″ W.	July 4; 9 p.m. to 11 p.m.
(49) Miesfeld's Lakeshore Weekend Fireworks.	Sheboygan, WI. All waters of Lake Michigan and Sheboygan Harbor within an 800-foot radius from the fireworks launch site located at the south pier in approximate position 43°44′55″ N, 087°41′58″ W.	July 26; 9 p.m. to 10 p.m.

TABLE 165.929—Continued

Event	Location [1]	Enforcement date and time [2]
(50) Marinette Logging and Heritage Festival Fireworks.	Marinette, WI. All waters of the Menominee River, in the vicinity of Stephenson Island, within the arc of a circle with a 900-foot radius from the fireworks launch site in position 45°6′13.9″ N, 087°37′45.4″ W.	July 13; 9 p.m. to 11 p.m.
(f) August Safety Zones		
(1) Michigan Super Boat Grand Prix	Michigan City, IN. All waters of Lake Michigan bounded by a rectangle drawn from 41°43′39.3″ N, 086°54′33.0″ W; then northeast to 41°44′48.5″ N, 086°51′17.6″ W, then northwest to 41°45′11.7″ N, 086°51′45.4″ W; then southwest to 41°44′3.8″ N, 086°54′52.4″ W; then southeast returning to the point of origin.	The first Sunday of August; 9 a.m. to 4 p.m. Rain date: The first Saturday of August; 9 a.m. to 4 p.m.
(2) Milwaukee Air and Water Show	Milwaukee, WI. All waters and adjacent shoreline of Lake Michigan and Bradford Beach located within an area that is approximately 4600 by 1550 yards. The area will be bounded by the points beginning at 43°02′57″ N, 087°52′50″ W; then south along the Milwaukee Harbor break wall to 43°02′41″ N, 087°52′49″ W; then southeast to 43°02′26″ N, 087°52′01″ W; then northeast to 43°04′27″ N, 087°50′30″ W; then northwest to 43°04′41″ N, 087°51′29″ W; then southwest returning to the point of origin.	July 31 thru August 4; 8:30 a.m. to 5 p.m.
(3) Port Washington Maritime Heritage Festival Fireworks.	Port Washington, WI. All waters of Port Washington Harbor and Lake Michigan, in the vicinity of the WE Energies coal dock, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 43°23′07″ N, 087°51′54″ W.	Saturday of the last complete weekend of July or the second weekend of August; 9 p.m. to 11 p.m.
(4) Grand Haven Coast Guard Festival Fireworks.	Grand Haven, MI. All waters of the Grand River within the arc of a circle with a 600-foot radius from the fireworks launch site located on the west bank of the Grand River in position 43°3′54.4″ N, 086°14′14.8″ W.	First weekend of August; 9 p.m. to 11 p.m.
(5) Sturgeon Bay Yacht Club Evening on the Bay Fireworks.	Sturgeon Bay, WI. All waters of Sturgeon Bay within the arc of a circle with a 280-foot radius from the fireworks launch site located on a barge in approximate position 44°49′18.57″ N, 087°21′22.19″ W.	The first Saturday of August; 8 p.m. to 10 p.m.
(6) Hammond Marina Venetian Night Fireworks.	Hammond, IN. All waters of Hammond Marina and Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 41°41′53″ N, 087°30′43″ W.	The first Saturday of August; 9 p.m. to 11 p.m.
(7) North Point Marina Venetian Festival Fireworks.	Winthrop Harbor, IL. All waters of Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 42°28′55″ N, 087°47′56″ W.	The second Saturday of August; 9 p.m. to 11 p.m.
(8) Waterfront Festival Fireworks	Menominee, MI. All Waters of Green Bay, in the vicinity of Menominee Marina, within the arc of a circle with a 1000-foot radius from position 45°06′18.4″ N, 087°35′55.8″ W.	August 3; 9 p.m. to 11 p.m.
(9) Ottawa Riverfest Fireworks	Ottawa, IL. All waters of the Illinois River, at mile 239.7, within the arc of a circle with a 300-foot radius from the fireworks launch site located in position 41°20′29″ N, 088°51′20″ W.	The first Sunday of August; 9 p.m. to 11 p.m.
(10) Chicago Air and Water Show ..	Chicago, IL. All waters and adjacent shoreline of Lake Michigan and Chicago Harbor bounded by a line drawn from 41°55′54″ N at the shoreline, then east to 41°55′54″ N, 087°37′12″ W, then southeast to 41°54′00″ N, 087°36′00″ W, then southwestward to the northeast corner of the Jardine Water Filtration Plant, then due west to the shore.	August 14 thru 18; 8:30 a.m. to 5 p.m.
(11) Pentwater Homecoming Fireworks.	Pentwater, MI. All waters of Lake Michigan and the Pentwater Channel within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 43°46′56.5″ N, 086°26′38″ W.	Saturday following the second Thursday of August; 9 p.m. to 11 p.m.
(12) Chicago Match Cup Race	Chicago, IL. All waters of Chicago Harbor in the vicinity of Navy Pier and the Chicago Harbor break wall bounded by coordinates beginning at 41°53′37″ N, 087°35′26″ W; then south to 41°53′24″ N, 087°35′26″ W; then west to 41°53′24″ N, 087°35′55″ W; then north to 41°53′37″ N, 087°35′55″ W; then back to point of origin.	August 6 thru 11; 8 a.m. to 8 p.m.
(13) New Buffalo Ship and Shore Fireworks.	New Buffalo, MI. All waters of Lake Michigan and New Buffalo Harbor within the arc of a circle with a 800-foot radius from the fireworks launch site located in position 41°48′09″ N, 086°44′49″ W.	August 10; 9:30 p.m. to 11:15 p.m.
(14) Sister Bay Marinafest Ski Show.	Sister Bay, WI. All waters of Sister Bay within an 800-foot radius of position 45°11′35.1″ N, 087°7′23.5″ W.	August 31; 1 p.m. to 3:15 p.m.
(15) Sister Bay Marinafest Fireworks.	Sister Bay, WI. All waters of Sister Bay within an 800-foot radius of the launch vessel in approximate position 45°11′35.1″ N, 087°7′23.5″ W.	August 31; 8:15 p.m. to 10 p.m.
(16) Vessel Launch at Marinette Marine.	Marinette, WI. All waters of the Menominee River in the vicinity of Marinette Marine Corporation, between the Bridge Street Bridge located in position 45°06′12″ N, 087°37′34″ W and a line crossing the river perpendicularly passing through position 45°05′57″ N, 087°36′43″ W, in the vicinity of the Ansul Company.	This zone will be enforced when a vessel is launched by issue of Notice of Enforcement and Marine Broadcast.

TABLE 165.929—Continued

Event	Location [1]	Enforcement date and time [2]
(17) Algoma Shanty Days Fireworks.	Algoma, WI. All waters of Lake Michigan and Algoma Harbor within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 44°36′24″ N, 087°25′54″ W.	Sunday of the second complete weekend of August; 9 p.m. to 11 p.m.
(g) September Safety Zones		
(1) ISAF Nations Cup Grand Final Fireworks Display.	Sheboygan, WI. All waters of Lake Michigan and Sheboygan Harbor, in the vicinity of the south pier in Sheboygan Wisconsin, within a 500 foot radius from the fireworks launch site located on land in position 43°44′55″ N, 087°41′51″ W.	September 13; 7:45 p.m. to 8:45 p.m.
(h) November Safety Zones		
(1) Downtown Milwaukee Fireworks	Milwaukee, WI. All waters of the Milwaukee River between the Kilbourn Avenue Bridge at 1.7 miles above the Milwaukee Pierhead Light to the State Street Bridge at 1.79 miles above the Milwaukee Pierhead Light.	The third Thursday of November; 6 p.m. to 8 p.m.
(2) Magnificent Mile Fireworks Display.	Chicago, IL. All waters and adjacent shoreline of the Chicago River bounded by the arc of the circle with a 210-foot radius from the fireworks launch site with its center in approximate position of 41°53′21″ N, 087°37′24″ W.	The third weekend in November; sunset to termination of display.
(i) December Safety Zones		
(1) New Years Eve Fireworks	Chicago, IL. All waters of Monroe Harbor and Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site located on a barge in approximate position 41°52′41″ N, 087°36′37″ W.	December 31; 11 p.m. to January 1 at 1 a.m.

[1] All coordinates listed in the Table 165.929 reference Datum NAD 1983.
[2] As noted in paragraph (a)(3) of this section, the enforcement dates and times for each of the listed safety zones are subject to change.

Dated: February 24, 2014.

M.W. Sibley,

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

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0004]

RIN 1625–AA00

Safety Zone; Havasu Triathlon; Lake Havasu, AZ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone within the navigable waters of Lake Havasu and the London Bridge Channel for the Havasu Triathlon. This temporary safety zone is necessary to provide safety for the swimmers, crew, rescue personnel, and other users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port or his designated representative.

DATES: This rule is effective from 7:30 a.m. to 9:30 a.m. on March 22, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0004]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Bryan Gollogly, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619–278–7656, email *d11marineeventssandiego@uscg.mil* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because an NPRM would be impracticable. Logistical details did not present the Coast Guard enough time to draft, publish, and receive public comment on an NPRM. As such, the event would occur before the rulemaking process was complete. Immediate action is needed to help protect the safety of the participants, crew, spectators, and participating vessels from other vessels during this one day event.

Under 5 U.S.C. 553(d)(3), for the same reasons mentioned above, the Coast

Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay in the effective date of this rule would be contrary to the public interest, because immediate action is necessary to protect the safety of the participates from the dangers associated with other vessels transiting this area while the swim occurs.

B. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to propose, establish, and define regulatory safety zones. The Havasu Triathlon will consist of 500 participants. The waterside swim course consists of 1500 meters in Lake Havasu and the London Bridge Channel. The course requires a safety zone while the swimmers are on the course, thus restricting vessel traffic within the north London Bridge Channel and a small portion of Lake Havasu for two hours. There will be four safety vessels provided by the sponsor to enforce the safety zone.

C. Discussion of the Final Rule

The Coast Guard is establishing a safety zone that will be enforced from 7:30 a.m. to 9:30 a.m. on 22 March, 2014. The limits of the safety zone will include the portion of the London Bridge Channel north of the London Bridge and all navigable waters of Lake Havasu encompassed by the following coordinates;

34°28′40″ N, 114°21′43″ W, 34°28′19″ N, 114°21′42″ W, 34°28′39″ N, 114°21′19″ W, 34°28′20″ N, 114°20′49″ W, 34°28′16″ N, 114°20′54″ W

The safety zone is necessary to provide for the safety of swimmers, crew, rescue personnel, and other users of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within the safety zone unless authorized by the Captain of the Port, or his designated representative. Before the effective period, the Coast Guard will publish a local notice to mariners (LNM).

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This determination is based on the safety zone being of a limited duration, two hours, and is also limited to a relatively small geographic area of Lake Havasu.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the impacted portion of the Colorado River from 7:30 a.m. to 9:30 a.m. on March 22, 2014.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. Although the safety zone would apply to the entire width of the London Bridge Channel, traffic would be allowed to pass through the zone with the permission of the Captain of the Port, or his designated representative. Before the effective period, the Coast Guard will publish a Local Notice to Mariners.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T11–618 to read as follows:

§ 165.T11–618 Safety zone; Havasu Triathlon, Lake Havasu, AZ.

(a) *Location.* The limits of the safety zone will include the portion of the London Bridge Channel north of the London Bridge and all navigable waters of Lake Havasu encompassed by the following coordinates;

34°28′40″ N, 114°21′43″ W, 34°28′19″ N, 114°21′42″ W, 34°28′39″ N, 114°21′19″ W, 34°28′20″ N, 114°20′49″ W 34°28′16″ N, 114°20′54″ W

(b) *Enforcement period.* This section will be enforced on March 22, 2014. It will be enforced from 7:30 a.m. to 9:30 a.m.

(c) *Definitions.* The following definition applies to this section: *designated representative,* means any commissioned, warrant, or petty officer of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, or local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated representative.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or his designated representative.

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

(4) The Coast Guard may be assisted by other Federal, State, or local agencies.

Dated: February 12, 2014.

S.M. Mahoney,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2014–04735 Filed 3–3–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0051]

RIN 1625–AA00

Safety Zones, Delaware River, Pea Patch Island Anchorage No. 5 and Reedy Point South Anchorage No. 3

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary safety zones closing Pea Patch Island Anchorage No. 5 and the upper portion of Reedy Point South Anchorage No. 3 to anchoring operations in order to facilitate dredging in New Castle Range in the Delaware River. These regulations are necessary to provide for the safety of life on the navigable waters of Pea Patch Island and Reedy Point South Anchorages. These closures are intended to restrict vessel anchoring to protect mariners from the hazards associated with ongoing dredging operations.

DATES: This rule is effective without actual notice from March 4, 2014 until April 22, 2014 unless cancelled earlier by the Captain of the Port. For purposes of enforcement, actual notice will be used from the date the rule was signed, February 12, 2014, until March 4, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0051]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m.

and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Veronica Smith, Chief Waterways Management, Sector Delaware Bay, U.S. Coast Guard; telephone (215) 271–4851, email *veronica.l.smith@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. Immediate action is necessary to provide for the safety of life and property in the navigable water. Publishing an NPRM is impracticable given that the final details for the dredging operation were not received by the Coast Guard until February 6, 2014. Vessels attempting to anchor in either Pea Patch Island or Reedy Point South Anchorages during pipe-laying or dredging operations may be at risk. Delaying this rule to wait for a notice and comment period to run would be contrary to the public interest as it would inhibit the Coast Guard's ability to protect the public from the hazards associated with pipe-laying and dredging operations.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay encountered in this regulation's effective date would be contrary to the public interest because immediate action is needed to provide for the safety of life and property from the hazards associated with pipe-laying and dredging operations.

B. Basis and Purpose

Norfolk Dredging Company has been contracted by the Army Corps of Engineers (ACOE) to conduct maintenance dredging in the Delaware River within New Castle Range in order to maintain channel depth. This project requires the placement of floating and submerged pipeline, along with placement of an anchor barge, within Pea Patch Island Anchorage No. 5. Due to the presence of the pipeline, vessels are not permitted to anchor within Pea Patch Island Anchorage for the duration of the dredging project. In addition, as the dredging project proceeds south and approaches the entrance of the Chesapeake and Delaware (C & D) Canal, vessels heading north through the Delaware River with intent to transit the Canal will be re-directed through the upper portion of Reedy Point South Anchorage No. 3. This portion of Anchorage No. 3 will be closed for anchoring purposes during this time. Notice of the closure will be broadcast to mariners at the appropriate time. The Captain of the Port will reopen both anchorages once all submerged pipeline has been recovered and dredging operations are complete. At such time, notice that the temporary closure of the anchorages is no longer in effect will be broadcast to mariners. The Captain of the Port is establishing these safety zones to ensure the safety of life and property of all mariners and vessels transiting the local area.

C. Discussion of the Temporary Final Rule

The Coast Guard Captain of the Port is temporarily establishing safety zones closing Pea Patch Island Anchorage No. 5 and the upper portion of Reedy Point South Anchorage No. 3 to anchoring operations from February 12, 2014 until April 22, 2014, unless cancelled earlier by the Captain of the Port once operations are complete. The safety zones will include all waters within the boundaries of Pea Patch Island Anchorage No. 5 and all waters within a portion of Reedy Point Anchorage No. 3 above a line drawn between positions 39°33′7.5″ N, 75°33′2.0″ W and 39°33′8.8″ N and 75°32′31.8″ W, as charted on NOAA chart 12311. Vessels will not be permitted to anchor within these areas of Anchorage No. 5 or Anchorage No. 3. The Captain of the Port, Sector Delaware Bay, or her on-scene representative may be contacted via VHF channel 16.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

Although this regulation will restrict access to the regulated area, the effect of this rule will not be significant because: (i) The Coast Guard will make extensive notification of the closure to the maritime public via maritime advisories so mariners can alter their plans accordingly, and (ii) this rule will be enforced for only the duration of dredging operations.

2. Impact on Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities:

(1) This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to operate, transit, or anchor in Anchorage No. 5 or Anchorage No. 3 from February 12, 2014 until April 22, 2014 unless cancelled earlier by the Captain of the Port once operations are complete.

(2) This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will only be enforced for a short period of time. Before activation of the zone, we will give notice to the public via a Broadcast Notice to Mariners that the regulation is in effect.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121),

we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves implementation of regulations within 33 CFR Part 165, applicable to safety zones on the navigable waterways. These zones will temporarily restrict vessel traffic from anchoring in Pea Patch Island Anchorage No. 5 or Reedy Point South Anchorage No.3 in order to protect the safety of life and property on the waters while submerged dredge pipe-laying and dredging operations are conducted. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0051, to read as follows:

§ 165.T05–0051 Safety Zones, Delaware River, Pea Patch Island Anchorage No. 5 and Reedy Point South Anchorage No. 3.

(a) *Regulated Area.* The safety zones will include all waters within the boundaries of Pea Patch Island Anchorage No. 5 and all waters within a portion of Reedy Point Anchorage No. 3 above a line drawn between positions 39°33′7.5″ N, 75°33′2.0″ W and 39°33′8.8″ N and 75°32′31.8″ W, as charted on NOAA chart 12311.

(b) *Regulations.* The general safety zone regulations found in 33 CFR 165.23 apply to the safety zones created by this section § 165.T05–0051.

(1) All persons and vessels are prohibited from entering these zones, except as authorized by the Coast Guard Captain of the Port or her designated representative.

(2) To seek permission to transit this safety zone, the Captain of the Port or her designated representative can be contacted via Sector Delaware Bay Command Center (215) 271–4940 or VHF channel 16. Vessels should contact the Dredge ESSEX on VHF channel 13

or 16 at least 30 minutes prior to arrival for passing information.

(3) Vessels granted permission to transit through the Safety Zone must do so in accordance with the directions provided by the Captain of the Port or her designated representative.

(4) This section applies to all vessels wishing to transit through the safety zone except vessels that are engaged in the following operations:

(i) Enforcing laws;

(ii) servicing aids to navigation; and

(iii) emergency response vessels.

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

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

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

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

(c) *Definitions.* (1) *Captain of the Port* means the Commander, Coast Guard Sector Delaware Bay, or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on her behalf.

(2) *Designated representative* means any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port Delaware Bay to assist in enforcing the safety zone described in paragraph (a) of this section.

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

(e) *Enforcement period.* This section is enforced on February 12, 2014 until April 22, 2014, unless cancelled earlier by the Captain of the Port once all operations are complete.

Dated: February 12, 2014.

K. Moore,

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

[FR Doc. 2014–04626 Filed 3–3–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2013–0628: FRL–9907–38–Region 10]

Approval and Promulgation of Implementation Plans; Washington: State Implementation Plan Miscellaneous Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving changes to the Washington State Implementation Plan (SIP) submitted by the Washington Department of Ecology (Ecology) dated November 20, 2013. This SIP revision updates ambient air quality standards for carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide.

DATES: This final rule is effective on April 3, 2014.

ADDRESSES: The EPA has established a docket for this action under Docket Identification No. EPA–R10–OAR–2013–0628. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at EPA Region 10, Office of Air, Waste, and Toxics, AWT–107, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt at (206) 553–0256, *hunt.jeff@epa.gov*, or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''us,'' or ''our'' are used, it is intended to refer to the EPA.

Table of Contents

I. Background

An explanation of the Clean Air Act requirements and implementing regulations that are met by this State Implementation Plan (SIP) submittal, a detailed explanation of the revision, and the EPA's reasons for approving it were provided in the notice of proposed rulemaking published on December 31, 2013, and will not be restated here (78 FR 79652). The public comment period for this proposed rule ended on January 30, 2014. The EPA did not receive any comments on the proposal.

II. Final Action

The EPA is approving Chapter 173–476 WAC *Ambient Air Quality Standards* into the State of Washington's SIP. These changes are consistent with, or more stringent than, the EPA's standards for carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. Additionally, Ecology repealed Chapter 173–470 WAC that contained outdated standards for particulate matter, previously approved into the SIP on January 15, 1993 (58 FR 4578). As described in the proposed rulemaking for this action, the EPA has made a final determination to remove Chapter 173–470 from the SIP because all current particulate matter standards are now consolidated in the newly created Chapter 173–476 WAC.

III. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not impose substantial direct costs on tribal governments or preempt tribal law. The SIP is not approved to apply in Indian country located in the state, except for non-trust land within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the *Puyallup Tribe of Indians Settlement Act of 1989,* 25 U.S.C. 1773, Congress explicitly provided state and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area and the EPA is therefore approving this SIP on such lands. Consistent with EPA policy, the EPA nonetheless provided a consultation opportunity to the Puyallup Tribe in a letter dated September 3, 2013. The EPA did not receive a request for consultation.

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 5, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: February 10, 2014.

Dennis J. McLerran

Regional Administrator, Region 10.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart WW—Washington

■ 2. Section 52.2470 is amended in paragraph (c) ''Table 1—Washington Department of Ecology Regulations'' by:

■ a. Removing the heading ''Washington Administrative Code, Chapter 173–470—Ambient Air Quality Standards for Particulate Matter'' and adding in its place ''Washington Administrative Code, Chapter 173–476—Ambient Air Quality Standards'';

■ b. Removing entries 173–470–010 through 173–470–160; and

■ c. Adding in numerical order entries 173–476–010 through 173–476–900 under the new heading ''Washington Administrative Code, Chapter 173–476—Ambient Air Quality Standards''.

The added and revised text read as follows:

§ 52. 2470 Identification of plan.

* * * * *

(c) * * *

TABLE 1—WASHINGTON DEPARTMENT OF ECOLOGY REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanations
*	*	*	*	*
Washington Administrative Code, Chapter 173–476—Ambient Air Quality Standards				
173–476–010	Purpose	12/22/13	3/4/14 [Insert page number where the document begins].	.....
173–476–020	Applicability	12/22/13	3/4/14 [Insert page number where the document begins].	.....
173–476–030	Definitions	12/22/13	3/4/14 [Insert page number where the document begins].	.....
173–476–100	Ambient Air Quality Standard for PM–10	12/22/13	3/4/14 [Insert page number where the document begins].	.....
173–476–110	Ambient Air Quality Standards for PM–2.5 ...	12/22/13	3/4/14 [Insert page number where the document begins].	.....
173–476–120	Ambient Air Quality Standard for Lead (Pb)	12/22/13	3/4/14 [Insert page number where the document begins].	.....

TABLE 1—WASHINGTON DEPARTMENT OF ECOLOGY REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–476–130	Ambient Air Quality Standards for Sulfur Oxides (Sulfur Dioxide).	12/22/13	3/4/14 [Insert page number where the document begins].	.....
173–476–140	Ambient Air Quality Standards for Nitrogen Oxides (Nitrogen Dioxide).	12/22/13	3/4/14 [Insert page number where the document begins].	.....
173–476–150	Ambient Air Quality Standard for Ozone	12/22/13	3/4/14 [Insert page number where the document begins].	.....
173–476–160	Ambient Air Quality Standards for Carbon Monoxide.	12/22/13	3/4/14 [Insert page number where the document begins].	.....
173–476–170	Monitor Siting Criteria	12/22/13	3/4/14 [Insert page number where the document begins].	.....
173–476–180	Reference Conditions	12/22/13	3/4/14 [Insert page number where the document begins].	.....
173–476–900	Table of Standards	12/22/13	3/4/14 [Insert page number where the document begins].	.....
*	* * *	*	* *	*

[FR Doc. 2014–04615 Filed 3–3–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–0AR–2011–0562; FRL–9905–67-Region 8]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Revised Transportation Conformity Consultation Process

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Colorado on May 11, 2012. The May 11, 2012 submittal addresses updates to Regulation Number 10 ''Criteria for Analysis of Conformity'' of the Colorado SIP including revisions to transportation conformity requirements, transportation conformity criteria and procedures related to interagency consultation, and enforceability of certain transportation related control and mitigation measures. The submittal also removes certain provisions from the SIP so that federal rules will govern conformity of general federal actions. EPA is approving the submission in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective April 3, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2011–0562. 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., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air Program, Mailcode 8P–AR, Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129, telephone number (303) 312–6479, fax number (303) 312–6064, or email *russ.tim@epa.gov.*

SUPPLEMENTARY INFORMATION:

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Definitions

For the purpose of this document, the following definitions apply:

(i) The word *Act* or initials *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(iii) The initials *NAAQS* mean national ambient air quality standard.

(iv) The initials *SIP* mean or refer to State Implementation Plan.

(v) The words *State* or *Colorado* mean the State of Colorado, unless the context indicates otherwise.

I. Background

EPA is approving revisions to Colorado's Regulation Number 10, ''Criteria for Analysis of Conformity,'' (hereafter, ''Regulation No. 10'') of the Colorado SIP that address transportation conformity SIP requirements of section 176(c) of the CAA and Title 40, part 51.390(b) of the Code of Federal Regulations (CFR). Specifically, a conformity SIP must address the following transportation conformity requirements: 40 CFR 93.105, which formalizes the consultation procedures; 40 CFR 93.122(a)(4)(ii), which addresses written commitments to control measures that are not included in a metropolitan planning organization's transportation plan and transportation improvement program (TIP) that must be obtained prior to a conformity determination; and 40 CFR 93.125(c), which addresses written commitments to mitigation measures that must be obtained prior to a project-level conformity determination.[1]

[1] A conformity SIP includes a state's specific criteria and procedures for certain aspects of the

Continued

EPA notes that the State submitted prior SIP revisions to Regulation No. 10 by a letter dated June 18, 2009. The June 18, 2009 SIP submittal addressed revisions to numerous aspects and sections in Regulation No. 10. Those prior revisions to Regulation No. 10 are contained in the May 11, 2012 revisions to Regulation No. 10. In addition to further clarifying transportation conformity consultation procedures, the May 11, 2012 revision responded to changes in federal law by removing SIP provisions related to general conformity.

EPA had initially determined that the June 18, 2009 revisions to Regulation No. 10 were fully approvable. As EPA has determined that the May 11, 2012 revisions to Regulation No. 10 are also fully approvable, we are, therefore, only acting on the May 11, 2012 Regulation No. 10 revisions as they supersede and replace the June 18, 2009 revisions. By approving these May 11, 2012 revisions to Regulation No. 10, EPA will be making them part of the federally enforceable SIP for Colorado under the CAA. EPA also notes that the May 11, 2012 SIP submission is also intended to revise and supersede the conformity SIP that was previously approved by EPA in 2001 (66 FR 48561).

Our November 12, 2013 notice of proposed rulemaking (78 FR 67327) invited comment on our proposal and provided a 30-day comment period. The comment period ended on December 12, 2013. We did not receive any comments. Accordingly, we are finalizing our actions as proposed.

II. What is the State's process to submit SIP revisions to EPA?

Section 110(k) of the CAA addresses our actions on submissions of revisions to a SIP. The CAA requires states to observe certain procedural requirements in developing SIP revisions for submittal to us. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur prior to the revision being submitted by a state to us.

With regard to the prior June 18, 2009 revisions to Regulation No. 10, the Colorado Air Quality Control Commission (AQCC) held a public hearing for those revisions on November 20, 2008. There were no public comments. The AQCC adopted the revisions to Regulation No. 10 directly after the hearing. This SIP revision became state effective on December 30, 2008, and was submitted by James B. Martin, on behalf of the Governor, to us on June 18, 2009.

For the May 11, 2012 revisions to Regulation No. 10, the AQCC held a public hearing for those revisions on December 15, 2011. There were no public comments. The AQCC adopted the revisions to Regulation No. 10 directly after the hearing. This SIP revision became state effective on January 30, 2012 and was submitted by Christopher E. Urbina, on behalf of the Governor, to us on May 11, 2012.

We have evaluated the Governor's May 11, 2012 submittal for Regulation No. 10 and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. By operation of law under section 110(k)(1)(B) of the CAA, the Governor's May 11, 2012 submittal was deemed complete on November 11, 2012.

III. EPA's Evaluation of the State's May 11, 2012 Submittal

EPA has reviewed the revisions to Regulation No. 10, which is Colorado's Transportation Conformity Consultation (Conformity SIP) element of the SIP, that were submitted by the Governor on May 11, 2012 and we have found that our approval is warranted. We reviewed the State's submittal for consistency with the conformity requirements in 40 CFR 51.390(b), that establish the requirements for conformity consultation SIPs, and with the conformity requirements in 40 CFR sections 93.105, 93.122(a)(4)(ii), and 93.125(c).[2,3] We also consulted our document ''Guidance for Developing Transportation Conformity State Implementation Plans (SIPs),'' EPA–420–B–09–001, dated January, 2009.[4]

Our review and conclusions regarding the revisions to Regulation No. 10 are detailed in a memorandum in the docket and include the following:

(a) Section I ''Requirement to comply with the Federal rule.'' EPA has reviewed and finds satisfactory the revisions to section I of Regulation No. 10. Section I states that the consultation procedures described in section III address the requirements in 40 CFR 93.105(a) through (e), that the provisions in section IV address the requirements in 40 CFR 93.122(a)(4)(ii), and that the provisions in section V address the requirements in 40 CFR 93.125(c).

(b) Section II ''Definitions.'' EPA has reviewed and finds acceptable the revisions and clarifications that the State made to several definitions in section II of Regulation No. 10.

(c) Section III ''Interagency Consultation.'' For section III we note that 40 CFR 51.390(b) provides that each state is required to address three specific sections in EPA's transportation conformity rule in 40 CFR Part 93, Subpart A. The relevant provisions that are required to be addressed are: 93.105 (Consultation), 93.122(a)(4)(ii) (Procedures for determining regional transportation-related emissions), and 93.125(c) (Enforceability of design concept and scope and project-level mitigation and control measures). The following is a summary of the key aspects of Regulation No. 10 to address the above requirements, with our evaluation and conclusion of each:

(1) 40 CFR 93.105, ''Consultation,'' contains five subsections, (a) through (e). In summary, the general provisions of 93.105(a) state that a conformity SIP shall include procedures for interagency consultation, conflict resolution, and public consultation. Subsection 93.105(b) provides general requirements and factors for well defined interagency consultation procedures in the implementation plan. Organizations such as metropolitan planning organizations (MPO), state and local air quality planning agencies, and state and local transportation agencies with responsibilities for developing, submitting or implementing provisions of an implementation plan must consult with each other. These organizations must also consult with local or regional offices of EPA, the Federal Highway Administration (FHWA), and the Federal Transit Administration (FTA). The provisions of 93.105(c) detail specific processes that must be addressed in interagency consultation procedures. The provisions of 93.105(d) require specific procedures for resolving conflicts, and the provisions of 93.105(e) require specific public consultation procedures.

EPA has concluded that the above requirements are satisfactorily addressed in the revisions to Regulation No. 10 in section III ''Interagency Consultation'' which includes; section III.A ''Roles and Responsibilities for Transportation Conformity Determinations and Related SIP Development,'' section III.B

transportation conformity process consistent with the federal conformity rule. A conformity SIP does not contain motor vehicle emissions budgets, emissions inventories, air quality demonstrations, or control measures. See EPA's *Guidance for Developing Transportation Conformity State Implementation Plans (SIPs)* for further background: *www.epa.gov/otaq/stateresources/transconf/policy/420b09001.pdf.*

[2] ''40 CFR 93 Transportation Conformity Rule $PM_{2.5}$ and PM_{10} Amendments; Final Rule'', March 24, 2010, 75 FR 14260.

[3] ''40 CFR 93 Transportation Conformity Rule Restructuring Amendments; Final Rule'', March 14, 2012, 77 FR 14979.

[4] See: *http://www.epa.gov/otaq/stateresources/transconf/policy/420b09001.pdf.*

''Establishing a Forum for Regional Conformity Consultation,'' section III.C ''Topics for Consultation,'' section III.D ''Process for assuming the location and design concept and scope of projects disclosed to the MPO as required by paragraph (E) of this section, but whose sponsors have not yet decided these features in sufficient detail to perform the regional emissions analysis according to the requirements of 40 CFR 93.122,'' section III.E ''Process to ensure that plans for construction of regionally significant projects which are not FHWA/FTA projects (including projects for which alternative locations, design concept and scope, or the no-build options are still being considered), including those by recipients of funds designated under Title 23 U.S.C. or the Federal Transit Act, are disclosed on a regular basis, and to ensure that any changes to those plans are immediately disclosed,'' section III.F ''Consultation procedures for development of State Implementation Plans,'' section III.G ''Agreements further describing consultation procedures,'' and section III.H ''Review of Conformity Determinations by the public, Air Quality Control Commission, and resolution of conflicts.''

(2) 40 CFR 93.122(a)(4)(ii) requires enforceable written commitments for emission reduction credits. Emissions reduction credits from any control measures that are not included in the transportation plan and TIP, and do not require a regulatory action in order to be implemented, may not be included in the emissions analysis unless the conformity determination includes written commitments for implementation from the appropriate entities. EPA has concluded that this requirement is satisfactorily addressed in section IV ''Emission reduction credit for certain control measures'' of Regulation No. 10.

(3) 40 CFR 93.125(c) addresses the enforceability of design concept and scope and project-level mitigation and control measures. Before a conformity determination is made, written commitments must be obtained for any project-level mitigation or control measures. EPA has concluded that this requirement is satisfactorily addressed in section V ''Enforceability of design concept and scope and project-level mitigation and control measures'' of Regulation No. 10.

(d) Section VI ''Statements of Basis, Specific Statutory Authority, and Purpose.'' EPA notes this section VI in the State's regulation merely provides information for the State regarding the SIP revision and is not necessary for an approvable Transportation Conformity Consultation SIP element revision whose purpose is to meet the requirements of CAA section 176(c)(4)(E) and 40 CFR 51.390. Therefore, EPA is not taking any action on this section.

(e) The May 11, 2012 revision removes former Part A, ''Determining Conformity of General Federal Actions to State or Federal Implementation Plans,'' from the SIP. After amendments to 40 CFR 51.851 that EPA promulgated on April 5, 2010 (75 FR 17254), provisions governing general conformity are now an optional component of a SIP. The State's removal of Part A is thus consistent with the 2010 amendments. With the removal of Part A from the SIP, the federal rules in Subpart B of 40 CFR Part 93 will directly govern conformity of general federal actions.

IV. Consideration of Section 110(1) of the Clean Air Act

Section 110(1) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of a NAAQS or any other applicable requirement of the CAA. EPA has concluded that the above-described revisions to Regulation No. 10 will not interfere with attainment, reasonable further progress, or any other applicable requirement of the CAA.

V. Final Action

EPA is approving the May 11, 2012 SIP revision that was submitted by Christopher E. Urbina, Executive Director of the Colorado Department of Public Health and Environment, and on behalf of the Governor of the State of Colorado. The May 11, 2012 revision updates sections I, II, III, IV, V of Regulation Number 10 ''Criteria for Analysis of Conformity'' of the Colorado SIP so as to meet the federal transportation conformity consultation requirements under section 176 of the CAA and 40 CFR 51.390(b), 40 CFR 93.105(a) through (e), 40 CFR 93.122(a)(4)(ii), and 40 CFR 93.125(c). EPA is also approving the removal of former Part A, ''Determining Conformity of General Federal Actions to State or Federal Implementation Plans,'' from the SIP. EPA notes that revisions were also made to Colorado's Regulation Number 10, section VI ''Statements of Basis, Specific Statutory Authority, and Purpose''; however, EPA is not taking any action on the revisions to this section. EPA's approval of the State's May 11, 2012 revisions to Regulation Number 10 eliminates the need for EPA to take action on the State's June 18, 2009 revisions to Regulation Number 10.

VI. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country

located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 5, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, and Volatile Organic Compounds.

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

Dated: January 8, 2014.

Howard M. Cantor,

Acting Regional Administrator, Region 8.

For the reason stated in the preamble, the Environmental Protection Agency amends 40 CFR Part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart G—Colorado

■ 2. Amend § 52.320 by revising paragraph (c)(92) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(92) On May 11, 2012, Colorado submitted a revision to its State Implementation Plan (SIP) that addresses updates to Colorado's Regulation Number 10, *Criteria for Analysis of Conformity,* of the Colorado SIP. EPA is approving the May 11, 2012 revisions to Regulation No. 10 that update sections I, II, III, IV, and V so as to meet federal transportation conformity consultation requirements. EPA is also approving the removal of former Part A, *Determining Conformity of General Federal Actions to State or Federal Implementation Plans,* from the SIP.

(i) Incorporation by reference.

(A) Colorado's Regulation Number 10, *Criteria for Analysis of Conformity,* except section VI, *Statements of Basis, Specific Statutory Authority, and Purpose,* as adopted by the Colorado Air Quality Control Commission on December 15, 2011 and state effective on January 30, 2012.

* * * * *

[FR Doc. 2014–04323 Filed 3–3–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2013–0734, FRL–9907–02–Region–2]

Approval and Promulgation of Implementation Plans; New York State Ozone Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the New York State Implementation Plan (SIP) for ozone concerning the control of volatile organic compounds. The SIP revision consists of amendments to Part 228, ''Surface Coating Processes, Commercial and Industrial Adhesives, Sealants and Primers.'' The intended effect of this action is to approve control techniques, required by the Clean Air Act, which will result in emission reductions that will help attain and maintain the national ambient air quality standards for ozone.

DATES: This rule will be effective on April 3, 2014.

ADDRESSES: EPA has established a docket for this action under the Federal Docket Management System (FDMS) which replaces the Regional Materials in EDOCKET (RME) docket system. The new FDMS is located at *www.regulations.gov* and the docket ID for this action is EPA–R02–OAR–2013–0734. All documents in the docket are listed in the FDMS index. Publicly available docket materials are available either electronically in FDMS or in hard copy at the Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866. Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the Air and Radiation Docket and Information Center, Environmental Protection Agency, Room 3334, 1301 Constitution Avenue NW., Washington, DC; and the New York State Department of Environmental Conservation, Division of Air Resources, 625 Broadway, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3381.

SUPPLEMENTARY INFORMATION:

I. What was included in New York's submittals?

On July 15, 2013, the New York State Department of Environmental Conservation (NYSDEC), submitted to EPA revisions to the State Implementation Plan (SIP), which included State adopted revisions to Title 6 of the New York Code of Rules and Regulations (6 NYCRR) Part 228, ''Surface Coating Processes, Commercial and Industrial Adhesives, Sealants and Primers,'' with an effective date June 5, 2013. These revisions are applicable statewide and will therefore provide volatile organic compound (VOC) emission reductions statewide and will help in achieving attainment of the ozone standards in the New York portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT nonattainment area and in meeting the reasonably available control technology (RACT) requirements. The revisions to Part 228 are also intended to satisfy certain control technique guideline (CTG) documents issued by EPA pursuant to section 182(b)(2)(A) of the Clean Air Act (CAA).

New York also included a negative declaration in its July 15, 2013

submittal. New York has certified, based on a review of operating permits and emissions inventory, no facilities exist in the State to which the Fiberglass Boat Manufacturing Materials CTG or the Industrial Cleaning Solvents CTG apply.

II. What is EPA's evaluation of Part 228, ''Surface Coating Processes, Commercial and Industrial Adhesives, Sealants and Primers?''

Part 228 contains the required elements for a federally enforceable rule: emission limitations, compliance procedures and test methods, compliance dates and recordkeeping provisions.

Part 228 includes provisions that prohibit the selling, supplying, offering for sale, soliciting, using, specifying or requiring the use of a non-compliant coating on a part or product at a facility in New York, unless allowed by other provisions of Part 228. Part 228 also includes provisions for handling, storage and disposal of VOCs. Facilities also have compliance options including the option of using add-on control equipment provided it achieves 90 percent control.

EPA has evaluated New York's submittal for consistency with the CAA, EPA regulations, and EPA policy and guideline documents. EPA has determined that Part 228 is as effective in regulating the source categories as the following CTGs:

(1) Wood Furniture Manufacturing Operations [EPA 453/R–96–007 (April 1996); 61 FR 25223 (May 20, 1996)];

(2) Flat Wood Paneling Coatings [EPA 453/R–06–004 (September 2006); 71 FR 58745 (Oct. 5, 2006)];

(3) Metal Furniture Coatings [EPA 453/R–07–005 (September 2007); 72 FR 57215 (Oct. 9, 2007)];

(4) Large Appliance Coatings [EPA 453/R–07–004 (September 2007); 72 FR 57215 (Oct. 9, 2007)];

(5) Paper, Film and Foil Coatings [EPA 453/R–07–003 (September 2007); 72 FR 57215 (Oct. 9, 2007)];

(6) Automobile and Light-Duty Truck Assembly Coatings [EPA–453/R–08–006 (September 2008); 73 FR 58481 (Oct. 7, 2008)]; and

(7) Miscellaneous Metal and Plastic Parts Coatings [EPA–453/R–08–003 (September, 2008); 73 FR 58481 (Oct. 7, 2008)].

EPA has determined that the VOC content limits associated with the various surface coating processes included in the revised Part 228 are consistent with the VOC content limits recommended in the applicable surface coating CTGs, as are all of the other recommended control options (i.e., add-on controls efficiency, work practices for coating-related activities and work practices for cleaning materials) and applicability thresholds. Therefore, EPA is approving it as part of the SIP and as meeting the requirement to adopt a RACT rule for the CTG categories listed above.

With regard to New York's negative declaration for Fiberglass Boat Manufacturing Materials and Industrial Cleaning Solvents, EPA agrees with New York's evaluation that no facilities exist in the State to which the Fiberglass Boat Manufacturing Materials CTG apply. However, at this time, EPA is not taking action on the negative declaration as it applies to the Industrial Cleaning Solvents CTG because further EPA evaluation and discussions with the State are necessary to adequately assess the applicability of the Industrial Cleaning Solvents CTG to potentially affected facilities that may be operating in New York State.

III. What comments did EPA receive in response to its proposal?

On November 20, 2013 (78 FR 69625), EPA proposed to approve New York's revised Part 228. For a detailed discussion on the content and requirements of the revisions to New York's regulation, the reader is referred to EPA's proposed rulemaking action.

In response to EPA's November 20, 2013 proposed rulemaking action, EPA received no comments.

IV. What is EPA's conclusion?

EPA has evaluated New York's July 15, 2013 SIP revision submittal for consistency with the CAA, EPA regulations, and EPA policy and guideline documents. EPA is approving the revisions made to Title 6 of the New York Code of Rules and Regulations (6 NYCRR) Part 228, ''Surface Coating Processes, Commercial and Industrial Adhesives, Sealants and Primers,'' with an effective date of June 5, 2013. The revisions to Part 228 meet the SIP requirements of the CAA and fulfill the recommended controls identified in the applicable CTGs. EPA is approving these revisions and is also approving New York's July 15, 2013 negative declaration, which certifies that based on a review of operating permits and emissions inventory, no facilities exist in the State to which the Fiberglass Boat Manufacturing Materials CTG apply. Therefore, New York will not have to incorporate provisions consistent with the Fiberglass Boat Manufacturing Materials CTG into Part 228 or any other regulation.

V. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 5, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: February 10, 2014.

Judith A. Enck,

Regional Administrator, Region 2.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTAION PLANS

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

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

Subpart HH—New York

■ 2. In § 52.1670, the table in paragraph (c) is amended by revising the entry for Title 6, Part 228 to read as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) * * *

EPA—APPROVED NEW YORK STATE REGULATIONS AND LAWS

New York State regulation	State effective date	Latest EPA approval date	Comments
Title 6:			
* * *	*	* * *	*
Part 228, Surface Coating Processes, Commercial and Industrial Adhesives, Sealants and Primers.	6/5/13	3/4/14 [FR page citation].	
* * *	*	* * *	*

■ 3. Section 52.1683 is amended, by adding paragraph (b) to read as follows:

§ 52.1683 Control strategy: Ozone.

* * * * *

(b) The State of New York has certified to the satisfaction of the EPA that no sources are located in the State which are covered by the following Control Techniques Guidelines:

(1) Fiberglass Boat Manufacturing Materials.

(2) [Reserved]

* * * * *

[FR Doc. 2014–04324 Filed 3–3–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 401

[USCG–2013–0534]

RIN 1625–AC07

Great Lakes Pilotage Rates—2014 Annual Review and Adjustment

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is adjusting Great Lakes pilotage rates that were last amended in February 2013. The adjustments establish new base rates, and are made in accordance with a full ratemaking procedure. The Coast Guard is exercising its discretion to establish new base rates to more closely align with recent Canadian rate increases. The final rule also adjusts weighting factors used to determine rates for vessels of different size, adopts a new procedure for temporary surcharges, applies a temporary surcharge for one pilotage association, and allows pilotage associations to recoup the cost of dues paid to the American Pilots Association. This rulemaking promotes the Coast Guard's maritime safety mission.

DATES: Effective August 1, 2014 except for §§ 401.400 and 401.401 which are effective April 3, 2014.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2013–0534 and are available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket online by going to *http://www.regulations.gov* and following the instructions on that Web site.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Todd Haviland, Coast Guard; telephone 202–372–2037, email *Todd.A.Haviland@uscg.mil.* If you have questions on viewing material to the

docket, call Ms. Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Abbreviations

AMOU American Maritime Officers Union
APA American Pilots Association
CFR Code of Federal Regulations
CPA Certified Public Accountant
CPI Consumer price index
DHS Department of Homeland Security
E.O. Executive Order
FR Federal Register
GLPA Great Lakes Pilotage Authority (Canada)
GLPAC Great Lakes Pilotage Advisory Committee
MISLE Marine Information for Safety and Law Enforcement
NAICS North American Industry Classification System
NPRM Notice of proposed rulemaking
OMB Office of Management and Budget
ROI Return on investment
U.S.C. United States Code

II. Regulatory History

On August 8, 2013, we published a notice of proposed rulemaking (NPRM) titled ''Great Lakes Pilotage Rates—2014 Annual Review and Adjustment'' in the **Federal Register** (78 FR 48374). We received 11 submissions on the NPRM from multiple sources, including pilotage associations, pilots, pilot organizations, and shippers. No public meeting was requested and none was held.

III. Basis and Purpose

The basis of this rulemaking is the Great Lakes Pilotage Act of 1960 (''the Act'') (46 U.S.C. Chapter 93), which requires U.S. vessels operating ''on register'' [1] and foreign vessels to use U.S.- or Canadian-registered pilots while transiting the U.S. waters of the St. Lawrence Seaway and the Great Lakes system. 46 U.S.C. 9302(a)(1). The Act requires the Secretary of the department in which the Coast Guard is operating to ''prescribe by regulation rates and charges for pilotage services, giving consideration to the public interest and the costs of providing the services.'' 46 U.S.C. 9303(f). Rates must be established, or reviewed and adjusted, each year not later than March 1. Base rates must be established by a full ratemaking at least once every 5 years, and in years when base rates are not established, they must be reviewed and, if necessary, adjusted. 46 U.S.C. 9303(f). The Secretary of the Department of Homeland Security's (DHS's) duties and authority under the Act have been delegated to the Coast Guard. DHS Delegation No. 0170.1, paragraph (92)(f). Coast Guard regulations implementing the Act appear in parts 401 through 404 of 46 CFR. Procedures for establishing base rates appear in 46 CFR part 404, Appendix A, and procedures for annual review and adjustment of existing base rates appear in 46 CFR part 404, Appendix C.

The purpose of this rulemaking is to establish new base pilotage rates, using the methodology found in 46 CFR part 404, Appendix A.

IV. Background

The vessels affected by this rulemaking are those engaged in foreign trade upon the U.S. waters of the Great Lakes. United States and Canadian ''lakers,'' [2] which account for most commercial shipping on the Great Lakes, are not affected. 46 U.S.C. 9302.

The U.S. waters of the Great Lakes and the St. Lawrence Seaway are divided into three pilotage districts. Pilotage in each district is provided by an association certified by the Coast Guard Director of Great Lakes Pilotage (''the Director'') to operate a pilotage pool. It is important to note that, while we set rates, the Coast Guard does not control the actual number of pilots an association maintains. We ensure the association is able to provide safe, efficient, and reliable pilotage service. The Coast Guard also does not control the actual compensation that pilots receive. Each district association determines the actual compensation of its district, and each association uses different compensation practices.

District One, consisting of Areas 1 and 2, includes all U.S. waters of the St. Lawrence River and Lake Ontario. District Two, consisting of Areas 4 and 5, includes all U.S. waters of Lake Erie, the Detroit River, Lake St. Clair, and the St. Clair River. District Three, consisting of Areas 6, 7, and 8, includes all U.S. waters of the St. Mary's River, Sault Ste. Marie Locks, and Lakes Michigan, Huron, and Superior. Area 3 is the Welland Canal, which is serviced exclusively by the Canadian Great Lakes Pilotage Authority (GLPA), and accordingly is not included in the U.S. rate structure. Areas 1, 5, and 7 have been designated by Presidential Proclamation, pursuant to the Act, to be waters in which pilots must, at all times, be fully engaged in the navigation of vessels in their charge. Areas 2, 4, 6, and 8 have not been so designated because they are open bodies of water. While working in those undesignated areas, pilots must only ''be on board and available to direct the navigation of the vessel at the discretion of and subject to the customary authority of the master.'' 46 U.S.C. 9302(a)(1)(B).

The last full ratemaking established the current base rates in 2013 (78 FR 13521, Feb. 28, 2013), using the ratemaking methodology described in 46 CFR part 404, Appendix A. Among other things, the Appendix A methodology requires us to review detailed pilotage association financial information, and we contract with independent accountants to assist in that review.

We opened this year's ratemaking with an NPRM (78 FR 48374, Aug. 8, 2013) that reflected financial data for the 2011 shipping season, and that the proposed new base rates be calculated in accordance with the Appendix A methodology.

V. Discussion of Comments and Changes

We received 11 public submissions in response to our NPRM. Eight of those submissions came from pilotage associations, pilots, and pilot organizations; two came from groups that represent shippers who use Great Lakes pilotage service; and one came from the union whose contracts provide benchmark data for Great Lakes pilotage ratemaking.

[1] ''On register'' means that the vessel's certificate of documentation has been endorsed with a registry endorsement, and therefore, may be employed in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef. 46 U.S.C. 12105, 46 CFR 67.17.

[2] A ''laker'' is a commercial cargo vessel especially designed for and generally limited to use on the Great Lakes.

A. AMOU Contracts

Seven commenters—six pilots or pilot representatives, and the American Maritime Officers Union (AMOU)—addressed our use of AMOU contracts to estimate the average annual compensation for masters and first mates on U.S. Great Lakes vessels, in accordance with Step 2.A of our Appendix A ratemaking methodology.

Many of these commenters took issue with the NPRM's statement, 78 FR 48374 at 48376, col. 2, that recent AMOU contracts are marked by ''downward changes,'' and pointed out that AMOU contracts actually increase wages over a 5-year period. Our discussion is not a reflection on AMOU contract trends, but rather emphasizes that AMOU contract information, when factored into our Appendix A ratemaking methodology, could lead to a pilotage rate decrease, if not offset by the application of discretion under Step 7 of Appendix A.

The six pilot/pilot representative commenters said we had incorrectly interpreted or misapplied AMOU contract data. A registered lobbyist representing all three pilotage associations said we should have used the daily aggregate rate information included in an AMOU letter dated November 2, 2012, and further claimed that we based our calculations on ''wrong multipliers.''

We reject each of these assertions and confirm the accuracy of the figures given in our NPRM. The assertion of the registered lobbyist that we should have used data from the November 2, 2012 AMOU letter is unfounded. Prior to publication of the NPRM, the AMOU provided and confirmed contract data to us on four separate occasions in 2012: On November 2, November 15, December 5, and December 17. The first communication on November 2 (the letter referenced by the registered lobbyist) provided information on wages and benefits but was marked ''proprietary,'' and therefore has not been and cannot be shared by the Coast Guard with the public. Because Coast Guard could not share the component data, Coast Guard and AMOU agreed that AMOU would provide daily aggregate data. The November 15 and December 5 letters provided information on 2013, 2014 and 2015 daily aggregate (wage and benefit) rates for Agreement A and Agreement B, respectively. The letters indicated that the daily aggregate rates would increase by 3% each year. On December 17, 2012, we emailed a table of the aggregate rate data that we planned to use in the NPRM, and in response, the AMOU promptly emailed: ''This table and only this table is acceptable to AMO[U].'' That table's data, with 3% added in accordance with AMOU's correspondence, is what we presented in Table 11 of our NPRM, 78 FR at 48382. Multipliers are only used if we can site individual components of compensation in our calculations. Because our calculations were based only on the aggregate data shown in the table, they are not affected by ''wrong multipliers.''

In its October 4, 2013 comment on the NPRM, the AMOU offered ''correct'' daily aggregate rates that differ significantly from the figures in the table the AMOU confirmed as ''acceptable'' on December 17, 2012. The AMOU comment reflects a ''season bonus'' that the AMOU has not previously cited as part of its contracts, and that we do not recognize for purposes of Great Lakes pilotage compensation. 46 CFR 404.5(a). As a disinterested third party to our ratemakings, the AMOU is under no obligation to share contract information with us. The AMOU has not provided a copy of the contracts nor agreed to allow us to review them. This compromises our ability to use that data in a transparent way and prohibits us from evaluating the individual components for compensation. We are investigating alternatives to using AMOU contract data for our ratemaking purposes.

B. APA Dues

Four commenters addressed our proposed inclusion in the ratemaking calculations of dues for pilotage association membership in the American Pilots Association (APA). Three pilot representatives favored inclusion. One shipping industry commenter said that APA membership is voluntary, and therefore should not be included. We consider the APA to play a key role in ensuring our mutual goals of safe, efficient, and reliable pilotage on the Great Lakes. The APA has assisted the three pilotage associations with professional development and training plans, and we believe the APA is a critical resource for the pilotage associations in spreading best practices throughout the pilotage profession. Therefore, we continue to find that APA dues are a necessary and reasonable expense of the pilotage associations. One pilotage association said we had incorrectly calculated its APA dues. The St. Lawrence Seaway Pilots' Association contends that APA dues paid by the organization were actually $27,730. We disagree. Much of the amount asserted by the association is for lobbying expenses that are not eligible to be included in the rate. However, a review of the financial statements approved by the pilotage association shows dues paid to the APA in the amount of $22,720. Accordingly we updated the necessary tables to include this amount, an addition to the expense base of $4,360. However, because of our Step 7 discretion, this change to the underlying data does not impact the final rate.

C. Pilot License Insurance

One pilotage association commented that we failed to include the amount that the association paid for pilot license insurance in our calculations. This is incorrect. The association requested a change in reporting that moved license insurance from an operating expense to an employee benefit. The association again approved the change when they were given the opportunity to comment on the reports prepared by the auditors. Benefits are considered part of compensation, and are not allowed to be included separately in the rate. However, because we have historically included license insurance as an allowable expense, and because both of the other pilotage associations include license insurance as an allowable expense, we will allow inclusion of the 2011 license insurance cost ($52,232) in the expense base of the association. Again, because of our exercise of Step 7 discretion in this rulemaking, this change to the expense base does not alter the final rate.

D. Weighting Factors

Five commenters addressed our proposal to match U.S. weighting factors to those used by Canada. All were in favor of this proposal, but one pilotage association said we overestimated the beneficial impact, for pilots, of adjusting weighting factors (*see* the NPRM, 78 FR 48376). One pilot commented that it is unfair of us not to apply a retroactive rate adjustment recognizing the 6 years during which the U.S. weighting factors differed from those used by Canada. We think the association based its lower estimate on its local data, not on data for the Great Lakes as a whole. We stand by our estimate of the beneficial impact of the adjustment.

E. Surcharges

Two pilot representatives and two representatives of shippers commented on our proposal to allow establishment of temporary surcharges. The pilot representatives supported the proposal. One of the shipper representatives said our proposal was too vague and that surcharges could have a damaging economic impact, and the other said it

is unnecessary because the Director of Great Lakes Pilotage already has sufficient authority to make discretionary rate adjustments. We think the proposal is sufficiently clear, and this final rule adopts it. Whether any given surcharge will have a damaging economic impact can be the subject of public comment, an opportunity for which will be given each time we propose a surcharge. While it is true that the Director has substantial authority to make discretionary rate adjustments, we believe that the surcharge mechanism is preferable because it provides more regulatory transparency.

F. Director Discretion

Our regulations found in 46 CFR 404.10(a) give the Director of Great Lakes Pilotage discretionary authority to determine what ''other circumstances'' beyond those listed in the Appendix A ratemaking methodology might need to be factored into ratemaking calculations. Two shipper representatives and one pilot representative commented on the Director's exercise of this discretionary authority. The pilot representative commented the latitude of the Director's discretion to modify rates as calculated by the Appendix A methodology is ''troubling.'' One of the shipper representatives commented that the apparent need for the Director to exercise this discretion indicates there is something ''definitely wrong'' with the methodology given that the calculated rates and the rates that were actually implemented are drastically different. We agree with both commenters. Our concerns about possible flaws in the Appendix A methodology led us to commission the comprehensive study of that methodology, which a contractor recently completed for the Coast Guard. The recommendations from that study will be addressed in a future rulemaking.

Separately, another shipper representative commented that the Director's proposed discretionary adjustment of rate calculations to increase rates would have a ''damaging economic impact.'' We disagree. Pilotage charges in U.S. waters of the Great Lakes remain below the charges (including temporary surcharges) that apply in Canadian waters. We know of no evidence that U.S. pilotage rates are driving traffic away from the Great Lakes. We plan to exercise the Director's authority in future rulemakings until the methodology is updated. We will use the surcharges to accelerate certain expenses as previously discussed. Until we are able to obtain an audit of the revenues by an independent third party, we will rely upon inflation and the consumer price index (CPI) for the Midwest to guide our ratemaking adjustments. If the revenue audit reveals a significant revenue gap between the projected revenues and the actual revenues recovered by the rate, we will work with the stakeholders through the Great Lakes Pilotage Advisory Committee (GLPAC) and exercise our discretion to address the gap.

G. Ratemaking Methodology

Four pilot representatives and one shipper representative commented on our ratemaking methodology. Three pilot representatives commented that we should use a multi-year inflation factor to compensate for the time value of money between the time the audits are conducted and the rate is established (for the 2014 NPRM, we proposed to use 2011 data that was audited in 2012). Under Step 1.C of the Appendix A ratemaking methodology, the ratemaking adjustment for inflation or deflation is a one-year adjustment between the reported year (2011) and the ''succeeding navigation season'' (2012). We are therefore unable to make a multi-year adjustment under the current methodology; however, we acknowledge the pilots' concern and will consider altering the inflation/deflation adjustment mechanism in a future rulemaking.

A pilot and a pilot representative reiterated the pilots' long-held contention (*see* the 2013 final rule, 78 FR 13522) that our over-projection of shipping traffic results in an over-projection of pilotage revenue. One of these commenters said that the Coast Guard should ensure that pilots reach target compensation. We agree that traffic projection is an issue that needs to be addressed in a future rulemaking to revise the Appendix A methodology, but we disagree that the Coast Guard should ensure that pilots reach target compensation. The Coast Guard never sets actual compensation; instead, actual compensation is handled differently by the three private pilotage associations. Due to the inherent risk in operating a private business, we cannot guarantee compensation for any of the associations.

A pilot commented that, under the 1977 Memorandum of Agreement between the United States and Canada, U.S. pilotage rates must be identical to Canadian rates. He said that while our proposed 2.5 percent rate *increase* matches the latest Canadian increase, the two rate structures are not identical. While it is true that the 1977 agreement does require ''identical'' rates, in practice the two pilotage systems are so differently structured that it has not been possible to set identical rates since the early 1980s. A new memorandum has been signed and will replace the 1977 agreement. It calls for ''comparable'' rates. We believe that, after accounting for the structural differences in U.S. and Canadian Great Lakes pilotage systems, the two rate structures are comparable.

The same commenter reiterated the pilots' long-held contention (*see* the 2010 final rule, 75 FR 7959, Feb. 23, 2010) that we incorrectly calculate the application of benefits to the AMOU contracts in setting rates for designated waters, and that we should instead multiply both the average first mate wages and benefits by 150 percent to approximate a master's compensation. Our position continues to be that, under Step 2.A of the Appendix A methodology, the 150 percent is applied only to wages; benefits are then added to the result. As previously mentioned, we are evaluating if there are alternatives to using AMOU contract data for our ratemaking purposes.

Finally, the same commenter contends that we should allow a higher return on investment (ROI) than the average rate for Moody's AAA high grade corporate securities, given the degree of risk that pilots run. We have correctly calculated the ROI, in accordance with Step 5 of the Appendix A methodology, which requires us to tie ROI to the ''preceding year's average rate of return for new issues of high grade corporate securities.'' We may revise our ROI calculations as part of a comprehensive revision of Appendix A.

The shipper representative suggested that our NPRM's Appendix A calculations, resulting in a pre-discretion-adjusted 11 percent rate decrease, may demonstrate that U.S. Great Lakes pilots are at least adequately compensated, and perhaps overcompensated by regional standards. We disagree. As we discussed at length in the NPRM (78 FR 48389), the pre-adjustment calculations are due to changes in benchmark AMOU contracts rather than to any changes in Great Lakes pilotage as such, and we think it would be contrary to the public interest to decrease pilotage rates as a result of this year's calculations. Additionally, incorporating these compensation changes would result in a target pilot compensation significantly lower than Canadian Great Lakes-registered pilots. We believe this is also contrary to the public interest. We intend to address this inequity in target pilot compensation in a future rulemaking. We believe the proper benchmark for target pilot compensation of U.S. Great

Lakes registered pilots should be comparable to the compensation of Canadian Great Lakes registered pilots.

H. Economic Analysis

A pilot commented that footnote 5 to our NPRM (78 FR 48391) ''defies common sense.'' The footnote states that despite increasing pilotage rates, ''we estimate a net cost savings across all three districts as a result of an expected decrease in the demand for pilotage services from the previous year.'' Although we agree with the commenter that the reduction in payments accrued by shippers in Districts Two and Three are not a result of the Coast Guard's proposed rate changes to pilotage services, but instead are the result of changes in market conditions, the economic impact to industry presented in the NPRM remains unchanged because these market conditions were factored into our analysis; the aggregate reduction in payments by shippers across all three districts is not expected to jeopardize the ability of the three pilotage associations to provide safe, efficient, and reliable pilotage services.

I. Number of Pilots

The District Two pilotage association requested immediate authorization for an additional pilot in light of the impending retirement of current pilots in that district. We agree that the district should plan for these expected retirements, but we do not think that requires the immediate authorization of an additional billet. However, the unforeseen potential medical disability of another pilot in the district compounds the difficulty of resourcing new pilots to replace those retiring. Because investing in the training, recruitment and resourcing of pilots is necessary to promote safe, efficient and reliable pilotage, we will, in accordance with our new surcharge authority, consider proposing, for public comment, a surcharge for District Two to cover the cost of training and resourcing a new pilot in our 2015 ratemaking NPRM.

J. District One Dock

The District One pilotage association said that our rates have not enabled them to recover approximately $21,345 spent on a dock project, because their actual revenue fell short of our projections. We agree that $21,345 is a substantial shortfall relating to a capital expenditure made in the interest of safety. We have not validated the existence and/or magnitude of the alleged gap between projected and actual revenues, because the methodology does not consider actual revenues to set rates. Therefore, we believe any discussion related to closing a gap between projected and actual revenues should be addressed by the GLPAC.[3] We defer action on this request until we hear from the advisory committee regarding this specific request at the next GLPAC meeting in 2014. We will then address this in the next annual ratemaking NPRM for the 2015 shipping season.

VI. Discussion of Rulemaking

A. Summary

As required by 46 U.S.C. 9303(f), we are establishing new base pilotage rates by the March 1, 2014 statutory deadline. The rates are established in accordance with the Appendix A methodology and will take effect on August 1, 2014. The rates reflect our determination that 85 percent of the dues paid by the pilotage associations to the APA is recognizable expenses under 46 CFR 404.5 (the remaining 15 percent represents lobbying expenses, which are not recognizable expenses). Our arithmetical calculations under Steps 1 through 6 of Appendix A would result in an average 10.28 percent rate decrease. This rate decrease is not the result of increased efficiencies in providing pilotage services, but rather is a result of recent changes in benchmark AMOU contracts. Therefore, we are exercising our discretion under Appendix A, Step 7 to more closely align with the recent Canadian rate adjustment, and therefore rates in Districts One, Two and Three will increase by 2.5 percent.

On April 3, 2014, we are adjusting the U.S. weighting factors in 46 CFR 401.400 to match the weighting factors adopted by Canada in 2008, as recommended unanimously by the GLPAC in Resolution 13–01 in February 2013. Weighting factors are multipliers based on the size of a ship and are used in determining actual charges for pilotage service. Matching the Canadian weighting factors provides greater parity between the U.S. and Canada, and should reduce billing confusion between the two countries. These are important Federal Government concerns, as emphasized by recent Executive Order (E.O.) 13609, ''Promoting International Regulatory Cooperation'' (77 FR 26413, May 4, 2012). In our NPRM, we proposed making this change effective on March 1, 2014, but for reasons of administrative convenience we have now determined that the change should take effect after the usual 30-day waiting period provided by the Administrative Procedure Act (5 U.S.C. 553(d)).

Also, effective April 3, 2014, we are adding new 46 CFR 401.401, allowing authorization of temporary surcharges in the interest of safe, efficient, and reliable pilotage. The Director of Great Lakes Pilotage authorizes the District One pilotage association to charge a 3 percent surcharge during the 2014 shipping season, effective April 3, 2014, to recoup expenses that the association incurred for training ($48,995).

All figures in the tables that follow in Section B ''Discussion of Methodology'' are based on calculations performed either by an independent accountant or by the Director's staff. In both cases, those calculations were performed using common commercial computer programs. Decimalization and rounding of the audited and calculated data affects the display in these tables, but does not affect the calculations. The calculations are based on the actual figure that rounds values for presentation in the tables.

B. Discussion of Methodology

The Appendix A methodology provides seven steps, with sub-steps, for calculating rate adjustments. The following discussion describes those steps and sub-steps, and includes tables showing how we applied them to the 2011 financial information supplied by the pilots association.

Step 1: Projection of operating expenses. In this step, we project the amount of vessel traffic annually. Based on that projection, we forecast the amount of necessary and reasonable operating expenses that pilotage rates should recover.

Step 1.A: Submission of financial information. This sub-step requires each pilotage association to provide us with detailed financial information in accordance with 46 CFR part 403. The associations complied with this requirement, supplying 2011 financial information in 2012. This is the most current and complete data set we have available.

Step 1.B: Determination of recognizable expenses. This sub-step requires us to determine which reported association expenses will be recognized for ratemaking purposes, using the guidelines shown in 46 CFR 404.5. We contracted with an independent accountant to review the reported expenses and to submit findings recommending which reported expenses should be recognized. The accountant also reviewed which reported expenses should be adjusted prior to recognition

[3] Per 46 U.S.C. 9307(d)(1), as delegated to the Coast Guard, we are to, ''whenever practicable, consult with the [GLPAC] before taking any significant action relating to Great Lakes pilotage.''

or disallowed for ratemaking purposes. The accountant's preliminary findings were sent to the pilotage associations; they reviewed and commented on those findings, and the accountant then finalized them. The Director reviewed and accepted the final findings, resulting in the determination of recognizable expenses. Tables 1 through 3 show each association's recognized expenses.

TABLE 1—RECOGNIZED EXPENSES, DISTRICT ONE

Reported expenses for 2011	Area 1	Area 2	Total
	St. Lawrence River	Lake Ontario	
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/Travel	$234,724	$156,246	$390,970
License insurance	26,976	25,256	52,232
Payroll taxes	61,483	47,611	109,094
Other	837	588	1,425
Total Other Pilotage Costs	324,020	229,701	553,721
Pilot Boat and Dispatch Costs:			
Pilot boat expense	111,772	76,904	188,676
Dispatch expense	0	0	0
Payroll taxes	8,611	5,925	14,536
Total Pilot and Dispatch Costs	120,383	82,829	203,212
Administrative Expenses:			
Legal	10,592	6,922	17,514
Insurance	23,780	16,492	40,272
Employee benefits	21,282	14,645	35,927
Payroll taxes	5,032	3,463	8,495
Other taxes	5,042	3,470	8,512
Travel	756	520	1,276
Depreciation/Auto leasing/Other	38,252	26,319	64,571
Interest	18,484	12,718	31,202
Dues and subscriptions	11,360	11,360	22,720
Utilities	4,314	2,941	7,255
Salaries	50,718	34,897	85,615
Accounting/Professional fees	5,752	3,428	9,180
Pilot Training	4,200	2,277	6,477
Other	9,959	6,880	16,839
Total Administrative Expenses	209,523	146,332	355,855
Total Operating Expenses	653,926	458,862	1,112,788
Adjustments proposed by the Coast Guard's independent certified public accountant (CPA):			
Operating Expenses:			
Other Pilot Costs:			
Pilotage subsistence/Travel	(2,492)	(1,714)	(4,206)
Payroll taxes	12,883	8,864	21,747
Total Other Pilotage Costs	10,391	7,150	17,541
TOTAL CPA ADJUSTMENTS	10,391	7,150	17,541
Total Operating Expenses	664,317	466,012	1,130,329

TABLE 2—RECOGNIZED EXPENSES, DISTRICT TWO

Reported expenses for 2011	Area 4	Area 5	Total
	Lake Erie	Southeast Shoal to Port Huron, MI	
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/Travel	$79,250	$118,874	$198,124
License insurance	6,168	9,252	15,420
Payroll taxes	36,676	55,013	91,689
Other	23,560	35,341	58,901
Total Other Pilotage Costs	145,654	218,480	364,134
Pilot Boat and Dispatch Costs:			
Pilot boat expense	104,955	157,432	262,387
Dispatch expense	6,060	9,090	15,150

TABLE 2—RECOGNIZED EXPENSES, DISTRICT TWO—Continued

Reported expenses for 2011	Area 4	Area 5	Total
	Lake Erie	Southeast Shoal to Port Huron, MI	
Employee Benefits	40,419	60,628	101,047
Payroll taxes	7,135	10,703	17,838
Total Pilot and Dispatch Costs	158,569	237,853	396,422
Administrative Expenses:			
Legal	37,520	56,281	93,801
Office rent	26,275	39,413	65,688
Insurance	10,672	16,009	26,681
Employee benefits	16,365	24,548	40,913
Payroll taxes	4,446	6,668	11,114
Other taxes	14,273	21,409	35,682
Depreciation/Auto leasing/Other	15,604	23,407	39,011
Interest	2,772	4,159	6,931
Dues and subscriptions	7,069	10,603	17,672
Utilities	15,410	23,115	38,525
Salaries	39,874	59,810	99,684
Accounting/Professional fees	12,110	18,164	30,274
Pilot Training	0	0	0
Other	8,860	13,291	22,151
Total Administrative Expenses	211,250	316,877	528,127
Total Operating Expenses	515,473	773,210	1,288,683
Adjustments proposed by the Coast Guard's independent certified public accountant (CPA):			
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/Travel	(2,598)	(3,896)	(6,494)
Other	(566)	(850)	(1,416)
Total Other Pilotage Costs	(3,164)	(4,746)	(7,910)
Pilot Boat and Dispatch Costs:			
Employee benefits	(100)	(150)	(249)
Total Pilot Boat and Dispatch Costs	(100)	(150)	(249)
Administrative Expenses:			
Employee benefits	(25)	(38)	(63)
Total Administrative Expenses	(25)	(38)	(63)
TOTAL CPA ADJUSTMENTS	(3,289)	(4,933)	(8,222)
Total Operating Expenses	512,184	768,277	1,280,461

TABLE 3—RECOGNIZED EXPENSES, DISTRICT THREE

Reported expenses for 2011	Area 6	Area 7	Area 8	Total
	Lakes Huron and Michigan	St. Mary's River	Lake Superior	
Operating Expenses:				
Other Pilotage Costs:				
Pilot subsistence/Travel	$196,529	$72,789	$94,625	$363,943
License insurance	10,157	3,762	4,891	18,810
Payroll taxes	63,803	23,631	30,720	118,153
Other	2,184	809	1,052	4,045
Total Other Pilotage Costs	272,673	100,991	131,288	504,951
Pilot Boat and Dispatch Costs:				
Pilot boat expense	243,077	90,028	117,037	450,142
Dispatch expense	87,059	32,244	41,917	161,221
Payroll taxes	9,607	3,558	4,626	17,791
Total Pilot Boat and Dispatch Costs	339,743	125,830	163,580	629,154
Administrative Expenses:				
Legal	12,188	4,495	5,844	22,477
Office rent	5,346	1,980	2,574	9,900
Insurance	7,451	2,760	3,587	13,798

TABLE 3—RECOGNIZED EXPENSES, DISTRICT THREE—Continued

Reported expenses for 2011	Area 6	Area 7	Area 8	Total
	Lakes Huron and Michigan	St. Mary's River	Lake Superior	
Employee benefits	73,230	27,122	35,259	135,611
Payroll taxes	6,154	2,279	2,963	11,396
Other taxes	19,339	7,163	9,311	35,813
Depreciation/Auto leasing	34,341	12,719	16,534	63,594
Interest	2,682	993	1,291	4,966
Dues and subscriptions	11,016	5,508	7,344	23,868
Utilities	19,723	7,305	9,496	36,524
Salaries	55,772	20,656	26,853	103,281
Accounting/Professional fees	13,419	4,970	6,461	24,850
Pilot Training	516	191	248	955
Other	5,394	1,998	2,597	9,989
Total Administrative Expenses	266,521	100,139	130,362	497,022
Total Operating Expenses	878,937	326,960	425,230	1,631,127
Adjustments proposed by the Coast Guard's independent certified public accountant (CPA):				
Operating Expenses:				
Other Pilotage Costs:				
Payroll taxes	22,446	8,313	10,807	41,566
Total Other Pilotage Costs	22,446	8,313	10,807	41,566
Administrative Expenses:				
Other Taxes	(1,613)	(598)	(777)	(2,988)
Depreciation/Auto leasing	(7,707)	(2,854)	(3,711)	(14,272)
Other	(610)	(226)	(294)	(1,130)
Total Administrative Expenses	(9,930)	(3,678)	(4,782)	(18,390)
TOTAL CPA ADJUSTMENTS	12,516	4,635	6,025	23,176
Total Operating Expenses	891,453	331,595	431,255	1,654,303

Step 1.C: Adjustment for inflation or deflation. In this sub-step, we project rates of inflation or deflation for the succeeding navigation season. Because we used 2011 financial information, the ''succeeding navigation season'' for this ratemaking is 2012. We based our inflation adjustment of 2 percent on the 2012 change in the CPI for the Midwest Region of the United States, which can be found at: *http://www.bls.gov/xg_shells/ro5xg01.htm.* This adjustment appears in Tables 4 through 6.

TABLE 4—INFLATION ADJUSTMENT, DISTRICT ONE

Reported expenses for 2011		Area 1		Area 2		Total
		St. Lawrence River		Lake Ontario		
Total Operating Expenses:		$664,317		$466,012		$1,130,329
2012 change in the CPI for the Midwest Region of the United States	×	.02	×	.02	×	.02
Inflation Adjustment	=	13,286	=	9,320	=	22,607

TABLE 5—INFLATION ADJUSTMENT, DISTRICT TWO

Reported expenses for 2011		Area 4		Area 5		Total
		Lake Erie		Southeast Shoal to Port Huron, MI		
Total Operating Expenses:		$512,184		$768,277		$1,280,461
2012 change in the CPI for the Midwest Region of the United States	×	.02	×	.02	×	.02
Inflation Adjustment	=	10,244	=	15,366	=	25,609

TABLE 6—INFLATION ADJUSTMENT, DISTRICT THREE

Reported expenses for 2011		Area 6 Lakes Huron and Michigan		Area 7 St. Mary's River		Area 8 Lake Superior		Total
Total Operating Expenses:		$891,453		$331,595		$431,255		$1,654,303
2012 change in the CPI for the Midwest Region of the United States	×	.02	×	.02	×	.02	×	.02
Inflation Adjustment	=	17,829	=	6,632	=	8,625	=	33,086

Step 1.D: Projection of operating expenses. In this final sub-step of Step 1, we project the operating expenses for each pilotage area on the basis of the preceding sub-steps and any other foreseeable circumstances that could affect the accuracy of the projection. We are not aware of any such foreseeable circumstances that now exist in District One.

For District One, the projected operating expenses are based on the calculations from Steps 1.A through 1.C. Table 7 shows these projections.

TABLE 7—PROJECTED OPERATING EXPENSES, DISTRICT ONE

Reported expenses for 2011		Area 1 St. Lawrence River		Area 2 Lake Ontario		Total
Total Operating Expenses:		$664,317		$466,012		$1,130,329
Inflation adjustment 2.0%	+	13,286	+	9,320	+	22,607
Total projected expenses for 2014 pilotage season	=	677,603	=	475,332	=	1,152,936

In District Two, Federal taxes of $12,000 are accounted for in Step 6 (Federal Tax Allowance). The projected operating expenses are based on the calculations from Steps 1.A through 1.C and Federal taxes. Table 8 shows these projections.

TABLE 8—PROJECTED OPERATING EXPENSES, DISTRICT TWO

Reported expenses for 2011		Area 4 Lake Erie		Area 5 Southeast Shoal to Port Huron, MI		Total
Total Operating Expenses	.....	$512,184		$768,277		$1,280,461
Inflation adjustment 2.0%	+	10,244	+	15,366	+	25,609
Director's adjustment & foreseeable circumstances						
Federal taxes (accounted for in Step 6)	+	(4,800)	+	(7,200)	+	(12,000)
Total projected expenses for 2014 pilotage season	=	517,627	=	776,442	=	1,294,070

Currently, we are not aware of any foreseeable circumstances for District Three. Its projected operating expenses are based on the calculations from Steps 1.A through 1.C. Table 9 shows these projections.

TABLE 9—PROJECTED OPERATING EXPENSES, DISTRICT THREE

Reported expenses for 2011		Area 6 Lakes Huron and Michigan		Area 7 St. Mary's River		Area 8 Lake Superior		Total
Total Expenses	.....	$891,453		$331,595		$431,255		$1,654,303
Inflation adjustment 2.0%	+	17,829	+	6,632	+	8,625	+	33,086
Total projected expenses for 2014 pilotage season	=	909,282	=	338,227	=	439,880	=	1,687,389

Step 2: Projection of target pilot compensation. In Step 2, we project the annual amount of target pilot compensation that pilotage rates should provide in each area. These projections are based on our latest information on the conditions that will prevail in 2014.

Step 2.A: Determination of target rate of compensation. Target pilot compensation for pilots in undesignated waters approximates the average annual compensation for first mates on U.S. Great Lakes vessels. Compensation is determined based on the most current union contracts and includes wages and benefits received by first mates. We calculate target pilot compensation for

pilots on designated waters by multiplying the average first mate's wages by 150 percent and then adding the average first mate's benefits.

The most current union contracts available to us are AMOU contracts with three U.S. companies engaged in Great Lakes shipping. There are two separate AMOU contracts available—we refer to them as Agreements A and B, and apportion the compensation provided by each agreement according to the percentage of tonnage represented by companies under each agreement. Agreement A applies to vessels operated by Key Lakes, Inc., and Agreement B applies to all vessels operated by American Steamship Co. and Mittal Steel USA, Inc.

Agreements A and B both expire on July 31, 2016. The AMOU has set the daily aggregate rate—including the daily wage rate, vacation pay, pension plan contributions, and medical plan contributions effective August 1, 2014 as follows: 1) In undesignated waters, $612.20 for Agreement A and $604.64 for Agreement B; and 2) In designated waters, $842.63 for Agreement A and $829.40 for Agreement B.

Because we are interested in annual compensation, we must convert these daily rates. We use a 270-day multiplier which reflects an average 30-day month, over the 9 months of the average shipping season. Table 10 shows our calculations using the 270-day multiplier.

TABLE 10—PROJECTED ANNUAL AGGREGATE RATE COMPONENTS

Aggregate Rate–Wages, Vacation, Pension, and Medical Benefits	
Pilots on Undesignated Waters	
Agreement A:	
$612.20 daily rate × 270 days	$165,294.00
Agreement B:	
$604.64 daily rate × 270 days	163,252.80
Pilots on Designated Waters	
Agreement A:	
$842.63 daily rate × 270 days	227,510.10
Agreement B:	
$829.40 daily rate × 270 days	223,938.00

We apportion the compensation provided by each agreement according to the percentage of tonnage represented by companies under each agreement. Agreement A applies to vessels operated by Key Lakes, Inc., representing approximately 30 percent of tonnage, and Agreement B applies to all vessels operated by American Steamship Co. and Mittal Steel USA, Inc., representing approximately 70 percent of tonnage. Table 11 provides details.

TABLE 11—SHIPPING TONNAGE APPORTIONED BY CONTRACT

Company	Agreement A	Agreement B
American Steamship Company		815,600
Mittal Steel USA, Inc		38,826
Key Lakes, Inc	361,385	
Total tonnage, each agreement	361,385	854,426
Percent tonnage, each agreement	361,385 ÷ 1,215,811 = 29.7238%	854,426 ÷ 1,215,811 = 70.2762%

We use the percentages from Table 11 to apportion the projected compensation from Table 10. This gives us a single tonnage-weighted set of figures. Table 12 shows our calculations.

TABLE 12—TONNAGE-WEIGHTED WAGE AND BENEFIT COMPONENTS

		Undesignated waters		Designated waters
Agreement A:				
Total wages and benefits		$165,294.00		$227,510.10
Percent tonnage	×	29.7238%	×	29.7238%
Total	=	49,132	=	67,625
Agreement B:				
Total wages and benefits		163,252.80		223,938.00
Percent tonnage	×	70.2762%	×	70.2762%
Total	=	114,728	=	157,375
Projected Target Rate of Compensation:				
Agreement A total weighted average wages and benefits		49,132		67,625
Agreement B total weighted average wages and benefits	+	114,728	+	157,375

TABLE 12—TONNAGE-WEIGHTED WAGE AND BENEFIT COMPONENTS—Continued

	Undesignated waters		Designated waters
Total	= 163,860	=	225,000

Step 2.B: Determination of the number of pilots needed. Subject to adjustment by the Director to ensure uninterrupted service or for other reasonable circumstances, we determine the number of pilots needed for ratemaking purposes in each area by dividing projected bridge hours for each area, by either 1,000 (designated waters) or 1,800 (undesignated waters) bridge hours. We round the mathematical results and express our determination as whole pilots.

''Bridge hours are the number of hours a pilot is aboard a vessel providing basic pilotage service.'' (46 CFR part 404, Appendix A, Step 2.B(1)) For that reason, and as we explained most recently in the 2011 ratemaking's final rule (*see* 76 FR 6352, Feb. 4, 2011), we do not include, and have never included, pilot delay, detention, or cancellation in calculating bridge hours. Projected bridge hours are based on the vessel traffic that pilots are expected to serve. We use historical data, input from the pilots and industry, periodicals and trade magazines, and information from conferences to project demand for pilotage services for the coming year.

In our 2013 final rule, we determined that 38 pilots would be needed for ratemaking purposes. We have determined that District 3 has two excess billets that remain unfilled and that current and projected traffic levels do not support the retention of these unfilled billets. For 2014, we project 36 pilots is the proper number to use for ratemaking purposes. We are removing one pilot from each of the undesignated waters of District Three (one each from Area 6 and Area 8). The total pilot authorization strength includes five pilots in Area 2, where rounding up alone would result in only four pilots. For the same reasons we explained at length in the 2008 ratemaking final rule (*see* 74 FR 22221–22, Jan. 5, 2009), we determined that this adjustment is essential for ensuring uninterrupted pilotage service in Area 2. Table 13 shows the bridge hours we project will be needed for each area and our calculations to determine the number of whole pilots needed for ratemaking purposes.

TABLE 13—NUMBER OF PILOTS NEEDED

Pilotage area	Projected 2014 bridge hours		Divided by 1,000 (designated waters) or 1,800 (undesignated waters)		Calculated value of pilot demand	Pilots needed (total = 36)
Area 1 (Designated waters)	5,116	÷	1,000	=	5.116	6
Area 2 (Undesignated waters)	5,429	÷	1,800	=	3.016	5
Area 4 (Undesignated waters)	5,814	÷	1,800	=	3.230	4
Area 5 (Designated waters)	5,052	÷	1,000	=	5.052	6
Area 6 (Undesignated waters)	9,611	÷	1,800	=	5.339	6
Area 7 (Designated waters)	3,023	÷	1,000	=	3.023	4
Area 8 (Undesignated waters)	7,540	÷	1,800	=	4.189	5

Step 2.C: Projection of target pilot compensation. In Table 14, we project total target pilot compensation separately for each area by multiplying the number of pilots needed in each area, as shown in Table 13, by the target pilot compensation shown in Table 12.

TABLE 14—PROJECTION OF TARGET PILOT COMPENSATION BY AREA

Pilotage area	Pilots needed (total = 36)		Target rate of pilot compensation		Projected target pilot compensation
Area 1 (Designated waters)	6	x	$225,000	=	$1,349,999
Area 2 (Undesignated waters)	5	×	163,860	=	819,298
Area 4 (Undesignated waters)	4	×	163,860	=	655,438
Area 5 (Designated waters)	6	×	225,000	=	1,349,999
Area 6 (Undesignated waters)	6	×	163,860	=	983,157
Area 7 (Designated waters)	4	×	225,000	=	899,999
Area 8 (Undesignated waters)	5	×	163,860	=	819,298

Steps 3 and 3.A: Projection of revenue. In Steps 3 and 3.A., we project the revenue that would be received in 2014 if demand for pilotage services matches the bridge hours we projected in Table 13, and if 2013 pilotage rates are left unchanged. Table 15 shows this calculation.

TABLE 15—PROJECTION OF REVENUE BY AREA

Pilotage area	Projected 2014 bridge hours		2013 Pilotage rates *		Revenue projection for 2014
Area 1 (Designated waters)	5,116	×	$460.97	=	$2,358,327
Area 2 (Undesignated waters)	5,429	×	284.84	=	1,546,373
Area 4 (Undesignated waters)	5,814	×	205.27	=	1,193,426
Area 5 (Designated waters)	5,052	×	508.91	=	2,571,038
Area 6 (Undesignated waters)	9,611	×	199.95	=	1,921,756
Area 7 (Designated waters)	3,023	×	482.94	=	1,459,929
Area 8 (Undesignated waters)	7,540	×	186.67	=	1,407,490
Total					12,458,339

* Projected 2013 revenue divided by projected 2013 bridge hours, per area.

Step 4: Calculation of investment base. In this step, we calculate each association's investment base, which is the recognized capital investment in the assets employed by the association required to support pilotage operations. This step uses a formula set out in 46 CFR part 404, Appendix B. The first part of the formula identifies each association's total sources of funds. Tables 16 through 18 follow the formula up to that point.

TABLE 16—TOTAL SOURCES OF FUNDS, DISTRICT ONE

		Area 1		Area 2
Recognized Assets:				
Total Current Assets		$669,895		$460,921
Total Current Liabilities	−	54,169	−	37,271
Current Notes Payable	+	24,746	+	17,026
Total Property and Equipment (Net)	+	369,024	+	253,907
Land	−	13,054	−	8,981
Total Other Assets	+	0	+	0
Total Recognized Assets:	=	996,442	=	685,602
Non-Recognized Assets:				
Total Investments and Special Funds	+	6,243	+	4,295
Total Non-Recognized Assets:	=	6,243	=	4,295
Total Assets:				
Total Recognized Assets		996,442		685,602
Total Non-Recognized Assets	+	6,243	+	4,295
Total Assets:	=	1,002,685	=	689,897
Recognized Sources of Funds:				
Total Stockholder Equity		647,677		445,633
Long-Term Debt	+	318,571	+	219,193
Current Notes Payable	+	24,746	+	17,026
Advances from Affiliated Companies	+	0	+	0
Long-Term Obligations—Capital Leases	+	0	+	0
Total Recognized Sources:	=	990,994	=	681,852
Non-Recognized Sources of Funds:				
Pension Liability		0		0
Other Non-Current Liabilities	+	0	+	0
Deferred Federal Income Taxes	+	0	+	0
Other Deferred Credits	+	0	+	0
Total Non-Recognized Sources:	=	0	=	0
Total Sources of Funds:				
Total Recognized Sources		990,994		681,852
Total Non-Recognized Sources	+	0	+	0
Total Sources of Funds:	=	990,994	=	681,852

TABLE 17—TOTAL SOURCES OF FUNDS, DISTRICT TWO

		Area 4		Area 5
Recognized Assets:				
Total Current Assets		$454,465		$681,697
Total Current Liabilities	−	409,366	−	614,048
Current Notes Payable	+	25,822	+	38,734
Total Property and Equipment (Net)	+	420,422	+	630,632
Land	−	0	−	0

TABLE 17—TOTAL SOURCES OF FUNDS, DISTRICT TWO—Continued

		Area 4		Area 5
Total Other Assets	+	60,195	+	90,293
Total Recognized Assets	=	551,538	=	827,308
Non-Recognized Assets:				
Total Investments and Special Funds	+	0	+	0
Total Non-Recognized Assets	=	0	=	0
Total Assets:				
Total Recognized Assets		551,538		827,308
Total Non-Recognized Assets	+	0	+	0
Total Assets	=	551,538	=	827,308
Recognized Sources of Funds:				
Total Stockholder Equity		89,537		134,305
Long-Term Debt	+	410,357	+	615,535
Current Notes Payable	+	25,822	+	38,734
Advances from Affiliated Companies	+	0	+	0
Long-Term Obligations—Capital Leases	+	0	+	0
Total Recognized Sources	=	525,716	=	788,574
Non-Recognized Sources of Funds:				
Pension Liability		0		0
Other Non-Current Liabilities	+	0	+	0
Deferred Federal Income Taxes	+	0	+	0
Other Deferred Credits	+	0	+	0
Total Non-Recognized Sources	=	0	=	0
Total Sources of Funds:				
Total Recognized Sources		525,716		788,574
Total Non-Recognized Sources	+	0	+	0
Total Sources of Funds	=	525,716	=	788,574

TABLE 18—TOTAL SOURCES OF FUNDS, DISTRICT THREE

		Area 6		Area 7		Area 8
Recognized Assets:						
Total Current Assets		$658,934		$244,050		$317,265
Total Current Liabilities	–	64,869	–	24,025	–	31,233
Current Notes Payable	+	3,869	+	1,433	+	1,863
Total Property and Equipment (Net)	+	21,905	+	8,113	+	10,547
Land	–	0	–	0	–	0
Total Other Assets	+	540	+	200	+	260
Total Recognized Assets	=	620,379	=	229,771	=	298,702
Non-Recognized Assets:						
Total Investments and Special Funds	+	0	+	0	+	0
Total Non-Recognized Assets	=	0	=	0	=	0
Total Assets:						
Total Recognized Assets		620,379		229,771		298,702
Total Non-Recognized Assets	+	0	+	0	+	0
Total Assets	=	620,379	=	229,771	=	298,702
Recognized Sources of Funds:						
Total Stockholder Equity		606,164		224,505		291,857
Long-Term Debt	+	6,478	+	2,399	+	3,119
Current Notes Payable	+	3,869	+	1,433	+	1,863
Advances from Affiliated Companies	+	0	+	0	+	0
Long-Term Obligations—Capital Leases	+	0	+	0	+	0
Total Recognized Sources	=	616,511	=	228,337	=	296,839
Non-Recognized Sources of Funds:						
Pension Liability		0		0		0
Other Non-Current Liabilities	+	0	+	0	+	0
Deferred Federal Income Taxes	+	0	+	0	+	0
Other Deferred Credits	+	0	+	0	+	0
Total Non-Recognized Sources	=	0	=	0	=	0
Total Sources of Funds:						
Total Recognized Sources		616,511		228,337		296,839
Total Non-Recognized Sources	+	0	+	0	+	0
Total Sources of Funds	=	616,511	=	228,337	=	296,839

Tables 16 through 18 also relate to the second part of the formula for calculating the investment base. The second part establishes a ratio between recognized sources of funds and total sources of funds. Since no non-recognized sources of funds (sources we do not recognize as required to support pilotage operations) exist for any of the pilotage associations for this year's rulemaking, the ratio between recognized sources of funds and total sources of funds is 1:1 (or a multiplier of 1) in all cases. Table 19 applies the multiplier of 1 and shows that the investment base for each association equals its total recognized assets. Table 19 also expresses these results by area, because area results will be needed in subsequent steps.

TABLE 19—INVESTMENT BASE BY AREA AND DISTRICT

District	Area	Total recognized assets ($)	Recognized sources of funds ($)	Total sources of funds ($)	Multiplier (ratio of recognized to total sources)	Investment base ($) [1]
One	1	996,442	990,994	990,994	1	996,442
	2	685,602	681,852	681,852	1	685,602
Total	.....	.....	.....	.....	.....	1,682,044
Two [2]	4	551,538	525,716	525,716	1	551,538
	5	827,308	788,574	788,574	1	827,308
Total	.....	.....	.....	.....	.....	1,378,846
Three	6	620,379	616,511	616,511	1	620,379
	7	229,771	228,337	228,337	1	229,771
	8	298,702	296,839	296,839	1	298,702
Total	.....	.....	.....	.....	.....	1,148,852

[1] "Investment base" = "Total recognized assets" × "Multiplier (ratio of recognized to total sources)".
[2] The pilotage associations that provide pilotage services in Districts One and Three operate as partnerships. The pilotage association that provides pilotage service for District Two operates as a corporation.

Step 5: Determination of target rate of return. We determine a market-equivalent ROI that will be allowed for the recognized net capital invested in each association by its members. We do not recognize capital that is unnecessary or unreasonable for providing pilotage services. There are no non-recognized investments in this year's calculations. The allowed ROI is based on the preceding year's average annual rate of return for new issues of high-grade corporate securities. For 2012, the preceding year, the allowed ROI was 3.67 percent, based on the average rate of return for that year on Moody's AAA corporate bonds, which can be found at: *http://research.stlouisfed.org/fred2/series/AAA/downloaddata?cid=119.*

Step 6: Adjustment determination. The first sub-step of Step 6 requires an initial calculation, applying a formula described in Appendix A. The formula uses the results from Steps 1, 2, 3, and 4 to project the ROI that can be expected in each area if no further adjustments are made. This calculation is shown in Tables 20 through 22.

TABLE 20—PROJECTED ROI, AREAS IN DISTRICT ONE

		Area 1		Area 2
Revenue (from Step 3)		$2,358,327		$1,546,373
Operating Expenses (from Step 1)	−	677,603	−	475,332
Pilot Compensation (from Step 2)	−	1,349,999	−	819,298
Operating Profit/(Loss)	=	330,725	=	251,743
Interest Expense (from audits)	−	18,484	−	12,718
Earnings Before Tax	=	312,241	=	239,025
Federal Tax Allowance	−	0	−	0
Net Income	=	312,241	=	239,025
Return Element (Net Income + Interest)		330,725		251,743
Investment Base (from Step 4)	÷	996,442	÷	685,602
Projected ROI	=	0.3319	=	0.3672

TABLE 21—PROJECTED ROI, AREAS IN DISTRICT TWO

		Area 4		Area 5
Revenue (from Step 3)		$1,193,426		$2,571,038
Operating Expenses (from Step 1)	−	517,627	−	776,442
Pilot Compensation (from Step 2)	−	655,438	−	1,349,999
Operating Profit/(Loss)	=	20,361	=	444,597
Interest Expense (from audits)	−	2,772	−	4,159
Earnings Before Tax	=	17,589	=	440,438
Federal Tax Allowance	−	4,800	−	7,200
Net Income	=	12,789	=	433,238

TABLE 21—PROJECTED ROI, AREAS IN DISTRICT TWO—Continued

		Area 4		Area 5
Return Element (Net Income + Interest)		15,561		437,397
Investment Base (from Step 4)	÷	551,538	÷	827,308
Projected ROI	=	0.0282	=	0.5287

TABLE 22—PROJECTED ROI, AREAS IN DISTRICT THREE

		Area 6		Area 7		Area 8
Revenue (from Step 3)		$1,921,756		$1,459,929		$1,407,490
Operating Expenses (from Step 1)	−	909,282	−	338,227	−	439,880
Pilot Compensation (from Step 2)	−	983,157	−	899,999	−	819,298
Operating Profit/(Loss)	=	29,317	=	221,703	=	148,312
Interest Expense (from audits)	−	2,682	−	993	−	1,291
Earnings Before Tax	=	26,635	=	220,710	=	147,021
Federal Tax Allowance	−	0	−	0	−	0
Net Income	=	26,635	=	220,710	=	147,021
Return Element (Net Income + Interest)		29,317		221,703		148,312
Investment Base (from Step 4)	÷	620,379	÷	229,771	÷	298,702
Projected ROI	=	0.0473	=	0.9649	=	0.4965

The second sub-step compares the results of Tables 20 through 22 with the target ROI (3.67 percent) we obtained in Step 5 to determine if an adjustment to the base pilotage rate is necessary. Table 23 shows this comparison for each area.

TABLE 23—COMPARISON OF PROJECTED ROI AND TARGET ROI, BY AREA

	Area 1	Area 2	Area 4	Area 5	Area 6	Area 7	Area 8
	St. Lawrence River	Lake Ontario	Lake Erie	Southeast Shoal to Port Huron, MI	Lakes Huron and Michigan	St. Mary's River	Lake Superior
Projected ROI	0.3319	0.3672	0.0282	0.5287	0.0473	0.9649	0.4965
Target ROI	0.0367	0.0367	0.0367	0.0367	0.0367	0.0367	0.0367
Difference in ROIs	0.2952	0.3305	(0.0085)	0.4920	0.0106	0.9282	0.4598

Because Table 23 shows a significant difference between the projected and target ROIs, an adjustment to the base pilotage rates is necessary. Step 6 now requires us to determine the pilotage revenues that are needed to make the target return on investment equal to the projected return on investment. This calculation is shown in Table 24. It adjusts the investment base we used in Step 4, multiplying it by the target ROI from Step 5, and applies the result to the operating expenses and target pilot compensation determined in Steps 1 and 2.

TABLE 24—REVENUE NEEDED TO RECOVER TARGET ROI, BY AREA

Pilotage area	Operating expenses (Step 1)		Target pilot compensation (Step 2)		Investment Base (Step 4) × 3.67% (Target ROI Step 5)		Federal tax allowance		Revenue needed
Area 1 (Designated waters)	$677,603	+	$1,349,999	+	$36,569	+	$0	=	$2,064,171
Area 2 (Undesignated waters)	475,332	+	819,298	+	25,162	+	0	=	1,319,791
Area 4 (Undesignated waters)	517,627	+	655,438	+	20,241	+	4,800	=	1,198,107
Area 5 (Designated waters)	776,442	+	1,349,999	+	30,362	+	7,200	=	2,164,003
Area 6 (Undesignated waters)	909,282	+	983,157	+	22,768	+	0	=	1,915,207
Area 7 (Designated waters)	338,227	+	899,999	+	8,433	+	0	=	1,246,659
Area 8 (Undesignated waters)	439,880	+	819,298	+	10,962	+	0	=	1,270,140
Total	4,134,394	+	6,877,187	+	154,498	+	12,000	=	11,178,078

The ''Revenue Needed'' column of Table 24 is more than the revenue we projected in Table 15. For purposes of transparency, we verify the calculations in Table 24 by rerunning the formula in the first sub-step of Step 6, using the revenue needed from Table 24 instead of the Table 15 revenue projections we used in Tables 20 through 22. Tables 25 through 27 show that attaining the Table 24 revenue needed is sufficient to recover target ROI.

TABLE 25—BALANCING REVENUE NEEDED AND TARGET ROI, DISTRICT ONE

		Area 1		Area 2
Revenue Needed		$2,064,171		$1,319,791
Operating Expenses (from Step 1)	−	677,603	−	475,332
Pilot Compensation (from Step 2)	−	1,349,999	−	819,298
Operating Profit/(Loss)	=	36,569	=	25,162
Interest Expense (from audits)	−	18,484	−	12,718
Earnings Before Tax	=	18,085	=	12,444
Federal Tax Allowance	−	0	−	0
Net Income	=	18,085	=	12,444
Return Element (Net Income + Interest)		36,569		25,162
Investment Base (from Step 4)	÷	996,442	÷	685,602
ROI	=	0.0367	=	0.0367

TABLE 26—BALANCING REVENUE NEEDED AND TARGET ROI, DISTRICT TWO

		Area 4		Area 5
Revenue Needed	+	$1,198,107	+	$2,164,003
Operating Expenses (from Step 1)	−	517,627	−	776,442
Pilot Compensation (from Step 2)	−	655,438	−	1,349,999
Operating Profit/(Loss)	=	25,041	=	37,562
Interest Expense (from audits)	−	2,772	−	4,159
Earnings Before Tax	=	22,269	=	33,403
Federal Tax Allowance	−	4,800	−	7,200
Net Income	=	17,469	=	26,203
Return Element (Net Income + Interest)		20,241		30,362
Investment Base (from Step 4)	÷	551,538	÷	827,308
ROI	=	0.0367	=	0.0367

TABLE 27—BALANCING REVENUE NEEDED AND TARGET ROI, DISTRICT THREE

		Area 6		Area 7		Area 8
Revenue Needed	+	$1,915,207	+	$1,246,659	+	$1,270,140
Operating Expenses (from Step 1)	−	909,282	−	338,227	−	439,880
Pilot Compensation (from Step 2)	−	983,157	−	899,999	−	819,298
Operating Profit/(Loss)	=	22,768	=	8,433	=	10,962
Interest Expense (from audits)	−	2,682	−	993	−	1,291
Earnings Before Tax	=	20,086	=	7,440	=	9,671
Federal Tax Allowance	−	0	−	0	−	0
Net Income	=	20,086	=	7,440	=	9,671
Return Element (Net Income + Interest)		22,768		8,433		10,962
Investment Base (from Step 4)	÷	620,379	÷	229,771	÷	298,702
ROI	=	0.0367	=	0.0367	=	0.0367

Step 7: Adjustment of pilotage rates. Finally, and subject to negotiation with Canada or to an adjustment for other supportable circumstances, we calculate rate adjustments by dividing the Step 6 revenue needed (Table 24) by the Step 3 revenue projection (Table 15), to give us a rate multiplier for each area. Tables 28 through 30 show these calculations.

TABLE 28—RATE MULTIPLIER, AREAS IN DISTRICT ONE

Ratemaking Projections		Area 1 St. Lawrence River		Area 2 Lake Ontario
Revenue Needed (from Step 6)		$2,064,171		$1,319,791
Revenue (from Step 3)	÷	2,358,327	÷	1,546,373
Rate Multiplier	=	0.8753	=	0.8535

TABLE 29—RATE MULTIPLIER, AREAS IN DISTRICT TWO

Ratemaking Projections	Area 4 Lake Erie	Area 5 Southeast Shoal to Port Huron, MI
Revenue Needed (from Step 6)	$1,198,107	$2,164,003

TABLE 29—RATE MULTIPLIER, AREAS IN DISTRICT TWO—Continued

Ratemaking Projections		Area 4		Area 5
		Lake Erie		Southeast Shoal to Port Huron, MI
Revenue (from Step 3)	÷	1,193,426	÷	2,571,038
Rate Multiplier	=	1.0039	=	0.8417

TABLE 30—RATE MULTIPLIER, AREAS IN DISTRICT THREE

Ratemaking Projections		Area 6		Area 7		Area 8
		Lakes Huron and Michigan		St. Mary's River		Lake Superior
Revenue Needed (from Step 6)		$1,915,207		$1,246,659		$1,270,140
Revenue (from Step 3)	÷	1,921,756	÷	1,459,929	÷	1,407,490
Rate Multiplier	=	0.9966	=	0.8539	=	0.9024

We calculate a rate multiplier for adjusting the basic rates and charges described in 46 CFR 401.420 and 401.428, and it is applicable in all areas. We divide total revenue needed (Step 6, Table 24) by total projected revenue (Steps 3 and 3.A, Table 15). Table 31 shows this calculation.

TABLE 31—RATE MULTIPLIER FOR BASIC RATES AND CHARGES IN 46 CFR 401.420 AND 401.428

Ratemaking Projections:		
Total Revenue Needed (from Step 6)		$11,178,078
Total revenue (from Step 3)	÷	12,458,339
Rate Multiplier	=	0.897

This table shows that rates for cancellation, delay, or interruption in rendering services (46 CFR 401.420) and basic rates and charges for carrying a U.S. pilot beyond the normal change point, or for boarding at other than the normal boarding point (46 CFR 401.428), would decrease by 10.3 percent in all areas.

Without further action, the existing rates we established in our 2013 final rule would then be multiplied by the rate multipliers from Tables 28 through 30 to calculate the area by area rate changes for 2014. The resulting 2014 rates, on average, would then be decreased approximately 11 percent from the 2013 rates. This decrease is not due to increased efficiencies in pilotage services, but rather is a result of recent significant changes in AMOU contracts. We declined to impose this decrease because financial data from one of the associations indicates that such a rate decrease would make it difficult for it to continue funding operations, and may even cause the association to permanently close. Moreover, the decrease would have an adverse effect on providing safe, efficient, and reliable pilotage in the other two pilotage districts. Finally, our 2013 agreement with Canada calls for comparable pilotage rates between the two countries, and we proposed aligning our rates to the Canadian rate, which actually increased by 2.5 percent this year. Our discretionary authority under Step 7 must be ''based on requirements of the Memorandum . . . between the United States and Canada, and other supportable circumstances that may be appropriate.'' 46 CFR part 404, App. A. Without the 2.5 percent increase, U.S. and Canadian rates would be less comparable. ''Other supportable circumstances'' we have for exercising our discretion include E.O. 13609, ''Promoting International Regulatory Cooperation,'' which calls on Federal agencies to eliminate ''unnecessary differences'' between U.S. and foreign regulations (*see* 77 FR 26413, May 4, 2012). Additionally, there is a risk that a substantial rate decrease would jeopardize the ability of the three pilotage associations to provide safe, efficient, and reliable pilotage service.

Therefore, we are relying on the discretionary authority we have under Step 7 to further adjust rates so that they closely align with those adopted by the Canadian GLPA for 2014. Table 32 compares the impact, area by area, that an average decrease of 11 percent would have, relative to the impact each area would experience if U.S. rates more closely align with those of the Canadian GLPA.

TABLE 32—IMPACT OF EXERCISING STEP 7 DISCRETION

Area	Percent change in rate without exercising Step 7 discretion	Percent change in rate with exercise of Step 7 discretion
Area 1 (Designated waters)	−12.47	2.50
Area 2 (Undesignated waters)	−14.65	2.50
Area 4 (Undesignated waters)	0.39	2.50
Area 5 (Designated waters)	−15.83	2.50
Area 6 (Undesignated waters)	−0.34	2.50
Area 7 (Designated waters)	−14.61	2.50
Area 8 (Undesignated waters)	−9.76	2.50

Tables 33 through 35 reflect our rate adjustments of 2.5 percent across Districts One, Two and Three.

TABLE 33—ADJUSTMENT OF PILOTAGE RATES, AREAS IN DISTRICT ONE

	2013 Rate		Rate multiplier		Adjusted rate for 2014
Area 1, St. Lawrence River					
Basic Pilotage	$18.75/km, $33.19/mi	×	1.025	=	$19.22/km, $34.02/mi
Each lock transited	416	×	1.025	=	426
Harbor movage	1,361	×	1.025	=	1,395
Minimum basic rate, St. Lawrence River	908	×	1.025	=	931
Maximum rate, through trip	3,984	×	1.025	=	4,084
Area 2, Lake Ontario					
6-hour period	851	×	1.025	=	872
Docking or undocking	812	×	1.025	=	832

In addition to the rate charges in Table 33, and for the reasons we discussed in Section V.A. of this preamble, we are adding 46 CFR 401.401, authorizing imposition of temporary surcharges. Effective April 3, 2014, we authorize District One to implement a temporary supplemental 3 percent charge on each source form (the ''bill'' for pilotage service) for the duration of the 2014 shipping season. We do not think this surcharge will have a disruptive effect on District One traffic, because Canada has used an 18 percent surcharge in the past with no such effect.

TABLE 34—ADJUSTMENT OF PILOTAGE RATES, AREAS IN DISTRICT TWO

	2013 Rate		Rate multiplier		Adjusted rate for 2014
Area 4, Lake Erie					
6-hour period	$828	×	1.025	=	$849
Docking or undocking	637	×	1.025	=	653
Any point on Niagara River below Black Rock Lock	1,626	×	1.025	=	1,667
Area 5, Southeast Shoal to Port Huron, MI between any point on or in					
Toledo or any point on Lake Erie W. of Southeast Shoal	1,382	×	1.025	=	1,417
Toledo or any point on Lake Erie W. of Southeast Shoal & Southeast Shoal	2,339	×	1.025	=	2,397
Toledo or any point on Lake Erie W. of Southeast Shoal & Detroit River	3,037	×	1.025	=	3,113
Toledo or any point on Lake Erie W. of Southeast Shoal & Detroit Pilot Boat	2,339	×	1.025	=	2,397
Port Huron Change Point & Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat)	4,074	×	1.025	=	4,176
Port Huron Change Point & Toledo or any point on Lake Erie W. of Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat)	4,719	×	1.025	=	4,837
Port Huron Change Point & Detroit River	3,060	×	1.025	=	3,137
Port Huron Change Point & Detroit Pilot Boat	2,381	×	1.025	=	2,441
Port Huron Change Point & St. Clair River	1,693	×	1.025	=	1,735
St. Clair River	1,382	×	1.025	=	1,417
St. Clair River & Southeast Shoal (when pilots are not changed at the Detroit Pilot Boat)	4,074	×	1.025	=	4,176
St. Clair River & Detroit River/Detroit Pilot Boat	3,060	×	1.025	=	3,137
Detroit, Windsor, or Detroit River	1,382	×	1.025	=	1,417
Detroit, Windsor, or Detroit River & Southeast Shoal	2,339	×	1.025	=	2,397
Detroit, Windsor, or Detroit River & Toledo or any point on Lake Erie W. of Southeast Shoal	3,037	×	1.025	=	3,113
Detroit, Windsor, or Detroit River & St. Clair River	3,060	×	1.025	=	3,137
Detroit Pilot Boat & Southeast Shoal	1,693	×	1.025	=	1,735
Detroit Pilot Boat & Toledo or any point on Lake Erie W. of Southeast Shoal	2,339	×	1.025	=	2,397
Detroit Pilot Boat & St. Clair River	3,060	×	1.025	=	3,137

TABLE 35—ADJUSTMENT OF PILOTAGE RATES, AREAS IN DISTRICT THREE

	2013 Rate		Rate multiplier		Adjusted rate for 2014
Area 6 Lakes Huron and Michigan					
6-hour Period	$691	×	1.025	=	$708
Docking or undocking	656	×	1.025	=	672
Area 7 St. Mary's River between any point on or in					
Gros Cap & De Tour	2,583	×	1.025	=	2,648
Algoma Steel Corp. Wharf, Sault Ste. Marie, Ont. & De Tour	2,583	×	1.025	=	2,648
Algoma Steel Corp. Wharf, Sault. Ste. Marie, Ont. & Gros Cap	973	×	1.025	=	997
Any point in Sault St. Marie, Ont., except the Algoma Steel Corp. Wharf & De Tour	2,165	×	1.025	=	2,219
Any point in Sault St. Marie, Ont., except the Algoma Steel Corp. Wharf & Gros Cap	973	×	1.025	=	997
Sault Ste. Marie, MI & De Tour	2,165	×	1.025	=	2,219
Sault Ste. Marie, MI & Gros Cap	973	×	1.025	=	997
Harbor movage	973	×	1.025	=	997
Area 8 Lake Superior					
6-hour period	586	×	1.025	=	601
Docking or undocking	557	×	1.025	=	571

VII. Regulatory Analyses

We developed this rule after considering numerous statutes and E.O.s related to rulemaking. Below we summarize our analyses based on these statutes or E.O.s.

A. Regulatory Planning and Review

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a significant regulatory action under section 3(f) of E.O. 12866 as supplemented by E.O. 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of E.O. 12866. The Office of Management and Budget (OMB) has not reviewed it under E.O. 12866. Nonetheless, we developed an analysis of the costs and benefits of the rule to ascertain its probable impacts on industry.

Based on comments received, the Coast Guard is adjusting the operating expense base in District One in order to account for an addition to the expense base of $4,360 for APA dues, as well as the inclusion of the 2011 license insurance cost ($52,232) in the expense base. However, because of our Step 7 discretionary adjustment to pilotage rates, which increases rates by 2.5 percent from the previous year in all three districts, these changes to the underlying data do not impact the final rates. Despite this increase in pilotage rates, as well as the implementation of a temporary, supplemental surcharge to traffic in District One of 3 percent, we estimate that shippers will experience a reduction in payments from the previous year of approximately $697,914 across all three districts as a result of an expected decrease in the demand for pilotage services from the previous year.[4]

A regulatory assessment follows.

The Coast Guard is required to review and adjust pilotage rates on the Great Lakes annually. See Parts III and IV of this preamble for detailed discussions of the Coast Guard's legal basis and purpose for this rulemaking, and for background information on Great Lakes pilotage ratemaking. Based on our annual review for this rulemaking, we are adjusting the pilotage rates for the 2014 shipping season to generate sufficient revenue to cover allowable expenses, and to target pilot compensation and returns on pilotage associations' investments. The rate adjustments in this final rule would, if codified, lead to an increase in the cost per unit of service to shippers in all three districts. Despite these rate increases, however, we estimate that shippers in Districts Two and Three will experience a decrease in payments from the previous year as a result of a decrease in demand for pilotage services. The reduction in payments that would occur in Districts Two and Three would outweigh the increase in payments in District One, which would result in an estimated annual decrease in payments by shippers of approximately $817,983 across all three districts.[5] After accounting for the implementation of a temporary 3 percent surcharge to traffic in District One, which is expected to generate $120,070, the annual payments made by shippers across all three districts for pilotage services are estimated to be approximately $697,914 less than the payments that were made in 2013.

The rule would apply the 46 CFR part 404, Appendix A, full ratemaking methodology, including the exercise of our discretion to increase Great Lakes pilotage rates, on average, approximately 2.5 percent overall in all three districts from the current rates set in the 2013 final rule. The Appendix A methodology is discussed and applied in detail in Part V of this preamble. Among other factors described in Part V, it reflects audited 2011 financial data from the pilotage associations (the most

[4] Total reduction in payments made by shippers across all three districts is equal to the costs from rate changes (−$817,983) plus a temporary surcharge to traffic in District One ($120,070).

[5] This annual reduction in payments is due to a projected decrease in the number of billeted pilots in Areas 6 and 8 from 2013 to 2014, as well as an overall decrease in the demand for pilotage services across all three districts. This decrease in the demand for pilotage services would reduce the projected revenue needed to cover costs and pilotage services.

recent year available for auditing), projected association expenses, and regional inflation or deflation. The last full Appendix A ratemaking was concluded in 2013 and used financial data from the 2010 base accounting year. The last annual rate review, conducted under 46 CFR part 404, Appendix C, was completed early in 2011.

The shippers affected by these rate adjustments are those owners and operators of domestic vessels operating on register (employed in foreign trade) and owners and operators of foreign vessels on routes in the Great Lakes system. These owners and operators must have pilots or pilotage service as required by 46 U.S.C. 9302. There is no minimum tonnage limit or exemption for these vessels. The Coast Guard's interpretation is that the statute applies only to commercial vessels and does not apply to recreational vessels.

Owners and operators of other vessels that are not affected by this rule, such as recreational boats and vessels operating only within the Great Lakes system, may elect to purchase pilotage services. However, this election is voluntary; it does not affect our calculation of the rate, and it is not a part of our estimated national cost to shippers. Our sampling of pilot data suggests that there are very few domestic vessels that do not have a registry and operate only in the Great Lakes that voluntarily purchase pilotage services.

We used 2010–2012 vessel arrival data from the Coast Guard's Marine Information for Safety and Law Enforcement (MISLE) system to estimate the average annual number of vessels affected by the rate adjustment. Using data from that period, we found that approximately 128 vessels journeyed into the Great Lakes system annually. These vessels entered the Great Lakes by transiting at least one of the three pilotage districts before leaving the Great Lakes system. These vessels often make more than one distinct stop, which include docking, loading, and unloading at facilities in Great Lakes ports. Of the total trips for the 128 vessels, there were approximately 353 annual U.S. port arrivals before the vessels left the Great Lakes system, based on 2010–2012 vessel data from MISLE.

The impact of the rate adjustment to shippers is estimated from the district pilotage revenues. These revenues represent the costs (''economic costs'') that shippers must pay for pilotage services. The Coast Guard sets rates so that revenues equal the estimated cost of pilotage for these services.

We estimate the additional impact (cost increases or cost decreases) of the rate adjustment in this rule to be the difference between the total projected revenue needed to cover costs in 2013, based on the 2013 rate adjustment, and the total projected revenue needed to cover costs in 2014, as set forth in this rule, plus any temporary surcharges authorized by the Coast Guard. Table 36 details projected revenue needed to cover costs in 2014 after making the discretionary adjustment to pilotage rates as discussed in Step 7 of Part VI of this preamble. Table 37 summarizes the derivation for calculating the 3 percent surcharge on District One traffic, as discussed earlier in this preamble. Table 38 details the additional cost increases or decreases by area and district as a result of the rate adjustments and the temporary surcharge to District One traffic.

TABLE 36—RATE ADJUSTMENT BY AREA AND DISTRICT

[$U.S.; Non-discounted]

	2013 pilotage rates[6]	*Rate change*[7]	*2014 pilotage rates*[8]	*Projected 2014 bridge hours*[9]	*Projected revenue needed in 2014*[10]
Area 1	$460.971	1.0250	$472.50	5,116	$2,417,285.09
Area 2	284.836	1.0250	291.96	5,429	1,585,032.47
Total, District One					4,002,317.56
Area 4	205.268	1.0250	210.40	5,814	1,223,261.97
Area 5	508.915	1.0250	521.64	5,052	2,635,314.21
Total, District Two					3,858,576.18
Area 6	199.954	1.0250	204.95	9,611	1,969,800.03
Area 7	482.940	1.0250	495.01	3,023	1,496,427.14
Area 8	186.670	1.0250	191.34	7,540	1,442,676.83
Total, District Three					4,908,904.00

* Some values may not total due to rounding.

TABLE 37—DERIVATION OF TEMPORARY SURCHARGE

	Area 1	Area 2
Projected Revenue Needed in 2014[11]	$2,417,285.09	$1,585,032.47
Surcharge Rate	3%	3%
Surcharge Raised	72,518.55	47,550.97

[6] These 2013 estimates are described in Table 15 of this final rule.

[7] The estimated rate changes are described in Table 32 of this rule.

[8] 2014 Pilotage Rates = *2013 Pilotage Rates* × *Rate Change.*

[9] These 2014 estimates are detailed in Table 13 of this final rule.

[10] Projected Revenue needed in 2014 = *2014 Pilotage Rates* × *Projected 2014 Bridge Hours.*

TABLE 37—DERIVATION OF TEMPORARY SURCHARGE—Continued

	Area 1	Area 2
Total Surcharge	120,069.53	

TABLE 38—CHANGE IN PAYMENTS BY SHIPPERS FROM THE PREVIOUS YEAR BY AREA AND DISTRICT

[$U.S.; Non-discounted]

	Projected revenue needed in 2013	*Projected revenue needed in 2014*	*Temporary surcharge*[12]	*Additional costs or savings of this proposed rule*
Area 1	$2,404,424	$2,417,285	$72,519	$85,380
Area 2	1,569,160	1,585,032	47,551	63,423
Total, District One	3,973,584	4,002,318	120,070	148,803
Area 4	1,398,694	1,223,262		(175,432)
Area 5	2,596,484	2,635,314		38,830
Total, District Two	3,995,178	3,858,576		(136,602)
Area 6	2,281,673	1,969,800		(311,873)
Area 7	1,556,517	1,496,427		(60,090)
Area 8	1,780,829	1,442,677		(338,152)
Total, District Three	5,619,019	4,908,904		(710,115)

* Some values may not total due to rounding.

After applying the discretionary rate change in this final rule, the resulting difference between the projected revenue in 2013 and the projected revenue in 2014 is the annual change in payments from shippers to pilots after accounting for market conditions (i.e., a decrease in demand for pilotage services) and the change to pilotage rates as a result of this final rule. This figure is equivalent to the total additional payments or reduction in payments from the previous year that shippers would incur for pilotage services.

The impact of the discretionary rate adjustments in this final rule to shippers varies by area and district. Although the discretionary rate adjustments would lead to affected shippers experiencing an increase in payments for pilotage services in all three districts, when combined with the overall decrease in demand for pilotage services across all three districts, only shippers operating in District One are estimated to experience an increase in payments of $28,733.56, while affected shippers operating in District Two and District Three would experience a reduction in payments of $136,602.82 and $710,115.00, respectively from the previous year. This decrease in demand is projected to result in a decrease in the number of billeted pilots in Areas 6 and 8 from 2013 to 2014, which consequently would lead to a decrease in payments despite the increase in pilotage rates.

In addition to the rate adjustments, District One would incur a temporary surcharge to traffic for the duration of the 2014 season. In District One, shippers would incur a temporary 3 percent surcharge in order for the district's pilot association to recover training expenses incurred in 2012. We estimate that this surcharge would generate $120,070 in District One. At the end of the 2014 shipping season, we will account for the monies the surcharge generates and make adjustments (debits/credits) to the operating expenses for the following year.[13]

To calculate an exact cost or cost reduction per vessel is difficult because of the variation in vessel types, routes, port arrivals, commodity carriage, time of season, conditions during navigation, and preferences for the extent of pilotage services on designated and undesignated portions of the Great Lakes system. Some owners and operators would pay more and some would pay less, depending on the distance and the number of port arrivals of their vessels' trips. However, the decrease in costs reported earlier in this final rule does capture the adjustment in payments that shippers would experience from the previous year. The overall adjustment in payments, after taking into account: (1) The decrease in demand for pilotage services; (2) the increase in pilotage rates; and (3) the addition of a temporary surcharge in District One, would be a reduction in payments by shippers of approximately $697,914 across all three districts.

This final rule would allow the Coast Guard to meet the statutory requirements to review the rates for pilotage services on the Great Lakes, ensuring proper pilot compensation.

Alternatively, if we instead imposed the new rates based on the new contract data from AMOU, there would be an approximately 11 percent decrease in rates across the system. This would have a much more detrimental effect on pilots, as payments from shippers would decrease by approximately $2,308,184. In contrast, as discussed above, if the discretionary 2.5 percent increase is applied to traffic in Districts One, Two, and Three, the payment from shippers only decreases by $697,914. Table 39 details projected revenue needed to cover costs in 2014 if the discretionary adjustment to pilotage rates as discussed in Step 7 of Part VI of this preamble is not made. Table 40 details the changes in payments to pilots from the previous year, by area and district, after accounting for: (1) A decrease in demand for pilotage services; (2) an increase in pilotage rates

[11] These estimates are derived in Table 36 of this final rule.

[12] These estimates are derived in Table 37 of this final rule.

[13] Assuming our estimate is correct, we would credit: District One shippers $71,075 at the end of the 2014 season in order to account for the difference between the total surcharges collected ($120,070) and the actual expenses incurred by District One pilots ($48,995 (training)).

across all three districts; and (3) the addition of a temporary surcharge applied to traffic in District One.

TABLE 39—ALTERNATIVE RATE ADJUSTMENT BY AREA AND DISTRICT

[$U.S.; Non-discounted]

	2013 Pilotage rates	*Rate change*[14]	*2014 Pilotage rates*	*Projected 2014 bridge hours*	*Projected revenue needed in 2014*[15]
Area 1	$460.97	0.8753	$403.47	5,116	$2,064,171
Area 2	284.84	0.8535	243.10	5,429	1,319,791
Total, District One					3,383,963
Area 4	205.27	1.0039	206.07	5,814	1,198,107
Area 5	508.91	0.8417	428.35	5,052	2,164,002
Total, District Two					3,362,110
Area 6	199.95	0.9966	199.27	9,611	1,915,207
Area 7	482.94	0.8539	412.39	3,023	1,246,659
Area 8	186.67	0.9024	168.45	7,540	1,270,140
Total, District Three					4,432,006

* Some values may not total due to rounding.

TABLE 40—ALTERNATIVE CHANGE IN PAYMENTS BY SHIPPERS FROM THE PREVIOUS YEAR BY AREA AND DISTRICT

[$U.S.; Non-discounted]

	Projected revenue needed in 2013 (A)	*Projected revenue needed in 2014* (B)	*Temporary surcharge* (C)	*Total increase or decrease in payments* (B − A) + C
Area 1	$2,404,424	$2,064,171	$61,925	($278,328)
Area 2	1,569,160	1,319,791	39,594	(209,775)
Total, District One	3,973,584	3,383,963	101,519	(488,102)
Area 4	1,398,694	1,198,107		(200,587)
Area 5	2,596,484	2,164,002		(432,482)
Total, District Two	3,995,178	3,362,110		(633,068)
Area 6	2,281,673	1,915,207		(366,466)
Area 7	1,556,517	1,246,659		(309,858)
Area 8	1,780,829	1,270,140		(510,689)
Total, District Three	5,619,019	4,432,006		(1,187,013)

* Some values may not total due to rounding.

We reject this alternative because a substantial decrease in payments by shippers would jeopardize the ability of the three pilotage associations to provide safe, efficient, and reliable pilotage services, and it would violate the Memorandum of Arrangements, which calls for the United States' and Canada's pilotage rates to be comparable. See our discussion of Step 7 in Part VI of this preamble for further explanation.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

We expect that entities affected by the rule would be classified under the North American Industry Classification System (NAICS) code subsector 483—Water Transportation, which includes the following 6-digit NAICS codes for freight transportation: 483111—Deep Sea Freight Transportation, 483113—Coastal and Great Lakes Freight Transportation, and 483211—Inland Water Freight Transportation. According to the Small Business Administration's definition, a U.S. company with these NAICS codes and

[14] The estimated rate changes are described in Table 32 of this preamble.

[15] Projected Revenue needed in 2014 = 2014 Pilotage Rates × Projected 2014 Bridge Hours.

employing less than 500 employees is considered a small entity.

For the final rule, we reviewed recent company size and ownership data from 2010–2012 Coast Guard MISLE data, and business revenue and size data provided by publicly available sources such as Manta and Reference USA. We found that large, foreign-owned shipping conglomerates or their subsidiaries owned or operated all vessels engaged in foreign trade on the Great Lakes. We assume that new industry entrants would be comparable in ownership and size to these shippers.

There are three U.S. entities affected by this final rule that receive revenue from pilotage services. These are the three pilotage associations that provide and manage pilotage services within the Great Lakes districts. Two of the associations operate as partnerships and one operates as a corporation. These associations are designated with the same NAICS industry classification and small-entity size standards described above, but they have fewer than 500 employees; combined, they have approximately 65 total employees. We expect no adverse impact to these entities from this final rule because all associations receive enough revenue to balance the projected expenses associated with the projected number of bridge hours and pilots.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule would not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we offered to assist small entities in understanding this rule so that they could better evaluate its effects on them and participate in the rulemaking. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the Coast Guard (see **FOR FURTHER INFORMATION CONTACT**). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. This rule does not change the burden in the collection currently approved by the OMB under Control Number 1625–0086, Great Lakes Pilotage Methodology.

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. Our analysis is explained below.

Congress directed the Coast Guard to establish ''rates and charges for pilotage services.'' 46 U.S.C. 9303(f). This regulation is issued pursuant to that statute and is preemptive of State law as outlined in 46 U.S.C. 9306. Under 46 U.S.C. 9306, a ''State or political subdivision of a State may not regulate or impose any requirement on pilotage on the Great Lakes.'' Because States may not promulgate rules within this category, the rule is consistent with the principles of federalism and preemption requirements in Executive Order 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to have exclusive authority to promulgate regulations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with federalism implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this rule has implications for federalism under Executive Order 13132, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

F. Unfunded Mandates Reform Act

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

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under E.O. 12630 (''Governmental Actions and Interference with Constitutionally Protected Property Rights'').

H. Civil Justice Reform

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

I. Protection of Children

We have analyzed this rule under E.O. 13045 (''Protection of Children from Environmental Health Risks and Safety Risks''). This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

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

K. Energy Effects

We have analyzed this rule under E.O. 13211 (''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''). We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under E.O. 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using

these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under DHS Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969, 42 U.S.C. 4321–4370f, and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A final environmental analysis checklist supporting this determination is available in the docket where indicated under the **ADDRESSES** section of this preamble.

List of Subjects in 46 CFR Part 401

Administrative practice and procedure, Great Lakes, Navigation (water), Penalties, Reporting and recordkeeping requirements, Seamen.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR part 401 as follows:

PART 401—GREAT LAKES PILOTAGE REGULATIONS

■ 1. The authority citation for part 401 continues to read as follows:

Authority: 46 U.S.C. 2104(a), 6101, 7701, 8105, 9303, 9304; Department of Homeland Security Delegation No. 0170.1; 46 CFR 401.105 also issued under the authority of 44 U.S.C. 3507.

■ 2. In § 401.400, revise paragraph (b) to read as follows:

§ 401.400 Calculation of pilotage units and determination of weighting factor.

* * * * *

(b) Weighting factor table:

Range of pilotage units	Weighting factor
0–49	1.0
50–159	1.15
160–189	1.30
190–and over	1.45

* * * * *

■ 3. Add § 401.401 to read as follows:

§ 401.401 Surcharges.

To facilitate safe, efficient, and reliable pilotage, and for good cause, the Director may authorize surcharges on any rate or charge authorized by this subpart. Surcharges must be proposed for prior public comment and may not be authorized for more than 1 year.

■ 4. In § 401.405, revise paragraphs (a) and (b), including the footnote to paragraph (a) to read as follows:

§ 401.405 Basic rates and charges on the St. Lawrence River and Lake Ontario.

* * * * *

(a) Area 1 (Designated Waters):

Service	St. Lawrence River
Basic Pilotage	$19.22 per kilometer or $34.02 per mile.[1]
Each Lock Transited	426.[1]
Harbor Movage	1,395.[1]

[1] The minimum basic rate for assignment of a pilot in the St. Lawrence River is $931, and the maximum basic rate for a through trip is $4,084.

(b) Area 2 (Undesignated Waters):

Service	Lake Ontario
6-hour Period	$872
Docking or Undocking	832

■ 5. In § 401.407, revise paragraphs (a) and (b) to read as follows:

§ 401.407 Basic rates and charges on Lake Erie and the navigable waters from Southeast Shoal to Port Huron, MI.

* * * * *

(a) Area 4 (Undesignated Waters):

Service	Lake Erie (East of Southeast Shoal)	Buffalo
6-hour Period	$849	$849
Docking or Undocking	653	653
Any point on the Niagara River below the Black Rock Lock	N/A	1,667

(b) Area 5 (Designated Waters):

Any point on or in	Southeast Shoal	Toledo or any point on Lake Erie west of Southeast Shoal	Detroit River	Detroit Pilot Boat	St. Clair River
Toledo or any port on Lake Erie west of Southeast Shoal	$2,397	$1,417	$3,113	$2,397	N/A
Port Huron Change Point	[1] 4,176	[1] 4,837	3,137	2,441	1,735
St. Clair River	[1] 4,176	N/A	3,137	3,137	1,417
Detroit or Windsor or the Detroit River	2,397	3,113	1,417	N/A	3,137
Detroit Pilot Boat	1,735	2,397	N/A	N/A	3,137

[1] When pilots are not changed at the Detroit Pilot Boat.

■ 6. In § 401.410, revise paragraphs (a), (b), and (c) to read as follows:

§ 401.410 Basic rates and charges on Lakes Huron, Michigan, and Superior; and the St. Mary's River.

* * * * *

(a) Area 6 (Undesignated Waters):

Service	Lakes Huron and Michigan
6-hour Period	$708

Service	Lakes Huron and Michigan
Docking or Undocking	672

(b) Area 7 (Designated Waters):

Area	De tour	Gros cap	Any harbor
Gros Cap	$2,648	N/A	N/A
Algoma Steel Corporation Wharf at Sault Ste. Marie, Ontario	2,648	997	N/A

Area	De tour	Gros cap	Any harbor
Any point in Sault Ste. Marie, Ontario, except the Algoma Steel Corporation Wharf	2,219	997	N/A
Sault Ste. Marie, MI	2,219	997	N/A
Harbor Movage	N/A	N/A	997

(c) Area 8 (Undesignated Waters):

Service	Lake Superior
6-hour Period	$601
Docking or Undocking	571

§ 401.420 [Amended]

■ 7. Amend § 401.420 as follows:
■ a. In paragraph (a), remove the text ''$126'' and add, in its place, the text ''$129''; and remove the text ''$1,972'' and add, in its place, the text ''$2,021'';
■ b. In paragraph (b), remove the text ''$126'' and add, in its place, the text ''$129''; and remove the text ''$1,972'' and add, in its place, the text ''$2,021''; and
■ c. In paragraph (c)(1), remove the text ''$744'' and add, in its place, the text ''$763''; and in paragraph (c)(3), remove the text ''$126'' and add, in its place, the text ''$129'', and remove the text ''$1,972'' and add, in its place, the text ''$2,021''.

§ 401.428 [Amended]

■ 8. In § 401.428, remove the text ''$744'' and add, in its place, the text ''$763''.

Dated: February 25, 2014.

Gary C. Rasicot,

Director, Marine Transportation Systems Management, U.S. Coast Guard.

[FR Doc. 2014–04591 Filed 2–28–14; 11:15 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 131021878–4158–02]

RIN 0648–XC927

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; 2014 and 2015 Harvest Specifications for Groundfish

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

ACTION: Final rule; specifications and closures.

SUMMARY: NMFS announces final 2014 and 2015 harvest specifications, prohibited species catch allowances, and closures for the groundfish fishery of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to establish harvest limits for groundfish during the 2014 and 2015 fishing years, and to accomplish the goals and objectives of the Fishery Management Plan for Groundfish of the BSAI (FMP). The intended effect of this action is to conserve and manage the groundfish resources in the BSAI in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Specifications and closures are effective from 1200 hrs, Alaska local time (A.l.t.), March 4, 2014, through 2400 hrs, A.l.t., December 31, 2015.

ADDRESSES: Electronic copies of the Alaska Groundfish Harvest Specifications Final Environmental Impact Statement (EIS), Record of Decision (ROD), Supplementary Information Report (SIR) to the EIS, and the Final Regulatory Flexibility Analysis (FRFA) prepared for this action are available from *http://alaskafisheries.noaa.gov.* The final 2013 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the BSAI, dated November 2013, as well as the SAFE reports for previous years, are available from the North Pacific Fishery Management Council (Council) at 605 West 4th Avenue, Suite 306, Anchorage, AK 99510–2252, (phone) 907–271–2809, or from the Council's Web site at *http://www.npfmc.org/.*

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

SUPPLEMENTARY INFORMATION: Federal regulations at 50 CFR part 679 implement the FMP and govern the groundfish fisheries in the BSAI. The Council prepared the FMP, and NMFS approved it under the Magnuson-Stevens Act. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify the total allowable catch (TAC) for each target species category. The sum TAC for all groundfish species must be within the optimum yield (OY) range of 1.4 million to 2.0 million metric tons (mt) (see § 679.20(a)(1)(i)). This final rule specifies the TAC at 2.0 million mt for both 2014 and 2015. NMFS also must specify apportionments of TAC, prohibited species catch (PSC) allowances, and prohibited species quota (PSQ) reserves established by § 679.21; seasonal allowances of pollock, Pacific cod, and Atka mackerel TAC; Amendment 80 allocations; and Community Development Quota (CDQ) reserve amounts established by § 679.20(b)(1)(ii). The final harvest specifications set forth in Tables 1 through 22 of this action satisfy these requirements.

Section 679.20(c)(3)(i) further requires NMFS to consider public comment on the proposed annual TACs (and apportionments thereof) and PSC allowances, and to publish final harvest specifications in the **Federal Register**. The proposed 2014 and 2015 harvest specifications and PSC allowances for the groundfish fishery of the BSAI were published in the **Federal Register** on December 10, 2013 (78 FR 74063). Comments were invited and accepted through January 9, 2014. NMFS received one letter with one comment on the proposed harvest specifications. This comment is summarized and responded to in the ''Response to Comments'' section of this rule. NMFS consulted with the Council on the final 2014 and 2015 harvest specifications during the December 2013 Council meeting in Anchorage, AK. After considering public comments, as well as biological and economic data that were available at the Council's December meeting, NMFS is implementing the final 2014 and 2015 harvest specifications as recommended by the Council.

Acceptable Biological Catch (ABC) and TAC Harvest Specifications

The final ABC levels for Alaska groundfish are based on the best available biological and socioeconomic information, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass. In general, the development of ABCs and overfishing levels (OFLs) involves sophisticated statistical analyses of fish populations. The FMP specifies a series of six tiers to define OFL and ABC amounts based on the level of reliable information available to fishery scientists. Tier 1 represents the highest level of

information quality available while Tier 6 represents the lowest.

In December 2013, the Scientific and Statistical Committee (SSC), Advisory Panel (AP), and Council reviewed current biological and harvest information about the condition of the BSAI groundfish stocks. The Council's Plan Team compiled and presented this information in the final 2013 SAFE report for the BSAI groundfish fisheries, dated November 2013 (see **ADDRESSES**). The SAFE report contains a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters, as well as summaries of the available information on the BSAI ecosystem and the economic condition of groundfish fisheries off Alaska. NMFS notified the public and asked for review of the SAFE report in the notice of proposed harvest specifications. From these data and analyses, the Plan Team recommended an OFL and ABC for each species or species category at the November 2013 Plan Team meeting.

In December 2013, the SSC, AP, and Council reviewed the Plan Team's recommendations. The final TAC recommendations were based on the ABCs as adjusted for other biological and socioeconomic considerations, including maintaining the sum of the TACs within the required OY range of 1.4 million to 2.0 million mt. As required by annual catch limit rules for all fisheries (74 FR 3178, January 16, 2009), none of the Council's recommended TACs for 2014 or 2015 exceeds the final 2014 or 2015 ABCs for any species category. The final 2014 and 2015 harvest specifications approved by the Secretary of Commerce are unchanged from those recommended by the Council and are consistent with the preferred harvest strategy alternative in the EIS (see **ADDRESSES**). NMFS finds that the Council's recommended OFLs, ABCs, and TACs are consistent with the biological condition of groundfish stocks as described in the 2013 SAFE report that was approved by the Council.

Other Actions Potentially Affecting the 2014 and 2015 Harvest Specifications

The Council has recommended Amendment 105 to the FMP, and NMFS is currently developing the proposed rule for this action. This action could create ABC reserves for CDQ groups and Amendment 80 cooperatives for flathead sole, rock sole, and yellowfin sole for 2015. These entities would be able to exchange their quota share of one of the three species (flathead sole, rock sole, and/or yellowfin sole) for an equivalent amount of their allocation of the ABC reserves for another species (flathead sole, rock sole, and/or yellowfin sole). The approach is intended to increase the opportunity for maximizing the harvest of these species, while ensuring that the overall 2 million mt OY, and ABCs for each individual species, are not exceeded. If the action is approved by the Secretary and implemented for 2015, then the harvest specifications will include CDQ and Amendment 80 allocations of the ABC reserves for these species.

For 2014, the Board of Fisheries (BOF) for the State of Alaska (State) established a Pacific cod guideline harvest level (GHL) in State waters between 164 and 167 degrees west longitude in the Bering Sea (BS) subarea. The Pacific cod GHL in this area is equal to 3 percent of the sum of the Pacific cod ABCs for the Aleutian Islands (AI) and the BS. To account for the State GHL fishery in 2014 and 2015, the Council reduced the final BS subarea TAC by three percent of the combined BS and AI subarea ABCs. The combined BS subarea TAC and GHL (255,000 mt) equal the final BS subarea ABC.

For 2014, the BOF for the State established a Pacific cod GHL in State waters in the AI subarea. The Pacific cod GHL in this area is equal to 3 percent of the sum of the Pacific cod ABCs for the AI and the BS. To account for the State GHL fishery in 2014 and 2015, the Council reduced the final AI subarea TAC by 3 percent of the combined BS and AI subarea ABCs. The combined AI TAC and GHL (15,100 mt) equal the final AI subarea ABC.

Changes From the Proposed 2014 and 2015 Harvest Specifications for the BSAI

In October 2013, the Council proposed its recommendations for the 2014 and 2015 harvest specifications (78 FR 74063, December 10, 2013), based largely on information contained in the 2012 SAFE report for the BSAI groundfish fisheries. Through the proposed harvest specifications, NMFS notified the public that these harvest specifications could change, as the Council would consider information contained in the final 2013 SAFE report, recommendations from the Plan Team, SSC, and AP committees, and public testimony when making its recommendations for final harvest specifications at the December Council meeting. NMFS further notified the public that, as required by the FMP and its implementing regulations, the sum of the TACs must be within the OY range of 1.4 million and 2.0 million mt.

Information contained in the 2013 SAFE reports indicates biomass changes for several groundfish species from the 2012 SAFE reports. At the December 2013 Council meeting, the SSC recommended the 2014 and 2015 ABCs for many species based on the best and most recent information contained in the 2013 SAFE reports. This recommendation resulted in an ABC sum total for all BSAI groundfish species in excess of 2 million mt for both 2014 and 2015. Based on the SSC ABC recommendations and the 2013 SAFE reports, the Council recommends increasing Bering Sea pollock by 14,500 mt. In terms of percentage, the largest increases in TACs were for Eastern Aleutian district and Bering Sea (EAI/BS) Atka mackerel and Central Aleutian district (CAI) Atka mackerel. Both of these fisheries are valuable and likely to be harvested to the full TAC available. The Council increased these TACs due to increased biomass estimates and because the TACs were fully harvested in 2013. Conversely, the largest decrease in TAC in terms of tonnage is 16,000 mt for yellowfin sole. In terms of percentage change from the proposed TACs, Bogoslof pollock, rock sole, ''other flatfish,'' northern rockfish, shortraker rockfish, Western Aleutian district (WAI) Atka mackerel, sharks, squids, and octopuses had the largest decreases in TAC. The Council decreased TACs for these species due to decreased biomass estimates, and because they were not fully harvested in 2013. The changes to TAC between the proposed and final harvest specifications are based on the most recent scientific and economic information and are consistent with the FMP, regulatory obligations, and harvest strategy as described in the proposed harvest specifications. These changes are compared in Table 1A.

Table 1 lists the Council's recommended final 2014 and 2015 OFL, ABC, TAC, initial TAC (ITAC), and CDQ reserve amounts of the BSAI groundfish. NMFS concurs in these recommendations. The final 2014 and 2015 TAC recommendations for the BSAI are within the OY range established for the BSAI and do not exceed the ABC for any species or species group. The apportionment of TAC amounts among fisheries and seasons is discussed below.

TABLE 1–FINAL 2014 AND 2015 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND CDQ RESERVE ALLOCATION OF GROUNDFISH IN THE BSAI [1]

[Amounts are in metric tons]

Species	Area	2014					2015				
		OFL	ABC	TAC	ITAC [2]	CDQ [3]	OFL	ABC	TAC	ITAC [2]	CDQ [3]
Pollock [4]	BS	2,795,000	1,369,000	1,267,000	1,140,300	126,700	2,693,000	1,258,000	1,258,000	1,132,200	125,800
	AI	42,811	35,048	19,000	17,100	1,900	47,713	39,412	19,000	17,100	1,900
	Bogoslof	13,413	10,059	75	75	0	13,413	10,059	75	75	0
Pacific cod [5]	BS	299,000	255,000	246,897	220,479	26,418	319,000	272,000	251,712	224,779	26,933
	AI	20,100	15,100	6,997	6,248	749	20,100	15,100	6,487	5,793	694
Sablefish	BS	1,584	1,339	1,339	1,105	184	1,432	1,210	1,210	514	45
	AI	2,141	1,811	1,811	1,471	306	1,936	1,636	1,636	348	31
Yellowfin sole	BSAI	259,700	239,800	184,000	164,312	19,688	268,900	248,300	187,000	166,991	20,009
Greenland turbot	BSAI	2,647	2,124	2,124	1,805	n/a	3,864	3,173	3,173	2,697	n/a
	BS	n/a	1,659	1,659	1,410	178	n/a	2,478	2,478	2,106	265
	AI	n/a	465	465	395	0	n/a	695	695	591	0
Arrowtooth flounder	BSAI	125,642	106,599	25,000	21,250	2,675	125,025	106,089	25,000	21,250	2,675
Kamchatka flounder	BSAI	8,270	7,100	7,100	6,035	0	8,500	7,300	7,300	6,205	0
Rock sole	BSAI	228,700	203,800	85,000	75,905	9,095	213,310	190,100	85,000	75,905	9,095
Flathead sole [6]	BSAI	79,633	66,293	24,500	21,879	2,622	77,023	64,127	25,129	22,440	2,689
Alaska plaice	BSAI	66,800	55,100	24,500	20,825	0	66,300	54,700	25,000	21,250	0
Other flatfish [7]	BSAI	16,700	12,400	2,650	2,253	0	16,700	12,400	3,000	2,550	0
Pacific ocean perch	BSAI	39,585	33,122	33,122	29,248	n/a	37,817	31,641	31,641	27,940	n/a
	BS	n/a	7,684	7,684	6,531	0	n/a	7,340	7,340	6,239	0
	EAI	n/a	9,246	9,246	8,257	989	n/a	8,833	8,833	7,888	945
	CAI	n/a	6,594	6,594	5,888	706	n/a	6,299	6,299	5,625	674
	WAI	n/a	9,598	9,598	8,571	1,027	n/a	9,169	9,169	8,188	981
Northern rockfish	BSAI	12,077	9,761	2,594	2,205	0	11,943	9,652	3,000	2,550	0
Rougheye rockfish [8]	BSAI	505	416	416	354	0	580	478	478	406	0
	EBS/EAI	n/a	177	177	150	0	n/a	201	201	171	0
	CAI/WAI	n/a	239	239	203	0	n/a	277	277	235	0
Shortraker rockfish	BSAI	493	370	370	315	0	493	370	370	315	0
Other rockfish [9]	BSAI	1,550	1,163	773	657	0	1,550	1,163	873	742	0
	BS	n/a	690	300	255	0	n/a	690	400	340	0
	AI	n/a	473	473	402	0	n/a	473	473	402	0
Atka mackerel	BSAI	74,492	64,131	32,322	27,971	3,458	74,898	64,477	32,491	29,014	3,477
	EAI/BS	n/a	21,652	21,652	19,335	2,317	n/a	21,769	21,769	19,440	2,329
	CAI	n/a	20,574	9,670	8,635	1,035	n/a	20,685	9,722	8,682	1,040
	WAI	n/a	21,905	1,000	893	107	n/a	22,023	1,000	893	107
Skates	BSAI	41,849	35,383	26,000	22,100	0	39,746	33,545	26,000	22,100	0
Sculpins	BSAI	56,424	42,318	5,750	4,888	0	56,424	42,318	5,750	4,888	0
Sharks	BSAI	1,363	1,022	125	106	0	1,363	1,022	125	106	0
Squids	BSAI	2,624	1,970	310	264	0	2,624	1,970	325	276	0
Octopuses	BSAI	3,450	2,590	225	191	0	3,450	2,590	225	191	0
Total		4,196,553	2,572,819	2,000,000	1,789,338	196,694	4,107,104	2,472,832	2,000,000	1,788,625	196,213

[1] These amounts apply to the entire BSAI management area unless otherwise specified. With the exception of pollock, and for the purpose of these harvest specifications, the Bering Sea (BS) subarea includes the Bogoslof District.

[2] Except for pollock, the portion of the sablefish TAC allocated to hook-and-line and pot gear, and Amendment 80 species, 15 percent of each TAC is put into a reserve. The ITAC for these species is the remainder of the TAC after the subtraction of these reserves. For pollock and Amendment 80 species, ITAC is the non-CDQ allocation of TAC (see footnotes 3 and 5).

[3] For the Amendment 80 species (Atka mackerel, flathead sole, rock sole, yellowfin sole, Pacific cod, and Aleutian Islands Pacific ocean perch), 10.7 percent of the TAC is reserved for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31). Twenty percent of the sablefish TAC allocated to hook-and-line gear or pot gear, 7.5 percent of the sablefish TAC allocated to trawl gear, and 10.7 percent of the TACs for Bering Sea Greenland turbot and arrowtooth flounder are reserved for use by CDQ participants (see § 679.20(b)(1)(ii)(B) and (D)). Aleutian Islands Greenland turbot, ''other flatfish,'' Alaska plaice, Bering Sea Pacific ocean perch, northern rockfish, shortraker rockfish, rougheye rockfish, ''other rockfish,'' skates, sculpins, sharks, squids, and octopuses are not allocated to the CDQ program.

[4] Under § 679.20(a)(5)(i)(A)(*1*), the annual BS subarea pollock TAC after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (3.4 percent), is further allocated by sector for a pollock directed fishery as follows: inshore—50 percent; catcher/processor—40 percent; and motherships—10 percent. Under § 679.20(a)(5)(iii)(B)(*2*)(*i*) and (*ii*), the annual Aleutian Islands subarea pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (2,000 mt) is allocated to the Aleut Corporation for a pollock directed fishery.

[5] The BS Pacific cod TAC is reduced by 3 percent from the combined BSAI ABC to account for the State of Alaska's (State) guideline harvest level in State waters of the Bering Sea subarea. The AI Pacific cod TAC is reduced by 3 percent from the combined BSAI ABC to account for the State guideline harvest level in State waters of the Aleutian Islands subarea.

[6] ''Flathead sole'' includes *Hippoglossoides elassodon* (flathead sole) and *Hippoglossoides robustus* (Bering flounder).

[7] ''Other flatfish'' includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, arrowtooth flounder, Kamchatka flounder, and Alaska plaice.

[8] ''Rougheye rockfish'' includes *Sebastes aleutianus* (rougheye) and *Sebastes melanostictus* (blackspotted).

[9] ''Other rockfish'' includes all Sebastes and Sebastolobus species except for Pacific ocean perch, northern rockfish, dark rockfish, shortraker rockfish, and rougheye rockfish.

Note: Regulatory areas and districts are defined at § 679.2 (BS=Bering Sea subarea, AI=Aleutian Islands subarea, EAI=Eastern Aleutian district, CAI=Central Aleutian district, WAI=Western Aleutian district.)

TABLE 1A—COMPARISON OF FINAL 2014 AND 2015 WITH PROPOSED 2014 AND 2015 TOTAL ALLOWABLE CATCH IN THE BSAI

[Amounts are in metric tons]

Species	Area [1]	2014 final TAC	2014 proposed TAC	2014 difference from proposed	2015 final TAC	2015 proposed TAC	2015 difference from proposed
Pollock	BS	1,267,000	1,252,500	14,500	1,258,000	1,252,500	5,500
	AI	19,000	19,000	0	19,000	19,000	0
	Bogoslof	75	100	−25	75	100	−25
Pacific cod	BS	246,897	245,000	1,897	251,712	245,000	6,712
	AI	6,997	7,381	−384	6,487	7,381	−894
Sablefish	BS	1,339	1,480	−141	1,210	1,480	−270
	AI	1,811	2,010	−199	1,636	2,010	−374
Yellowfin sole	BSAI	184,000	200,000	−16,000	187,000	200,000	−13,000
Greenland turbot	BS	1,659	1,610	49	2,478	1,610	868
	AI	465	450	15	695	450	245
Arrowtooth flounder	BSAI	25,000	25,000	0	25,000	25,000	0
Kamchatka flounder	BSAI	7,100	7,100	0	7,300	7,100	200

TABLE 1A—COMPARISON OF FINAL 2014 AND 2015 WITH PROPOSED 2014 AND 2015 TOTAL ALLOWABLE CATCH IN THE BSAI—Continued

[Amounts are in metric tons]

Species	Area [1]	2014 final TAC	2014 proposed TAC	2014 difference from proposed	2015 final TAC	2015 proposed TAC	2015 difference from proposed
Rock sole	BSAI	85,000	94,569	−9,569	85,000	94,569	−9,569
Flathead sole	BSAI	24,500	22,699	1,801	25,129	22,699	2,430
Alaska plaice	BSAI	24,500	23,700	800	25,000	23,700	1,300
Other flatfish	BSAI	2,650	3,500	−850	3,000	3,500	−500
Pacific ocean perch	BS	7,684	7,680	4	7,340	7,680	−340
	EAI	9,246	9,240	6	8,833	9,240	−407
	CAI	6,594	6,590	4	6,299	6,590	−291
	WAI	9,598	9,590	8	9,169	9,590	−421
Northern rockfish	BSAI	2,594	3,000	−406	3,000	3,000	0
Rougheye rockfish	BS/EAI	177	189	−12	201	189	12
	CAI/WAI	239	240	−1	277	240	37
Shortraker rockfish	BSAI	370	370	0	370	370	0
Other rockfish	BS	300	400	−100	400	400	0
	AI	473	473	0	473	473	0
Atka mackerel	EAI/BS	21,652	16,500	5,152	21,769	16,500	5,269
	CAI	9,670	7,379	2,291	9,722	7,379	2,343
	WAI	1,000	1,500	−500	1,000	1,500	−500
Skates	BSAI	26,000	24,000	2,000	26,000	24,000	2,000
Sculpins	BSAI	5,750	5,600	150	5,750	5,600	150
Sharks	BSAI	125	150	−25	125	150	−25
Squid	BSAI	310	500	−190	325	500	−175
Octopuses	BSAI	225	500	−275	225	500	−275
Total	BSAI	2,000,000	2,000,000	0	2,000,000	2,000,000	0

[1] Bering Sea subarea (BS), Aleutian Islands subarea (AI), Bering Sea and Aleutian Islands management area (BSAI), Eastern Aleutian District (EAI), Central Aleutian District (CAI), and Western Aleutian District (WAI).

Groundfish Reserves and the Incidental Catch Allowance (ICA) for Pollock, Atka Mackerel, Flathead Sole, Rock Sole, Yellowfin Sole, and Aleutian Islands Pacific Ocean Perch

Section 679.20(b)(1)(i) requires NMFS to reserve 15 percent of the TAC for each target species, except for pollock, hook-and-line and pot gear allocation of sablefish, and Amendment 80 species, in a non-specified reserve. Section 679.20(b)(1)(ii)(B) requires that NMFS allocate 20 percent of the hook-and-line and pot gear allocation of sablefish for the fixed-gear sablefish CDQ reserve. Section 679.20(b)(1)(ii)(D) requires that NMFS allocate 7.5 percent of the trawl gear allocations of sablefish and 10.7 percent of the Bering Sea Greenland turbot and arrowtooth flounder TACs to the respective CDQ reserves. Section 679.20(b)(1)(ii)(C) requires that NMFS allocate 10.7 percent of the TAC for Atka mackerel, Aleutian Islands Pacific ocean perch, yellowfin sole, rock sole, flathead sole, and Pacific cod to the CDQ reserves. Sections 679.20(a)(5)(i)(A) and 679.31(a) also require that 10 percent of the BSAI pollock TACs be allocated to the pollock CDQ directed fishing allowance (DFA). The entire Bogoslof District pollock TAC is allocated as an ICA (see § 679.20(a)(5)(ii)). With the exception of the hook-and-line and pot gear sablefish CDQ reserve, the regulations do not further apportion the CDQ allocations by gear.

Pursuant to § 679.20(a)(5)(i)(A)(*1*), NMFS allocates a pollock ICA of 3.4 percent of the BS subarea pollock TAC after subtracting the 10 percent CDQ reserve. This allowance is based on NMFS' examination of the pollock incidental catch, including the incidental catch by CDQ vessels, in target fisheries other than pollock from 1999 through 2013. During this 15-year period, the pollock incidental catch ranged from a low of 2.3 percent in 2012 to a high of 5 percent in 1999, with a 15-year average of 3.2 percent. Pursuant to § 679.20(a)(5)(iii)(B)(*2*)(*i*) and (*ii*), NMFS establishes a pollock ICA of 2,000 mt of the AI subarea TAC after subtracting the 10-percent CDQ DFA. This allowance is based on NMFS' examination of the pollock incidental catch, including the incidental catch by CDQ vessels, in target fisheries other than pollock from 2003 through 2013. During this 11-year period, the incidental catch of pollock ranged from a low of 5 percent in 2006 to a high of 17 percent in 2013, with an 11-year average of 8 percent.

Pursuant to § 679.20(a)(8) and (10), NMFS allocates ICAs of 5,000 mt of flathead sole, 8,000 mt of rock sole, 2,400 mt of yellowfin sole, 10 mt of WAI Pacific ocean perch, 75 mt of CAI Pacific ocean perch, 200 mt of EAI Pacific ocean perch, 40 mt of WAI Atka mackerel, 75 mt of CAI Atka mackerel, and 1,000 mt of EAI and BS subarea Atka mackerel TAC after subtracting the 10.7 percent CDQ reserve. These ICA allowances are based on NMFS' examination of the incidental catch in other target fisheries from 2003 through 2013.

The regulations do not designate the remainder of the non-specified reserve by species or species group. Any amount of the reserve may be apportioned to a target species category that contributed to the non-specified reserves during the year, provided that such apportionments do not result in overfishing (see § 679.20(b)(1)(i)). The Regional Administrator has determined that the ITACs specified for the species listed in Table 1 need to be supplemented from the non-specified reserve because U.S. fishing vessels have demonstrated the capacity to catch the full TAC allocations. Therefore, in accordance with § 679.20(b)(3), NMFS is apportioning the amounts shown in Table 2 from the non-specified reserve to increase the ITAC for shortraker rockfish, rougheye rockfish, ''other

rockfish,'' sharks, and octopuses by 15 percent of the TAC in 2014 and 2015.

TABLE 2—FINAL 2014 AND 2015 APPORTIONMENT OF RESERVES TO ITAC CATEGORIES

[Amounts are in metric tons]

Species-area or subarea	2014 ITAC	2014 reserve amount	2014 final ITAC	2015 ITAC	2015 reserve amount	2015 final ITAC
Shortraker rockfish—BSAI	315	56	370	315	56	370
Rougheye rockfish—EBS/EAI	150	27	177	171	30	201
Rougheye rockfish—CAI/WAI	203	36	239	235	42	277
Other rockfish—Bering Sea subarea	255	45	300	340	60	400
Other rockfish—Aleutian Islands subarea	402	71	473	402	71	473
Sharks	106	19	125	106	19	125
Octopuses	191	34	225	191	34	225
Total	1,623	286	1,909	1,760	311	2,071

Allocation of Pollock TAC Under the American Fisheries Act (AFA)

Section 679.20(a)(5)(i)(A) requires that the BS subarea pollock TAC be apportioned, after subtracting 10 percent for the CDQ program and 3.4 percent for the ICA, as a DFA as follows: 50 percent to the inshore sector, 40 percent to the catcher/processor (C/P) sector, and 10 percent to the mothership sector. In the BS subarea, 40 percent of the DFA is allocated to the A season (January 20–June 10), and 60 percent of the DFA is allocated to the B season (June 10–November 1) (§ 679.20(a)(5)(i)(A)). The AI-directed pollock fishery allocation to the Aleut Corporation is the amount of pollock remaining in the AI subarea after subtracting 1,900 mt for the CDQ DFA (10 percent) and 2,000 mt for the ICA (§ 679.20(a)(5)(iii)(B)(*2*)(*ii*)). In the AI subarea, the total A season apportionment of the TAC is less than or equal to 40 percent of the ABC and the remainder of the TAC is allocated to the B season. Table 3 lists these 2014 and 2015 amounts.

Section 679.20(a)(5)(i)(A)(*4*) also includes several specific requirements regarding BS subarea pollock allocations. First, it requires that 8.5 percent of the pollock allocated to the C/P sector be available for harvest by AFA catcher vessels (CVs) with C/P sector endorsements, unless the Regional Administrator receives a cooperative contract that allows the distribution of harvest among AFA C/Ps and AFA CVs in a manner agreed to by all members. Second, AFA C/Ps not listed in the AFA are limited to harvesting not more than 0.5 percent of the pollock allocated to the C/P sector. Table 3 lists the 2014 and 2015 allocations of pollock TAC. Tables 17 through 22 list the AFA C/P and CV harvesting sideboard limits. The tables for the pollock allocations to the BS subarea inshore pollock cooperatives and open access sector will be posted on the Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

Table 3 also lists seasonal apportionments of pollock and harvest limits within the Steller Sea Lion Conservation Area (SCA). The harvest within the SCA, as defined at § 679.22(a)(7)(vii), is limited to no more than 28 percent of the annual DFA before 12:00 noon, April 1, as provided in § 679.20(a)(5)(i)(C). The A season pollock SCA harvest limit will be apportioned to each sector in proportion to each sector's allocated percentage of the DFA. Table 3 lists these 2014 and 2015 amounts by sector.

TABLE 3—FINAL 2014 AND 2015 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]

[Amounts are in metric tons]

Area and sector	2014 Allocations	2014 A season [1]		2014 B season [1]	2015 Allocations	2015 A season [1]		2015 B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA		A season DFA	SCA harvest limit [2]	B season DFA
Bering Sea subarea	1,267,000	n/a	n/a	n/a	1,258,000	n/a	n/a	n/a
CDQ DFA	126,700	50,680	35,476	76,020	125,800	50,320	35,224	75,480
ICA [1]	38,770	n/a	n/a	n/a	38,495	n/a	n/a	n/a
AFA Inshore	550,765	220,306	154,214	330,459	546,853	218,741	153,119	328,112
AFA Catcher/Processors [3]	440,612	176,245	123,371	264,367	437,482	174,993	122,495	262,489
Catch by C/Ps	403,160	161,264	n/a	241,896	400,296	160,118	n/a	240,178
Catch by CVs [3]	37,452	14,981	n/a	22,471	37,186	14,874	n/a	22,312
Unlisted C/P Limit [4]	2,203	881	n/a	1,322	2,187	875	n/a	1,312
AFA Motherships	110,153	44,061	30,843	66,092	109,371	43,748	30,624	65,622
Excessive Harvesting Limit [5]	192,768	n/a	n/a	n/a	191,398	n/a	n/a	n/a
Excessive Processing Limit [6]	330,459	n/a	n/a	n/a	328,112	n/a	n/a	n/a
Total Bering Sea DFA	1,101,530	440,612	308,428	660,918	1,093,705	437,482	306,237	656,223
Aleutian Islands subarea [1]	19,000	n/a	n/a	n/a	19,000	n/a	n/a	n/a
CDQ DFA	1,900	760	n/a	1,140	1,900	760	n/a	1,140
ICA	2,000	1,000	n/a	1,000	2,000	1,000	n/a	1,000
Aleut Corporation	15,100	12,259	n/a	2,841	15,100	14,005	n/a	1,095
Bogoslof District ICA [7]	75	n/a	n/a	n/a	75	n/a	n/a	n/a

[1] Pursuant to § 679.20(a)(5)(i)(A), the BS subarea pollock, after subtracting the CDQ DFA (10 percent) and the ICA (3.4 percent), is allocated as a DFA as follows: Inshore sector—50 percent, catcher/processor sector (C/P)—40 percent, and mothership sector—10 percent. In the BS subarea, 40 percent of the DFA is allocated to the A season (January 20–June 10) and 60 percent of the DFA is allocated to the B season (June 10–November 1). Pursuant to § 679.20(a)(5)(iii)(B)(*2*)(*i*) and (*ii*), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second the ICA (2,000 mt), is allocated to the Aleut Corporation for a pollock directed fishery. In the AI subarea, the A season is allocated 40 percent of the ABC and the B season is allocated the remainder of the pollock directed fishery.

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

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

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

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

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

[7] The Bogoslof District is closed by the final harvest specifications to directed fishing for pollock. The amounts specified are for ICA only and are not apportioned by season or sector.

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

Allocation of the Atka Mackerel TACs

Section 679.20(a)(8) allocates the Atka mackerel TACs to the Amendment 80 and BSAI trawl limited access sectors, after subtracting the CDQ reserves, jig gear allocation, and ICAs for the BSAI trawl limited access sector and non-trawl gear sector (Table 4). The percentage of the ITAC for Atka mackerel allocated to the Amendment 80 and BSAI trawl limited access sectors is listed in Table 33 to part 679 and in § 679.91. Pursuant to § 679.20(a)(8)(i), up to 2 percent of the EAI and the BS subarea Atka mackerel ITAC may be allocated to vessels using jig gear. The percent of this allocation is recommended annually by the Council based on several criteria, including the anticipated harvest capacity of the jig gear fleet. The Council recommended, and NMFS approves, a 0.5 percent allocation of the Atka mackerel ITAC in the EAI and BS subarea to the jig gear sector in 2014 and 2015. This percentage is applied to the Atka mackerel TAC after subtracting the CDQ reserve and the ICA.

Section 679.20(a)(8)(ii)(C)(*3*) limits the annual Atka mackerel TAC for Area 542 (CAI) to no more than 47 percent of the Area 542 ABC. Section 679.7(a)(19) prohibits retention of Atka mackerel in Area 543 (WAI), and the TAC is set to account for discards in other fisheries. Section 679.20(a)(8)(ii)(A) apportions the Atka mackerel TAC into two equal seasonal allowances. Section 679.23(e)(3) sets the first seasonal allowance for directed fishing with trawl gear from January 20 through June 10 (A season), and the second seasonal allowance from June 10 through November 1 (B season). Section 679.23(e)(4)(iii) applies Atka mackerel seasons to CDQ Atka mackerel fishing. The ICA and jig gear allocations are not apportioned by season.

Sections 679.20(a)(8)(ii)(C)(*1*)(*i*) and (*ii*) require the Amendment 80 cooperatives and CDQ groups to limit harvest to 10 percent of their Central Aleutian District Atka mackerel allocation equally divided between the A and B seasons, within waters 10 nm to 20 nm of Gramp Rock and Tag Island, as described on Table 12 to part 679. Vessels not fishing under the authority of an Amendment 80 cooperative quota or CDQ allocation are prohibited from conducting directed fishing for Atka mackerel inside Steller sea lion critical habitat in the Central Aleutian District.

Table 4 lists these 2014 and 2015 Atka mackerel seasons, area allowances, and the sector allocations. The 2015 allocations for Atka mackerel between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2014. NMFS will post 2015 Amendment 80 allocations when they become available in December 2014.

TABLE 4—FINAL 2014 AND 2015 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

Sector [1]	Season [2 3 4]	2014 allocation by area			2015 allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District [5]	Western Aleutian District	Eastern Aleutian District/Bering Sea	Central [5] Aleutian District	Western Aleutian District
TAC	n/a	21,652	9,670	1,000	21,769	9,722	1,000
CDQ reserve	Total	2,317	1,035	107	2,329	1,040	107
	A	1,158	517	54	1,165	520	54
	Critical Habitat [5]	n/a	52	n/a	n/a	52	n/a
	B	1,158	517	54	1,165	520	54
	Critical Habitat [5]	n/a	52	n/a	n/a	52	n/a
ICA	Total	1,000	75	40	1,000	75	40
Jig [6]	Total	92	0	0	92	0	0
BSAI trawl limited access	Total	1,824	856	0	1,835	861	0
	A	912	428	0	917	430	0
	B	912	428	0	917	430	0
Amendment 80 sectors	Total	16,419	7,704	853	16,513	7,746	853
	A	8,210	3,852	427	8,256	3,873	427
	B	8,210	3,852	427	8,256	3,873	427
Alaska Groundfish Cooperative [7].	Total [7]	9,487	4,597	500	n/a	n/a	n/a
	A	4,744	2,299	250	n/a	n/a	n/a
	Critical Habitat [5]	n/a	230	n/a	n/a	n/a	n/a
	B	4,744	2,299	250	n/a	n/a	n/a
	Critical Habitat [5]	n/a	230	n/a	n/a	n/a	n/a
Alaska Seafood Cooperative [7].	Total [7]	6,932	3,107	353	n/a	n/a	n/a
	A	3,466	1,554	177	n/a	n/a	n/a
	Critical Habitat [5]	n/a	155	n/a	n/a	n/a	n/a
	B	3,466	1,554	177	n/a	n/a	n/a
	Critical Habitat [5]	n/a	155	n/a	n/a	n/a	n/a

[1] Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the CDQ reserves, jig gear allocation, and ICAs to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31).

[2] Regulations at §§ 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

[3] The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

[4] Section 679.23(e)(3) authorizes directed fishing for Atka mackerel with trawl gear during the A season from January 20 to June 10 and the B season from June 10 to November 1.

[5] Section 679.20(a)(8)(ii)(C) requires the TAC in area 542 shall be no more than 47% of ABC, and Atka mackerel harvests for Amendment 80 cooperatives and CDQ groups within waters 10 nm to 20 nm of Gramp Rock and Tag Island, as described in Table 12 to part 679, in Area 542 are limited to no more than 10 percent of the Amendment 80 cooperative Atka mackerel allocation or 10 percent of the CDQ Atka mackerel allocation.

[6] Section 679.20(a)(8)(i) requires that up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea TAC be allocated to jig gear after subtracting the CDQ reserve and ICA. The amount of this allocation is 0.5 percent. The jig gear allocation is not apportioned by season.

[7] The 2015 allocations for Atka mackerel between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2014. NMFS will post 2015 Amendment 80 allocations when they become available in December 2014.

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

Allocation of the Pacific Cod TAC

The Council separated BS and AI subarea OFLs, ABCs, and TACs for Pacific cod. Section 679.20(b)(1)(ii)(C) allocates 10.7 percent of the BS TAC and AI TAC to the CDQ program. After CDQ allocations have been deducted from the respective BS and AI Pacific cod TACs, the remaining BS and AI Pacific cod TACs are combined for calculating further BSAI Pacific cod sector allocations. However, if the non-CDQ Pacific cod TAC is or will be reached in either the BS or AI subareas, NMFS will prohibit non-CDQ directed fishing for Pacific cod in that subarea as provided in § 679.20(d)(1)(iii).

Sections 679.20(a)(7)(i) and (ii) allocate the Pacific cod TAC in the combined BSAI TAC, after subtracting 10.7 percent for the CDQ program, as follows: 1.4 percent to vessels using jig gear; 2.0 percent to hook-and-line and pot CVs less than 60 ft (18.3 m) length overall (LOA); 0.2 percent to hook-and-line CVs greater than or equal to 60 ft (18.3 m) LOA; 48.7 percent to hook-and-line C/P; 8.4 percent to pot CVs greater than or equal to 60 ft (18.3 m) LOA; 1.5 percent to pot C/Ps; 2.3 percent to AFA trawl C/Ps; 13.4 percent to non-AFA trawl C/Ps; and 22.1 percent to trawl CVs. The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. For 2014 and 2015, the Regional Administrator establishes an ICA of 500 mt based on anticipated incidental catch by these sectors in other fisheries.

The ITAC allocation of Pacific cod to the Amendment 80 sector is established in Table 33 to part 679 and § 679.91. The 2015 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2014. NMFS will post 2015 Amendment 80 allocations when they become available in December 2014.

The Pacific cod ITAC is apportioned into seasonal allowances to disperse the Pacific cod fisheries over the fishing year (see §§ 679.20(a)(7) and 679.23(e)(5)). In accordance with § 679.20(a)(7)(iv)(B) and (C), any unused portion of a seasonal Pacific cod allowance will become available at the beginning of the next seasonal allowance.

The CDQ and non-CDQ season allowances by gear based on the 2014 and 2015 Pacific cod TACs are listed in Tables 5 and 6, and are based on the sector allocation percentages of Pacific cod set forth at §§ 679.20(a)(7)(i)(B) and 679.20(a)(7)(iv)(A) and the seasonal allowances of Pacific cod set forth at § 679.23(e)(5).

Section 679.7(a)(19) prohibits retaining Pacific cod in Area 543, and § 679.7(a)(23) prohibits directed fishing for Pacific cod with hook-and-line, pot, or jig gear in the Aleutian Islands subarea November 1 through December 31.

TABLE 5—FINAL 2014 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

[Amounts are in metric tons]

Gear sector	Percent	2014 share of gear sector total	2014 share of sector total	2014 seasonal apportionment	
				Seasons	Amount
BS TAC		246,897	n/a	n/a	n/a
BS CDQ		26,418	n/a	see § 679.20(a)(7)(i)(B)	n/a
BS non-CDQ TAC		220,479	n/a	n/a	n/a
AI TAC		6,997	n/a	n/a	n/a
AI CDQ		749	n/a	see § 679.20(a)(7)(i)(B)	n/a
AI non-CDQ TAC		6,248	n/a	n/a	n/a
Total BSAI non-CDQ TAC [1]	100	226,727	n/a	n/a	n/a
Total hook-and-line/pot gear	60.8	137,850	n/a	n/a	n/a
Hook-and-line/pot ICA [2]	n/a	500	n/a	see § 679.20(a)(7)(ii)(B)	n/a
Hook-and-line/pot sub-total	n/a	137,350	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	110,016	Jan 1–Jun 10	56,108
				Jun 10–Dec 31	53,908
Hook-and-line catcher vessel ≥ 60 ft LOA	0.2	n/a	452	Jan 1–Jun 10	230
				Jun 10–Dec 31	221
Pot catcher/processor	1.5	n/a	3,389	Jan 1–Jun 10	1,728
				Sept 1–Dec 31	1,660
Pot catcher vessel ≥ 60 ft LOA	8.4	n/a	18,976	Jan 1–Jun 10	9,678
				Sept 1–Dec 31	9,298
Catcher vessel < 60 ft LOA using hook-and-line or pot gear.	2	n/a	4,518	n/a	n/a
Trawl catcher vessel	22.1	50,107	n/a	Jan 20–Apr 1	37,079
				Apr 1–Jun 10	5,512
				Jun 10–Nov 1	7,516
AFA trawl catcher/processor	2.3	5,215	n/a	Jan 20–Apr 1	3,911
				Apr 1–Jun 10	1,304
				Jun 10–Nov 1	0
Amendment 80	13.4	30,381	n/a	Jan 20–Apr 1	22,786
				Apr 1–Jun 10	7,595

TABLE 5—FINAL 2014 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC—Continued

[Amounts are in metric tons]

Gear sector	Percent	2014 share of gear sector total	2014 share of sector total	2014 seasonal apportionment	
				Seasons	Amount
				Jun 10–Nov 1	0
Alaska Groundfish Cooperative	n/a	n/a	5,657	Jan 20–Apr 1	4,243
				Apr 1–Jun 10	1,414
				Jun 10–Nov 1	0
Alaska Seafood Cooperative	n/a	n/a	24,724	Jan 20–Apr 1	18,543
				Apr 1–Jun 10	6,181
				Jun 10–Nov 1	0
Jig	1.4	3,174	n/a	Jan 1–Apr 30	1,905
				Apr 30–Aug 31	635
				Aug 31–Dec 31	635

[1] The gear shares and seasonal allowances for BSAI Pacific cod TAC are based on the sum of the BS and AI Pacific cod TACs, after the subtraction of CDQ. If the TAC for Pacific cod in either the AI or BS is reached, then directed fishing for Pacific cod in that subarea may be prohibited, even if a BSAI allowance remains.

[2] The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 500 mt for 2014 based on anticipated incidental catch in these fisheries.

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

TABLE 6—FINAL 2015 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

[Amounts are in metric tons]

Gear sector	Percent	2015 share of gear sector total	2015 share of sector total	2015 seasonal apportionment	
				Seasons	Amount
BS TAC	n/a	251,712	n/a	n/a	n/a
BS CDQ	n/a	26,933	n/a	see § 679.20(a)(7)(i)(B)	n/a
BS non-CDQ TAC	n/a	224,779	n/a	n/a	n/a
AI TAC	n/a	6,487	n/a	n/a	n/a
AI CDQ	n/a	694	n/a	see § 679.20(a)(7)(i)(B)	n/a
AI non-CDQ TAC	n/a	5,793	n/a	n/a	n/a
Total BSAI non-CDQ TAC [1]	n/a	230,572	n/a	n/a	n/a
Total hook-and-line/pot gear	60.8	140,188	n/a	n/a	n/a
Hook-and-line/pot ICA [2]	n/a	500	n/a	see § 679.20(a)(7)(ii)(B)	n/a
Hook-and-line/pot sub-total	n/a	139,688	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	111,888	Jan 1–Jun 10	57,063
				Jun 10–Dec 31	54,825
Hook-and-line catcher vessel ≥ 60 ft LOA	0.2	n/a	459	Jan 1–Jun 10	234
				Jun 10–Dec 31	225
Pot catcher/processor	1.5	n/a	3,446	Jan 1–Jun 10	1,758
				Sept 1–Dec 31	1,689
Pot catcher vessel ≥ 60 ft LOA	8.4	n/a	19,299	Jan 1–Jun 10	9,842
				Sept 1–Dec 31	9,456
Catcher vessel < 60 ft LOA using hook-and-line or pot gear.	2	n/a	4,595	n/a	n/a
Trawl catcher vessel	22.1	50,956	n/a	Jan 20–Apr 1	37,708
				Apr 1–Jun 10	5,605
				Jun 10–Nov 1	7,643
AFA trawl catcher/processor	2.3	5,303	n/a	Jan 20–Apr 1	3,977
				Apr 1–Jun 10	1,326
				Jun 10–Nov 1	0
Amendment 80	13.4	30,897	n/a	Jan 20–Apr 1	23,172
				Apr 1–Jun 10	7,724
				Jun 10–Nov 1	0
Jig	1.4	3,228	n/a	Jan 1–Apr 30	1,937
				Apr 30–Aug 31	646
				Aug 31–Dec 31	646

[1] The gear shares and seasonal allowances for BSAI Pacific cod TAC are based on the sum of the BS and AI Pacific cod TACs, after the subtraction of CDQ. If the TAC for Pacific cod in either the AI or BS is reached, then directed fishing for Pacific cod in that subarea may be prohibited, even if a BSAI allowance remains.

[2] The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 500 mt for 2015 based on anticipated incidental catch in these fisheries.

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

Sablefish Gear Allocation

Sections 679.20(a)(4)(iii) and (iv) require allocation of the sablefish TAC for the BS and AI subareas between trawl and hook-and-line or pot gear sectors. Gear allocations of the TAC for the BS subarea are 50 percent for trawl gear and 50 percent for hook-and-line or pot gear. Gear allocations of the TACs

for the AI subarea are 25 percent for trawl gear and 75 percent for hook-and-line or pot gear. Section 679.20(b)(1)(ii)(B) requires NMFS to apportion 20 percent of the hook-and-line and pot gear allocation of sablefish to the CDQ reserve. Additionally, § 679.20(b)(1)(ii)(D)(*1*) requires that 7.5 percent of the trawl gear allocation of sablefish from the non-specified reserves, established under § 679.20(b)(1)(i), be assigned to the CDQ reserve. The Council recommended that only trawl sablefish TAC be established biennially. The harvest specifications for the hook-and-line gear and pot gear sablefish Individual Fishing Quota (IFQ) fisheries will be limited to the 2014 fishing year to ensure those fisheries are conducted concurrently with the halibut IFQ fishery. Concurrent sablefish and halibut IFQ fisheries will reduce the potential for discards of halibut and sablefish in those fisheries. The sablefish IFQ fisheries will remain closed at the beginning of each fishing year until the final harvest specifications for the sablefish IFQ fisheries are in effect. Table 7 lists the 2014 and 2015 gear allocations of the sablefish TAC and CDQ reserve amounts.

TABLE 7—FINAL 2014 AND 2015 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS

[Amounts are in metric tons]

Subarea and gear	Percent of TAC	2014 Share of TAC	2014 ITAC	2014 CDQ reserve	2015 Share of TAC	2015 ITAC	2015 CDQ reserve
Bering Sea							
Trawl [1]	50	670	569	50	605	514	45
Hook-and-line/pot gear [2]	50	670	536	134	n/a	n/a	n/a
TOTAL	100	1,339	1,105	184	605	514	45
Aleutian Islands							
Trawl [1]	25	453	385	34	409	348	31
Hook-and-line/pot gear [2]	75	1,358	1,086	272	n/a	n/a	n/a
TOTAL	100	1,811	1,471	306	409	348	31

[1] Except for the sablefish hook-and-line or pot gear allocation, 15 percent of TAC is apportioned to the reserve. The ITAC is the remainder of the TAC after subtracting these reserves.

[2] For the portion of the sablefish TAC allocated to vessels using hook-and-line or pot gear, 20 percent of the allocated TAC is reserved for use by CDQ participants. The Council recommended that specifications for the hook-and-line gear sablefish IFQ fisheries be limited to one year.

Note: Sector apportionments may not total precisely due to rounding.

Allocation of the AI Pacific Ocean Perch, and BSAI Flathead Sole, Rock Sole, and Yellowfin Sole TACs

Sections 679.20(a)(10)(i) and (ii) require that NMFS allocate AI Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole TAC between the Amendment 80 sector and BSAI trawl limited access sector, after subtracting 10.7 percent for the CDQ reserve and an ICA for the BSAI trawl limited access sector and vessels using non-trawl gear. The allocation of the ITAC for AI Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole to the Amendment 80 sector is established in accordance with Tables 33 and 34 to part 679 and § 679.91.

The 2015 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2014. NMFS will publish 2015 Amendment 80 allocations when they become available in December 2014. Tables 8 and 9 list the 2014 and 2015 allocations of the AI Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole TACs.

TABLE 8—FINAL 2014 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS

[Amounts are in metric tons]

Sector	Pacific ocean perch			Flathead sole	Rock sole	Yellowfin sole
	Eastern Aleutian District	Central Aleutian District	Western Aleutian District	BSAI	BSAI	BSAI
TAC	9,246	6,594	9,598	24,500	85,000	184,000
CDQ	989	706	1,027	2,622	9,095	19,688
ICA	200	75	10	5,000	8,000	2,400
BSAI trawl limited access	806	581	171	0	0	29,707
Amendment 80	7,251	5,232	8,390	16,879	67,905	132,205
Alaska Groundfish Cooperative	3,845	2,774	4,449	3,313	19,400	56,779
Alaska Seafood Cooperative	3,406	2,458	3,941	13,566	48,505	75,426

Note: Sector apportionments may not total precisely due to rounding.

TABLE 9—FINAL 2015 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS

[Amounts are in metric tons]

Sector	Pacific ocean perch			Flathead sole	Rock sole	Yellowfin sole
	Eastern Aleutian district	Central Aleutian district	Western Aleutian district	BSAI	BSAI	BSAI
TAC	8,833	6,299	9,169	25,129	85,000	187,000
CDQ	945	674	981	2,689	9,095	20,009
ICA	200	75	10	5,000	8,000	2,400
BSAI trawl limited access	769	555	164	0	0	30,779
Amendment 80[1]	6,919	4,995	8,014	17,440	67,905	133,812

[1] The 2015 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2014. NMFS will publish 2015 Amendment 80 allocations when they become available in December 2014.

Note: Sector apportionments may not total precisely due to rounding.

PSC Limits for Halibut, Salmon, Crab, and Herring

Section 679.21(e) sets forth the BSAI PSC limits. Pursuant to § 679.21(e)(1)(iv) and (e)(2), the 2014 and 2015 BSAI halibut mortality limits are 3,675 mt for trawl fisheries and 900 mt for the non-trawl fisheries. Sections 679.21(e)(3)(i)(A)(*2*) and 679.21(e)(4)(i)(A) allocate 326 mt of the trawl halibut mortality limit and 7.5 percent, or 67 mt, of the non-trawl halibut mortality limit as the PSQ reserve for use by the groundfish CDQ program.

Section 679.21(e)(4)(i) authorizes apportioning the non-trawl halibut PSC limit into PSC bycatch allowances among six fishery categories. Tables 11 and 12 list the fishery bycatch allowances for the trawl fisheries, and Table 13 lists the fishery bycatch allowances for the non-trawl fisheries.

Pursuant to section 3.6 of the FMP, the Council recommends, and NMFS agrees, that certain specified non-trawl fisheries be exempt from the halibut PSC limit. As in past years, after consulting with the Council, NMFS exempts pot gear, jig gear, and the sablefish IFQ hook-and-line gear fishery categories from halibut bycatch restrictions for the following reasons: (1) the pot gear fisheries have low halibut bycatch mortality; (2) NMFS estimates halibut mortality for the jig gear fleet to be negligible because of the small size of the fishery and the selectivity of the gear; and (3) the IFQ program requires legal-size halibut to be retained by vessels using hook-and-line gear if a halibut IFQ permit holder or a hired master is aboard and is holding unused halibut IFQ (subpart D of 50 CFR part 679). In 2013, total groundfish catch for the pot gear fishery in the BSAI was approximately 34,368 mt, with an associated halibut bycatch mortality of about 3 mt.

The 2013 jig gear fishery harvested about 40 mt of groundfish. Most vessels in the jig gear fleet are exempt from observer coverage requirements. As a result, observer data are not available on halibut bycatch in the jig gear fishery. However, as mentioned above, NMFS estimates the jig gear sector will have a negligible amount of halibut bycatch mortality because of the selective nature of jig gear and the low mortality rate of halibut caught with jig gear and released.

Section 679.21(f)(2) annually allocates portions of either 47,591 or 60,000 Chinook salmon PSC limits among the AFA sectors, depending on past catch performance and on whether Chinook salmon bycatch incentive plan agreements are formed. If an AFA sector participates in an approved Chinook salmon bycatch incentive plan agreement, then NMFS will allocate a portion of the 60,000 PSC limit to that sector as specified in § 679.21(f)(3)(iii)(A). If no Chinook salmon bycatch incentive plan agreement is approved, or if the sector has exceeded its performance standard under § 679.21(f)(6), then NMFS will allocate a portion of the 47,591 Chinook salmon PSC limit to that sector, as specified in § 679.21(f)(3)(iii)(B). In 2014, the Chinook salmon PSC limit is 60,000 and the AFA sector Chinook salmon allocations are seasonally allocated with 70 percent of the allocation for the A season pollock fishery, and 30 percent of the allocation for the B season pollock fishery as stated in § 679.21(f)(3)(iii)(A). The basis for these PSC limits is described in detail in the final rule implementing management measures for Amendment 91 (75 FR 53026, August 30, 2010). NMFS publishes the approved Chinook salmon bycatch incentive plan agreements, 2014 allocations, and reports at: *http://alaskafisheries.noaa.gov/sustainablefisheries/bycatch/default.htm.*

Section 679.21(e)(1)(viii) specifies 700 fish as the 2014 and 2015 Chinook salmon PSC limit for the AI subarea pollock fishery. Section 679.21(e)(3)(i)(A)(*3*)(*i*) allocates 7.5 percent, or 53 Chinook salmon, to the AI subarea PSQ for the CDQ program, and allocates the remaining 647 Chinook salmon to the non-CDQ fisheries.

Section 679.21(e)(1)(vii) specifies 42,000 fish as the 2014 and 2015 non-Chinook salmon PSC limit in the Catcher Vessel Operational Area (CVOA). Section 679.21(e)(3)(i)(A)(*3*)(*ii*) allocates 10.7 percent, or 4,494 non-Chinook salmon in the CVOA as the PSQ for the CDQ program, and allocates the remaining 37,506 non-Chinook salmon in the CVOA as the PSC limit for the non-CDQ fisheries.

PSC limits for crab and herring are specified annually based on abundance and spawning biomass. Section 679.21(e)(3)(i)(A)(*1*) allocates 10.7 percent from each trawl gear PSC limit specified for crab as a PSQ reserve for use by the groundfish CDQ program.

Based on the 2013 survey data, the red king crab mature female abundance is estimated at 19.9 million red king crabs, and the effective spawning biomass is estimated at 49.3 million lb (22,362 mt). Based on the criteria set out at § 679.21(e)(1)(i), the 2014 and 2015 PSC limit of red king crab in Zone 1 for trawl gear is 97,000 animals. This limit derives from the mature female abundance of more than 8.4 million king crab and the effective spawning biomass estimate of less than 55 million lb (24,948 mt).

Section 679.21(e)(3)(ii)(B)(*2*) establishes criteria under which NMFS must specify an annual red king crab bycatch limit for the Red King Crab Savings Subarea (RKCSS). The regulations limit the RKCSS red king crab bycatch limit to 25 percent of the red king crab PSC limit, based on the need to optimize the groundfish harvest relative to red king crab bycatch. In December 2013, the Council recommended and NMFS concurs that the red king crab bycatch limit be equal to 25 percent of the red king crab PSC limit within the RKCSS (Table 11).

Based on 2013 survey data, Tanner crab (*Chionoecetes bairdi*) abundance is estimated at 946 million animals. Pursuant to criteria set out at § 679.21(e)(1)(ii), the calculated 2014 and 2015 *C. bairdi* crab PSC limit for trawl gear is 980,000 animals in Zone 1 and 2,970,000 animals in Zone 2. These limits derive from the *C. bairdi* crab abundance estimate being in excess of the 400 million animals for both the Zone 1 and Zone 2 allocations.

Pursuant to § 679.21(e)(1)(iii), the PSC limit for snow crab (*C. opilio*) is based on total abundance as indicated by the NMFS annual bottom trawl survey. The *C. opilio* crab PSC limit is set at 0.1133 percent of the BS abundance index minus 150,000 crab. Based on the 2013 survey estimate of 10.005 billion animals, the calculated *C. opilio* crab PSC limit is 11,185,892 animals.

Pursuant to § 679.21(e)(1)(v), the PSC limit of Pacific herring caught while conducting any trawl operation for BSAI groundfish is 1 percent of the annual eastern BS herring biomass. The best estimate of 2014 and 2015 herring biomass is 217,153 mt. This amount was derived using 2013 survey data and an age-structured biomass projection model developed by the Alaska Department of Fish and Game. Therefore, the herring PSC limit for 2014 and 2015 is 2,172 mt for all trawl gear as listed in Tables 10 and 11.

Section 679.21(e)(3)(i)(A) requires PSQ reserves to be subtracted from the total trawl PSC limits. The 2014 PSC limits assigned to the Amendment 80 and BSAI trawl limited access sectors are specified in Table 35 to part 679. The resulting allocations of PSC limit to CDQ PSQ, the Amendment 80 sector, and the BSAI trawl limited access fisheries are listed in Table 10. Pursuant to § 679.21(e)(1)(iv) and § 679.91(d) through (f), crab and halibut trawl PSC limits assigned to the Amendment 80 sector are then further allocated to Amendment 80 cooperatives as PSC cooperative quota as listed in Table 14. PSC cooperative quota assigned to Amendment 80 cooperatives is not allocated to specific fishery categories. In 2014, there are no vessels in the Amendment 80 limited access sector. The 2015 PSC allocations between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2014. Section 679.21(e)(3)(i)(B) requires NMFS to apportion each trawl PSC limit not assigned to Amendment 80 cooperatives into PSC bycatch allowances for seven specified fishery categories.

Section 679.21(e)(5) authorizes NMFS, after consulting with the Council, to establish seasonal apportionments of PSC amounts for the BSAI trawl limited access and Amendment 80 limited access sectors in order to maximize the ability of the fleet to harvest the available groundfish TAC and to minimize bycatch. The factors to be considered are (1) seasonal distribution of prohibited species; (2) seasonal distribution of target groundfish species; (3) PSC bycatch needs on a seasonal basis relevant to prohibited species biomass; (4) expected variations in bycatch rates throughout the year; (5) expected start of fishing effort; and (6) economic effects of seasonal PSC apportionments on industry sectors. The Council recommended and NMFS approves the seasonal PSC apportionments in Tables 12 and 13 to maximize harvest among gear types, fisheries, and seasons while minimizing bycatch of PSC based on the above criteria.

TABLE 10—FINAL 2014 AND 2015 APPORTIONMENT OF PROHIBITED SPECIES CATCH ALLOWANCES TO NON-TRAWL GEAR, THE CDQ PROGRAM, AMENDMENT 80, AND THE BSAI TRAWL LIMITED ACCESS SECTORS

PSC species and area [1]	Total non-trawl PSC	Non-trawl PSC remaining after CDQ PSQ [2]	Total trawl PSC	Trawl PSC remaining after CDQ PSQ [2]	CDQ PSQ reserve [2]	Amendment 80 sector [3]	BSAI trawl limited access fishery
Halibut mortality (mt) BSAI	900	832	3,675	3,349	393	2,325	875
Herring (mt) BSAI	n/a	n/a	2,172	n/a	n/a	n/a	n/a
Red king crab (animals) Zone 1	n/a	n/a	97,000	86,621	10,379	43,293	26,489
C. *opilio* (animals) COBLZ	n/a	n/a	11,185,892	9,989,002	1,196,890	4,909,594	3,210,465
C. *bairdi* crab (animals) Zone 1	n/a	n/a	980,000	875,140	104,860	368,521	411,228
C. *bairdi* crab (animals) Zone 2	n/a	n/a	2,970,000	2,652,210	317,790	627,778	1,241,500

[1] Refer to § 679.2 for definitions of zones.

[2] Section 679.21(e)(3)(i)(A)(*2*) allocates 326 mt of the trawl halibut mortality limit and § 679.21(e)(4)(i)(A) allocates 7.5 percent, or 67 mt, of the non-trawl halibut mortality limit as the PSQ reserve for use by the groundfish CDQ program. The PSQ reserve for crab species is 10.7 percent of each crab PSC limit.

[3] The Amendment 80 program reduced apportionment of the trawl PSC limits by 150 mt for halibut mortality and 20 percent for crab. These reductions are not apportioned to other gear types or sectors.

Note: Sector apportionments may not total precisely due to rounding.

TABLE 11—FINAL 2014 AND 2015 HERRING AND RED KING CRAB SAVINGS SUBAREA PROHIBITED SPECIES CATCH ALLOWANCES FOR ALL TRAWL SECTORS

Fishery categories	Herring (mt) BSAI	Red king crab (animals) Zone 1
Yellowfin sole	148	n/a
Rock sole/flathead sole/other flatfish [1]	24	n/a
Turbot/arrowtooth/sablefish [2]	16	n/a

TABLE 11—FINAL 2014 AND 2015 HERRING AND RED KING CRAB SAVINGS SUBAREA PROHIBITED SPECIES CATCH ALLOWANCES FOR ALL TRAWL SECTORS—Continued

Fishery categories	Herring (mt) BSAI	Red king crab (animals) Zone 1
Rockfish	11	n/a
Pacific cod	33	n/a
Midwater trawl pollock	1,776	n/a
Pollock/Atka mackerel/other species [3 4]	164	n/a
Red king crab savings subarea non-pelagic trawl gear [5]	n/a	24,250
Total trawl PSC	2,172	97,000

[1] ''Other flatfish'' for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), arrowtooth flounder, flathead sole, Greenland turbot, Kamchatka flounder, rock sole, and yellowfin sole.
[2] ''Arrowtooth flounder'' for PSC monitoring includes Kamchatka flounder.
[3] Pollock other than pelagic trawl pollock, Atka mackerel, and ''other species'' fishery category.
[4] ''Other species'' for PSC monitoring includes skates, sculpins, sharks, squids, and octopuses.
[5] In December 2013 the Council recommended that the red king crab bycatch limit for non-pelagic trawl fisheries within the RKCSS be limited to 25 percent of the red king crab PSC allowance (see § 679.21(e)(3)(ii)(B)(*2*)).
Note: Species apportionments may not total precisely due to rounding.

TABLE 12—FINAL 2014 AND 2015 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL LIMITED ACCESS SECTOR

BSAI trawl limited access fisheries	Prohibited species and area [1]				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	*C. opilio* (animals) COBLZ	*C. bairdi* (animals)	
				Zone 1	Zone 2
Yellowfin sole	167	23,338	3,026,465	346,228	1,185,500
Rock sole/flathead sole/other flatfish [2]	0	0	0	0	0
Turbot/arrowtooth/sablefish [3]	0	0	0	0	0
Rockfish April 15–December 31	5	0	5,000	0	1,000
Pacific cod	453	2,954	129,000	60,000	50,000
Pollock/Atka mackerel/other species [4]	250	197	50,000	5,000	5,000
Total BSAI trawl limited access PSC	875	26,489	3,210,465	411,228	1,241,500

[1] Refer to § 679.2 for definitions of areas.
[2] ''Other flatfish'' for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, Kamchatka flounder, and arrowtooth flounder.
[3] Arrowtooth flounder for PSC monitoring includes Kamchatka flounder.
[4] ''Other species'' for PSC monitoring includes skates, sculpins, sharks, squids, and octopuses.
Note: Seasonal or sector apportionments may not total precisely due to rounding.

TABLE 13—FINAL 2014 AND 2015 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR NON-TRAWL FISHERIES

Non-trawl fisheries	Catcher/ processor	Catcher vessel
Pacific cod—Total	760	15.
January 1–June 10	455	10.
June 10–August 15	190	3.
August 15–December 31	115	2.
Other non-trawl—Total	.....	58.
May 1–December 31	.....	58.
Groundfish pot and jig	.....	Exempt.
Sablefish hook-and-line	.....	Exempt.
Total non-trawl PSC	.....	833.

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

TABLE 14—FINAL 2014 PROHIBITED SPECIES BYCATCH ALLOWANCE FOR THE BSAI AMENDMENT 80 COOPERATIVES

Cooperative	Prohibited species and zones [1]				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	*C. opilio* (animals) COBLZ	*C. bairdi* (animals)	
				Zone 1	Zone 2
Alaska Seafood Cooperative	1,602	29,285	3,150,269	257,941	431,195

TABLE 14—FINAL 2014 PROHIBITED SPECIES BYCATCH ALLOWANCE FOR THE BSAI AMENDMENT 80 COOPERATIVES—Continued

Cooperative	Prohibited species and zones [1]				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	*C. opilio* (animals) COBLZ	*C. bairdi* (animals)	
				Zone 1	Zone 2
Alaska Groundfish Cooperative	723	14,008	1,759,325	110,580	196,583

[1] Refer to § 679.2 for definitions of zones.
Note: Sector apportionments may not total precisely due to rounding.

Halibut Discard Mortality Rates (DMR)

To monitor halibut bycatch mortality allowances and apportionments, the Regional Administrator uses observed halibut bycatch rates, DMRs, and estimates of groundfish catch to project when a fishery's halibut bycatch mortality allowance or seasonal apportionment is reached. The DMRs are based on the best information available, including information contained in the annual SAFE report.

NMFS approves the halibut DMRs developed and recommended by the International Pacific Halibut Commission (IPHC) and the Council for the 2014 and 2015 BSAI groundfish fisheries for use in monitoring the 2014 and 2015 halibut bycatch allowances (see Tables 10, 11, 12, 13, and 14). The IPHC developed these DMRs for the 2014 and 2015 BSAI fisheries using the 10-year mean DMRs for those fisheries. The IPHC will analyze observer data annually and recommend changes to the DMRs when a fishery DMR shows large variation from the mean. A discussion of the DMRs is available from the Council (see **ADDRESSES**). Table 15 lists the 2014 and 2015 DMRs.

TABLE 15—FINAL 2014 AND 2015 PACIFIC HALIBUT DISCARD MORTALITY RATES FOR THE BSAI

Gear	Fishery	Halibut discard mortality rate (percent)
Non-CDQ hook-and-line	Greenland turbot	13
	Other species [1]	9
	Pacific cod	9
	Rockfish	4
Non-CDQ trawl	Alaska plaice	71
	Arrowtooth flounder [2]	76
	Atka mackerel	77
	Flathead sole	73
	Greenland turbot	64
	Non-pelagic pollock	77
	Pelagic pollock	88
	Other flatfish [3]	71
	Other species [1]	71
	Pacific cod	71
	Rockfish	79
	Rock sole	85
	Sablefish	75
	Yellowfin sole	83
Non-CDQ Pot	Other species [1]	8
	Pacific cod	8
CDQ trawl	Atka mackerel	86
	Greenland turbot	89
	Flathead sole	79
	Non-pelagic pollock	83
	Pacific cod	90
	Pelagic pollock	90
	Rockfish	80
	Rock sole	88
	Yellowfin sole	86
CDQ hook-and-line	Greenland turbot	4
	Pacific cod	10
CDQ pot	Pacific cod	8
	Sablefish	34

[1] "Other species" includes skates, sculpins, sharks, squids, and octopuses.
[2] Arrowtooth flounder includes Kamchatka flounder.
[3] "Other flatfish" includes all flatfish species, except for halibut (a prohibited species), Alaska plaice, flathead sole, Greenland turbot, rock sole, yellowfin sole, Kamchatka flounder, and arrowtooth flounder.

Directed Fishing Closures

In accordance with § 679.20(d)(1)(i), the Regional Administrator may establish a DFA for a species or species group if the Regional Administrator determines that any allocation or apportionment of a target species has been or will be reached. If the Regional Administrator establishes a DFA, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified subarea or district (see § 697.20(d)(1)(iii)). Similarly, pursuant to § 679.21(e), if the Regional Administrator determines that a fishery category's bycatch allowance of halibut, red king crab, *C. bairdi* crab, or *C. opilio* crab for a specified area has been reached, the Regional Administrator will prohibit directed fishing for each species in that category in the specified area.

Based on historic catch patterns and anticipated fishing activity, the Regional Administrator has determined that the groundfish allocation amounts in Table 16 will be necessary as incidental catch to support other anticipated groundfish fisheries for the 2014 and 2015 fishing years. Consequently, in accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the DFA for the species and species groups in Table 10 as zero. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing for these sectors and species in the specified areas effective at 1200 hrs, A.l.t., March 4, 2014, through 2400 hrs, A.l.t., December 31, 2015. Also, for the BSAI trawl limited access sector, bycatch allowances of halibut, red king crab, *C. bairdi* crab, and *C. opilio* crab listed in Table 10 are insufficient to support directed fisheries. Therefore, in accordance with § 679.21(e)(7), NMFS is prohibiting directed fishing for these sectors and fishery categories in the specified areas effective at 1200 hrs, A.l.t., March 4, 2014, through 2400 hrs, A.l.t., December 31, 2015.

TABLE 16—2014 AND 2015 DIRECTED FISHING CLOSURES [1]

[Groundfish and halibut amounts are in metric tons. Crab amounts are in number of animals.]

Area	Sector	Species	2014 Incidental catch allowance	2015 Incidental catch allowance
Bogoslof District	All	Pollock	75	75
Aleutian Islands subarea	All	ICA pollock	2,000	2,000
		"Other rockfish" [2]	473	473
Eastern Aleutian District/Bering Sea.	Non-amendment 80 and BSAI trawl limited access.	ICA Atka mackerel	1,000	1,000
Eastern Aleutian District/Bering Sea.	All	Rougheye rockfish	177	201
Eastern Aleutian District	Non-amendment 80 and BSAI trawl limited access.	ICA Pacific ocean perch	200	200
Central Aleutian District	Non-amendment 80 and BSAI trawl limited access.	ICA Atka mackerel	75	75
		ICA Pacific ocean perch	75	75
Western Aleutian District	Non-amendment 80 and BSAI trawl limited access.	ICA Atka mackerel	40	40
		ICA Pacific ocean perch	10	10
Central and Western Aleutian Districts.	All	Rougheye rockfish	239	277
Bering Sea subarea	All	Pacific ocean perch	6,531	6,239
		"Other rockfish" [2]	300	400
		ICA pollock	38,770	38,495
Bering Sea and Aleutian Islands	All	Northern rockfish	2,205	2,550
		Shortraker rockfish	370	370
		Skates	22,100	22,100
		Sculpins	4,888	4,888
		Sharks	125	125
		Squids	264	276
		Octopuses	225	225
	Hook-and-line and pot gear	ICA Pacific cod	500	500
	Non-amendment 80	ICA flathead sole	5,000	5,000
		ICA rock sole	8,000	8,000
	Non-amendment 80 and BSAI trawl limited access.	ICA yellowfin sole	2,400	2,400
		Rock sole/flathead sole/other flatfish—halibut mortality, red king crab Zone 1, *C. opilio* COBLZ, *C. bairdi* Zone 1 and 2.	0	0
	BSAI trawl limited access	Turbot/arrowtooth/sablefish—halibut mortality, red king crab Zone 1, *C. opilio* COBLZ, *C. bairdi* Zone 1 and 2.	0	0
		Rockfish—red king crab Zone 1	0	0

[1] Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

[2] "Other rockfish" includes all Sebastes and Sebastolobus species except for Pacific ocean perch, northern rockfish, dark rockfish, shortraker rockfish, and rougheye rockfish.

Closures implemented under the final 2013 and 2014 BSAI harvest specifications for groundfish (78 FR 13813, March 1, 2013) remain effective under authority of these final 2014 and 2015 harvest specifications, and are posted at the following Web sites: *http://alaskafisheries.noaa.gov/cm/info_bulletins/* and *http://alaskafisheries.noaa.gov/fisheries_reports/reports/*.

While these closures are in effect, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a fishing trip. These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 679.

Listed AFA Catcher/Processor Sideboard Limits

Pursuant to § 679.64(a), the Regional Administrator is responsible for restricting the ability of listed AFA C/Ps to engage in directed fishing for groundfish species other than pollock to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery cooperatives in the pollock directed fishery. These restrictions are set out as ''sideboard'' limits on catch. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80 (72 FR 52668, September 14, 2007). Table 17 lists the 2014 and 2015 C/P sideboard limits.

All harvest of groundfish sideboard species by listed AFA C/Ps, whether as targeted catch or incidental catch, will be deducted from the sideboard limits in Table 17. However, groundfish sideboard species that are delivered to listed AFA C/Ps by CVs will not be deducted from the 2014 and 2015 sideboard limits for the listed AFA C/Ps.

TABLE 17—FINAL 2014 AND 2015 LISTED BSAI AMERICAN FISHERIES ACT CATCHER/PROCESSOR GROUNDFISH SIDEBOARD LIMITS

[Amounts are in metric tons]

Target species	Area/season	1995–1997			2014 ITAC available to trawl C/Ps [1]	2014 AFA C/P sideboard limit	2015 ITAC available to trawl C/Ps1	2015 AFA C/P sideboard limit
		Retained catch	Total catch	Ratio of retained catch to total catch				
Sablefish trawl	BS	8	497	0.016	569	9	514	8
	AI	0	145	0	385	0	348	0
Atka mackerel	Central AI A season [2]	n/a	n/a	0.115	4,318	497	4,341	499
	Central AI B season [2]	n/a	n/a	0.115	4,318	497	4,341	499
	Western AI A season [2]	n/a	n/a	0.2	670	134	670	134
	Western AI B season [2]	n/a	n/a	0.2	670	134	670	134
Rock sole	BSAI	6,317	169,362	0.037	75,905	2,808	75,905	2,808
Greenland turbot	BS	121	17,305	0.007	1,410	10	2,106	15
	AI	23	4,987	0.005	395	2	591	3
Arrowtooth flounder	BSAI	76	33,987	0.002	21,250	43	21,250	43
Kamchatka flounder.	BSAI	76	33,987	0.002	6,035	12	6,205	12
Flathead sole	BSAI	1,925	52,755	0.036	21,879	788	22,440	808
Alaska plaice	BSAI	14	9,438	0.001	20,825	21	21,250	21
Other flatfish	BSAI	3,058	52,298	0.058	2,253	131	2,550	148
Pacific ocean perch	BS	12	4,879	0.002	6,531	13	6,239	12
	Eastern AI	125	6,179	0.02	8,257	165	7,888	158
	Central AI	3	5,698	0.001	5,888	6	5,625	6
	Western AI	54	13,598	0.004	8,571	34	8,188	33
Northern rockfish	BSAI	91	13,040	0.007	2,205	15	2,550	18
Shortraker rockfish	BSAI	50	2,811	0.018	370	7	370	7
Rougheye rockfish	EBS/EAI	50	2,811	0.018	177	3	201	4
	CAI/WAI	50	2,811	0.018	239	4	277	5
Other rockfish	BS	18	621	0.029	300	9	400	12
	AI	22	806	0.027	473	13	473	13
Skates	BSAI	553	68,672	0.008	22,100	177	22,100	177
Sculpins	BSAI	553	68,672	0.008	4,888	39	4,888	39
Sharks	BSAI	553	68,672	0.008	125	1	125	1
Squids	BSAI	73	3,328	0.022	264	6	276	6
Octopuses	BSAI	553	68,672	0.008	225	2	225	2

[1] Aleutian Islands Pacific ocean perch, and BSAI Atka mackerel, flathead sole, rock sole, and yellowfin sole are multiplied by the remainder of the TAC after the subtraction of the CDQ reserve under § 679.20(b)(1)(ii)(C).

[2] The seasonal apportionment of Atka mackerel in the open access fishery is 50 percent in the A season and 50 percent in the B season. Listed AFA catcher/processors are limited to harvesting no more than zero in the Eastern Aleutian District and Bering Sea subarea, 20 percent of the annual ITAC specified for the Western Aleutian District, and 11.5 percent of the annual ITAC specified for the Central Aleutian District.

Section 679.64(a)(2) and Tables 40 and 41 of part 679 establish a formula for calculating PSC sideboard limits for listed AFA C/Ps. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80 (72 FR 52668, September 14, 2007), and in the proposed rule (77 FR 72791, December 6, 2012).

PSC species listed in Table 18 that are caught by listed AFA C/Ps participating in any groundfish fishery other than pollock will accrue against the 2014 and 2015 PSC sideboard limits for the listed AFA C/Ps. Section 679.21(e)(3)(v) authorizes NMFS to close directed fishing for groundfish other than pollock for listed AFA C/Ps once a 2014 or 2015 PSC sideboard limit listed in Table 18 is reached.

Crab or halibut PSC caught by listed AFA C/Ps while fishing for pollock will accrue against the bycatch allowances annually specified for either the midwater pollock or the pollock/Atka mackerel/''other species'' fishery categories under regulations at § 679.21(e)(3)(iv).

TABLE 18—FINAL 2014 AND 2015 BSAI AFA LISTED CATCHER/PROCESSOR PROHIBITED SPECIES SIDEBOARD LIMITS

PSC species and area [1]	Ratio of PSC catch to total PSC	2014 and 2015 PSC available to trawl vessels after subtraction of PSQ [2]	2014 and 2015 catcher/processor sideboard limit [2]
Halibut mortality BSAI	n/a	n/a	286
Red king crab zone 1	0.007	86,621	606
C. opilio (COBLZ)	0.153	9,989,002	1,528,317
C. bairdi Zone 1	0.14	875,140	122,520
C. bairdi Zone 2	0.05	2,652,210	132,611

[1] Refer to § 679.2 for definitions of areas.
[2] Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.

AFA Catcher Vessel Sideboard Limits

Pursuant to § 679.64(a), the Regional Administrator is responsible for restricting the ability of AFA CVs to engage in directed fishing for groundfish species other than pollock to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery cooperatives in the pollock directed fishery. Section 679.64(b) establishes a formula for setting AFA CV groundfish and PSC sideboard limits for the BSAI. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80 (72 FR 52668, September 14, 2007). Tables 19 and 20 list the 2014 and 2015 AFA CV sideboard limits.

All catch of groundfish sideboard species made by non-exempt AFA CVs, whether as targeted catch or incidental catch, will be deducted from the 2014 and 2015 sideboard limits listed in Table 19.

TABLE 19—FINAL 2014 AND 2015 AMERICAN FISHERIES ACT CATCHER VESSEL BSAI GROUNDFISH SIDEBOARD LIMITS

[Amounts are in metric tons]

Species/gear	Fishery by area/season	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2014 initial TAC [1]	2014 AFA catcher vessel sideboard limits	2015 initial TAC [1]	2015 AFA catcher vessel sideboard limits
Pacific cod/Jig gear	BSAI	0	n/a	0	n/a	0
Pacific cod/Hook-and-line CV ≥ 60 feet LOA.	BSAI Jan 1–Jun 10	0.0006	206	0	209	0
	BSAI Jun 10–Dec 31	0.0006	198	0	201	0
Pacific cod pot gear CV ≥ 60 feet LOA.	BSAI Jan 1–Jun 10	0.0006	8,638	5	8,786	5
	BSAI Sept 1–Dec 31	0.0006	8,300	5	8,441	5
Pacific cod CV < 60 feet LOA using hook-and-line or pot gear.	BSAI	0.0006	4,033	2	4,102	2
Pacific cod trawl gear CV	BSAI Jan 20–Apr 1	0.8609	37,079	31,921	37,708	32,463
	BSAI Apr 1–Jun 10	0.8609	5,512	4,745	5,605	4,825
	BSAI Jun 10–Nov 1	0.8609	7,516	6,471	7,643	6,580
Sablefish trawl gear	BS	0.0906	569	52	514	47
	AI	0.0645	385	25	348	22
Atka mackerel	Eastern AI/BS Jan 1–Jun 10	0.0032	9,668	31	9,720	31
	Eastern AI/BS Jun 10–Nov 1	0.0032	9,668	31	9,720	31
	Central AI Jan 1–Jun 10	0.0001	4,318	0	4,341	0
	Central AI Jun 10–Nov 1	0.0001	4,318	0	4,341	0
	Western AI Jan 1–Jun 10	0	447	0	447	0
	Western AI Jun 10–Nov 1	0	447	0	447	0
Rock sole	BSAI	0.0341	75,905	2,588	75,905	2,588
Greenland turbot	BS	0.0645	1,410	91	2,106	136
	AI	0.0205	395	8	591	12
Arrowtooth flounder	BSAI	0.069	21,250	1,466	21,250	1,466
Kamchatka flounder	BSAI	0.069	6,035	416	6,205	428
Alaska plaice	BSAI	0.0441	20,825	918	21,250	937
Other flatfish	BSAI	0.0441	2,253	99	2,550	112
Flathead sole	BS	0.0505	21,879	1,105	22,440	1,133

TABLE 19—FINAL 2014 AND 2015 AMERICAN FISHERIES ACT CATCHER VESSEL BSAI GROUNDFISH SIDEBOARD LIMITS—Continued

[Amounts are in metric tons]

Species/gear	Fishery by area/season	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2014 initial TAC [1]	2014 AFA catcher vessel sideboard limits	2015 initial TAC [1]	2015 AFA catcher vessel sideboard limits
Pacific ocean perch	BS	0.1	6,531	653	6,239	624
	Eastern AI	0.0077	8,257	64	7,888	61
	Central AI	0.0025	5,888	15	5,625	14
	Western AI	0	8,571	0	8,188	0
Northern rockfish	BSAI	0.0084	2,205	19	2,550	21
Shortraker rockfish	BSAI	0.0037	370	1	370	1
Rougheye rockfish	EBS/EAI	0.0037	177	1	201	1
	CAI/WAI	0.0037	239	1	277	1
Other rockfish	BS	0.0048	300	1	400	2
	AI	0.0095	473	4	473	4
Skates	BSAI	0.0541	22,100	1,196	22,100	1,196
Sculpins	BSAI	0.0541	4,888	264	4,888	264
Sharks	BSAI	0.0541	125	7	125	7
Squids	BSAI	0.3827	264	101	276	106
Octopuses	BSAI	0.0541	225	12	225	12

[1] Aleutians Islands Pacific ocean perch, and BSAI Atka mackerel, flathead sole, and rock sole are multiplied by the remainder of the TAC of that species after the subtraction of the CDQ reserve under § 679.20(b)(1)(ii)(C).

Halibut and crab PSC limits listed in Table 20 that are caught by AFA CVs participating in any groundfish fishery for groundfish other than pollock will accrue against the 2014 and 2015 PSC sideboard limits for the AFA CVs. Sections 679.21(d)(8) and 679.21(e)(3)(v) authorize NMFS to close directed fishing for groundfish other than pollock for AFA CVs once a 2014 or 2015 PSC sideboard limit listed in Table 20 is reached. The PSC that is caught by AFA CVs while fishing for pollock in the BSAI will accrue against the bycatch allowances annually specified for either the midwater pollock or the pollock/Atka mackerel/''other species'' fishery categories under regulations at § 679.21(e)(3)(iv).

TABLE 20—FINAL 2014 AND 2015 AMERICAN FISHERIES ACT CATCHER VESSEL PROHIBITED SPECIES CATCH SIDEBOARD LIMITS FOR THE BSAI[1]

PSC species and area [1]	Target fishery category [2]	AFA catcher vessel PSC sideboard limit ratio	2014 and 2015 PSC limit after subtraction of PSQ reserves [3]	2014 and 2015 AFA catcher vessel PSC sideboard limit [3]
Halibut	Pacific cod trawl	n/a	n/a	887
	Pacific cod hook-and-line or pot	n/a	n/a	2
	Yellowfin sole total	n/a	n/a	101
	Rock sole/flathead sole/other flatfish [4].	n/a	n/a	228
	Greenland turbot/arrowtooth/sablefish [5].	n/a	n/a	0
	Rockfish	n/a	n/a	2
	Pollock/Atka mackerel/other species [6].	n/a	n/a	5
Red king crab Zone 1	n/a	0.299	86,621	25,900
C. opilio COBLZ	n/a	0.168	9,989,002	1,678,152
C. bairdi Zone 1	n/a	0.33	875,140	288,796
C. bairdi Zone 2	n/a	0.186	2,652,210	493,311

[1] Refer to § 679.2 for definitions of areas.
[2] Target fishery categories are defined in regulation at § 679.21(e)(3)(iv).
[3] Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.
[4] ''Other flatfish'' for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, Kamchatka flounder, and arrowtooth flounder.
[5] Arrowtooth for PSC monitoring includes Kamchatka flounder.
[6] ''Other species'' for PSC monitoring includes skates, sculpins, sharks, squids, and octopuses.

AFA Catcher/Processor and Catcher Vessel Sideboard Directed Fishing Closures

Based on historical catch patterns, the Regional Administrator has determined that many of the AFA C/P and CV sideboard limits listed in Tables 21 and 22 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2014 and 2015 fishing years. In accordance with § 679.20(d)(1)(iv), the Regional Administrator establishes the sideboard limits listed in Tables 21 and 22 as DFAs. Because many of these DFAs will be reached before the end of 2014, the Regional Administrator has determined, in accordance with § 679.20(d)(1)(iii), that NMFS is prohibiting directed fishing by listed AFA C/Ps for the species in the specified areas set out in Table 21, and directed fishing by non-exempt AFA CVs for the species in the specified areas set out in Table 22.

TABLE 21—FINAL 2014 AND 2015 AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR SIDEBOARD DIRECTED FISHING CLOSURES [1]

[Amounts are in metric tons]

Species	Area	Gear types	2014 sideboard limit	2015 sideboard limit
Sablefish trawl	BS	trawl	9	8
	AI	trawl	0	0
Rock sole	BSAI	all	2,808	2,808
Greenland turbot	BS	all	10	15
	AI	all	2	3
Arrowtooth flounder	BSAI	all	43	43
Kamchatka flounder	BSAI	all	12	12
Alaska plaice	BSAI	all	21	21
Other flatfish [2]	BSAI	all	131	148
Flathead sole	BSAI	all	788	808
Pacific ocean perch	BS	all	13	12
	Eastern AI	all	165	158
	Central AI	all	6	6
	Western AI	all	34	33
Northern rockfish	BSAI	all	15	18
Shortraker rockfish	BSAI	all	7	7
Rougheye rockfish	EBS/EAI	all	3	3
	CAI/WAI	all	4	5
Other rockfish [3]	BS	all	9	12
	AI	all	13	13
Skates	BSAI	all	177	177
Sculpins	BSAI	all	39	39
Sharks	BSAI	all	1	1
Squids	BSAI	all	6	6
Octopuses	BSAI	all	2	2

[1] Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

[2] ''Other flatfish'' includes all flatfish species, except for halibut, Alaska plaice, flathead sole, Greenland turbot, rock sole, yellowfin sole, Kamchatka flounder, and arrowtooth flounder.

[3] ''Other rockfish'' includes all Sebastes and Sebastolobus species except for Pacific ocean perch, northern rockfish, dark rockfish, shortraker rockfish, and rougheye rockfish.

TABLE 22—FINAL 2014 AND 2015 AMERICAN FISHERIES ACT CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES [1]

[Amounts are in metric tons]

Species	Area	Gear types	2014 sideboard limit	2015 sideboard limit
Pacific cod	BSAI	hook-and-line CV ≥ 60 feet LOA	0	0
	BSAI	pot CV ≥ 60 feet LOA	10	10
	BSAI	hook-and-line or pot CV< 60 feet LOA.	2	2
	BSAI	jig	0	0
Sablefish	BS	trawl	52	47
	AI	trawl	25	22
Atka mackerel	Eastern AI/BS	all	62	62
	Central AI	all	0	0
	Western AI	all	0	0
Greenland turbot	BS	all	91	136
	AI	all	8	12
Arrowtooth flounder	BSAI	all	1,466	1,466
Kamchatka flounder	BSAI	all	416	428
Alaska plaice	BSAI	all	918	937
Other flatfish [2]	BSAI	all	99	112
Flathead sole	BSAI	all	1,105	1,133
Rock sole	BSAI	all	2,588	2,588
Pacific ocean perch	BS	all	653	624

TABLE 22—FINAL 2014 AND 2015 AMERICAN FISHERIES ACT CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES [1]—Continued

[Amounts are in metric tons]

Species	Area	Gear types	2014 sideboard limit	2015 sideboard limit
	Eastern AI	all	64	61
	Central AI	all	15	14
	Western AI	all	0	0
Northern rockfish	BSAI	all	19	21
Shortraker rockfish	BSAI	all	1	1
Rougheye rockfish	BS/EAI	all	1	1
	CAI/WAI	all	1	1
Other rockfish [3]	BS	all	1	2
	AI	all	4	4
Skates	BSAI	all	1,196	1,196
Sculpins	BSAI	all	264	264
Sharks	BSAI	all	7	7
Squids	BSAI	all	101	106
Octopuses	BSAI	all	12	12

[1] Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.
[2] "Other flatfish" includes all flatfish species, except for halibut, Alaska plaice, flathead sole, Greenland turbot, rock sole, yellowfin sole, Kamchatka flounder, and arrowtooth flounder.
[3] "Other rockfish" includes all Sebastes and Sebastolobus species except for Pacific ocean perch, northern rockfish, dark rockfish, shortraker rockfish, and rougheye rockfish.

Response to Comments

NMFS received one letter with one comment.

Comment: The harvest of all groundfish quotas in the BSAI should be cut by 50 percent.

Response: Pursuant to National Standard One of the Magnuson-Stevens Act, NMFS must achieve, on a continuing basis, the optimum yield from each fishery for the U.S. fishing industry. The optimum yield for the BSAI groundfish fisheries ranges from 1.4 million mt to two million mt. Based on the best available science, the Council determined that the optimum yield for 2014 and 2015 is two million metric tons, and recommended TACs to achieve this optimum yield. NMFS agrees with this recommendation. Reducing the harvest of all groundfish by 50 percent would not achieve optimum yield for the BSAI groundfish fisheries, and would not comply with National Standard One.

Classification

NMFS has determined that these final harvest specifications are consistent with the FMP and with the Magnuson-Stevens Act and other applicable laws.

This action is authorized under 50 CFR 679.20 and is exempt from review under Executive Orders 12866 and 13563.

NMFS prepared an EIS that covers this action (see ADDRESSES) and made it available to the public on January 12, 2007 (72 FR 1512). On February 13, 2007, NMFS issued the Record of Decision (ROD) for the EIS. In January 2014, NMFS prepared a Supplemental Information Report (SIR) for this action. Copies of the EIS, ROD, and SIR for this action are available from NMFS (see **ADDRESSES**). The EIS analyzes the environmental consequences of the groundfish harvest specifications and alternative harvest strategies on resources in the action area. The EIS found no significant environmental consequences of this action and its alternatives. The SIR evaluates the need to prepare a Supplemental EIS (SEIS) for the 2014 and 2015 groundfish harvest specifications.

An SEIS should be prepared if (1) the agency makes substantial changes in the proposed action that are relevant to environmental concerns; or (2) significant new circumstances or information exist relevant to environmental concerns and bearing on the proposed action or its impacts (40 CFR 1502.9(c)(1)). After reviewing the information contained in the SIR and SAFE reports, the Regional Administrator has determined that (1) approval of the 2014 and 2015 harvest specifications, which were set according to the preferred harvest strategy in the EIS, do not constitute a change in the action; and (2) there are no significant new circumstances or information relevant to environmental concerns and bearing on the action or its impacts. Additionally, the 2014 and 2015 harvest specifications will result in environmental impacts within the scope of those analyzed and disclosed in the EIS. Therefore, supplemental National Environmental Policy Act documentation is not necessary to implement the 2014 and 2015 harvest specifications.

Pursuant to section 604 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601, *et seq.,* a FRFA was prepared for this action. The FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA), and includes a summary of the significant issues raised by public comments in response to the IRFA, as well as NMFS' responses to those comments. A summary of the analyses completed to support the action is also included in the FRFA.

A copy of the FRFA prepared for this final rule is available from NMFS (see **ADDRESSES**). A description of this action, its purpose, and its legal basis are contained at the beginning of the preamble to this final rule and are not repeated here.

NMFS published the proposed rule on December 10, 2013 (78 FR 74063). The rule was accompanied by an IRFA, which was summarized in the proposed rule. The comment period closed on January 9, 2014. No comments were received on the IRFA.

The entities directly regulated by this action are those that receive allocations of groundfish in the exclusive economic zone of the BSAI, and in parallel fisheries within State of Alaska waters, during the annual harvest specifications process. These directly regulated entities include the groundfish CVs and C/Ps active in these areas. Direct allocations of groundfish are also made to certain organizations, including the CDQ groups, AFA C/P and inshore CV sectors, Aleut Corporation, and

Amendment 80 cooperatives. These entities are, therefore, also considered directly regulated.

According to the Small Business Administration, a small entity engaged in fishing activities is one that is not dominant in its field, and individually has annual revenues of $19 million or less. In 2012, there were 428 individual catcher vessels with total gross revenues less than or equal to $19 million. Many of these vessels are members in AFA inshore pollock cooperatives. However, vessels that participate in these cooperatives are considered to be large entities within the meaning of the RFA. After accounting for membership in these cooperatives, there are an estimated 112 small CVs remaining in the BSAI.

In 2012, 45 C/Ps grossed less than $19 million. Some of these vessels were affiliated through ownership by the same business firm. By 2012, the vessels in this group were also affiliated through membership in two cooperatives (the Amendment 80 ''Best Use'' cooperative, or the Freezer Longline Conservation Cooperative (FLCC)). Applying the 2012 firm and cooperative affiliations to these vessels, NMFS estimates that these 45 vessels currently represent seven small entities.

Through the CDQ program, the Council and NMFS allocate a portion of the BSAI groundfish TACs, and halibut and crab PSC limits, to 65 eligible Western Alaska communities. These communities work through six non-profit CDQ groups, and are required to use the proceeds from the CDQ allocations to start or support activities that will result in ongoing, regionally based, commercial fishery or related businesses. The CDQ groups receive allocations through the harvest specifications process, and are directly regulated by this action, but the 65 communities are not directly regulated. Because they are nonprofit entities that are independently owned and operated, and are not dominant in their field, the CDQ groups are considered small entities for RFA purposes.

The AFA and Amendment 80 fisheries cooperatives are directly regulated because they receive allocations of TAC through the harvest specifications process. However, the FLCC, a voluntary private cooperative that became fully effective in 2010, is not considered to be directly regulated. The FLCC manages a catch share program among its members, but it does not receive an allocation under the harvest specifications. NMFS allocates TAC to the freezer longline sector, and the cooperative members voluntarily allocate this TAC among themselves via the FLCC. The AFA and Amendment 80 cooperatives are large entities, since they are affiliated with firms with joint revenues of more than $19 million.

The Aleut Corporation is an Alaska Native Corporation that receives an allocation of pollock in the Aleutian Islands. The Aleut Corporation is a holding company and evaluated according to the Small Business Administration criteria for Office or Other Holding Companies, at 13 CFR 121.201, which uses a threshold of $7 million gross annual receipts threshold for small entities. The Aleut Corporation revenues exceed this threshold, and the Aleut Corporation is considered to be a large entity. This determination follows the analysis in the RFA certification for BSAI FMP.

This action does not modify recordkeeping or reporting requirements.

The significant alternatives were those considered as alternative harvest strategies when the Council selected its preferred harvest strategy (Alternative 2) in December 2006. These included the following:

- *Alternative 1:* Set TAC to produce fishing mortality rates, *F,* that are equal to *maxFABC,* unless the sum of the TAC is constrained by the OY established in the FMPs. This is equivalent to setting TAC to produce harvest levels equal to the maximum permissible ABC, as constrained by OY. The term ''*maxFABC''* refers to the maximum permissible value of *FABC* under Amendment 56 to the groundfish FMPs. Historically, the TAC has been set at or below the ABC; therefore, this alternative represents a likely upper limit for setting the TAC within the OY and ABC limits.
- *Alternative 3:* For species in Tiers 1, 2, and 3, set TAC to produce F equal to the most recent 5-year average actual *F.* For species in Tiers 4, 5, and 6, set TAC equal to the most recent 5-year average actual catch. For stocks with a high level of scientific information, TAC would be set to produce harvest levels equal to the most recent 5-year average actual fishing mortality rates. For stocks with insufficient scientific information, TAC would be set equal to the most recent 5-year average actual catch. This alternative recognizes that for some stocks, catches may fall well below ABC, and recent average F may provide a better indicator of actual *F* than *FABC* does.
- *Alternative 4:* (1) Set TAC for rockfish species in Tier 3 at F75%. Set TAC for rockfish species in Tier 5 at F=0.5M. Set spatially explicit TAC for shortraker and rougheye rockfish in the BSAI. (2) Taking the rockfish TAC as calculated above, reduce all other TAC by a proportion that does not vary across species, so that the sum of all TAC, including rockfish TAC, is equal to the lower bound of the area OY (1,400,000 mt in the BSAI). This alternative sets conservative and spatially explicit TAC for rockfish species that are long-lived and late to mature, and sets conservative TAC for the other groundfish species.
- *Alternative 5:* Set TAC at zero.

Alternative 2 is the preferred alternative chosen by the Council:

Set TAC that fall within the range of ABC recommended through the Council harvest specifications process and TACs recommended by the Council. Under this scenario, *F* is set equal to a constant fraction of *maxFABC.* The recommended fractions of *maxFABC* may vary among species or stocks, based on other considerations unique to each. This is the method for determining TAC that has been used in the past.

Alternatives 1, 3, 4, and 5 do not meet the objectives of this action, although they have a smaller adverse economic impact on small entities than the preferred alternative. The Council rejected these alternatives as harvest strategies in 2006, and the Secretary of Commerce did so in 2007. Alternative 1 would lead to TAC limits whose sum exceeds the fishery OY, which is set out in statute and the FMP. As shown in Table 1, the sum of ABCs in 2014 and 2015 would be 2,572,819 and 2,472,832 million mt, respectively. Both of these are substantially in excess of the fishery OY for the BSAI. This result would be inconsistent with the objectives of this action, in that it would violate the Consolidated Appropriations Act of 2004, Pub. L. No. 108–199, Sec. 803(c), and the FMP for the BSAI groundfish fishery, which both set a 2 million mt maximum harvest for BSAI groundfish.

Alternative 3 selects harvest rates based on the most recent 5 years' worth of harvest rates (for species in Tiers 1 through 3) or for the most recent 5 years' worth of harvests (for species in Tiers 4 through 6). This alternative is also inconsistent with the objectives of this action, because it does not take into account the most recent biological information for this fishery.

Alternative 4 would lead to significantly lower harvests of all species to reduce TAC from the upper end of the OY range in the BSAI, to its lower end. This result would lead to significant reductions in harvests of species by small entities. While reductions of this size could be associated with offsetting price increases, the size of these increases is very uncertain, and NMFS has no

confidence that they would be sufficient to offset the volume decreases and leave revenues unchanged. Thus, this action would have an adverse economic impact on small entities, compared to the preferred alternative.

Alternative 5, which sets all harvests equal to zero, may also address conservation issues, but would have a significant adverse economic impact on small entities.

Impacts on marine mammals resulting from fishing activities conducted under this rule are discussed in the EIS (see **ADDRESSES**).

In December 2013, the Council adopted separate Pacific cod harvest specifications for the Aleutian Islands and the Bering Sea in the 2014 and 2015 fishing years. The intent is that this will be a permanent split in the harvest specifications for Pacific cod. While separate OFLs, ABCs, and TACs, have been created for the Aleutian Islands and for the Bering Sea, the actual sector allocations (except CDQ allocations) remain BSAI-wide allocations. Sector allocations are calculated as a percent of the summed Aleutian Island and Bering Sea TACs, after adjustments are made to account for CDQ allocations. Because sector allocations (except CDQ allocations) continue to be defined BSAI-wide, sectors remain free to redeploy between the two areas. However, if the non-CDQ portion of the TAC in either sub-area is reached NMFS will close directed fishing for Pacific cod in that subarea. Thus if the resources in one of the areas is fully utilized, one sector will not be able to increase its harvest, unless at the expense of another sector's harvest.

It is possible that in some years that an Aleutian Island-specific Pacific cod TAC, in combination with a deduction from the ABC for a GHL fishery, and a deduction for an ICA, may leave the Aleutian Islands TAC too small to permit a directed fishery. The ultimate impact of the Pacific cod split will depend on policy decisions made by the Council and the Secretary. In the 10 years since the first year of the baseline period for this analysis (2004), the BSAI Pacific cod TAC was only set equal to the ABC in two years. There may be flexibility for the Council to offset anticipated Aleutian Island production limits by setting the Aleutian Islands TAC less than the ABC, and the Bering Sea TAC equal to the ABC. The 2 million metric ton groundfish optimum yield is the sum of the BSAI TACs, so a decrease in the Aleutian Islands TAC, coupled with an equal increase in the Bering sea TAC, would leave the aggregate BSAI Pacific cod TAC unchanged, and would not require reductions in TACs for other species so as to comply with the 2 million metric ton optimum yield limit.

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries, NOAA, finds good cause to waive the 30-day delay in effectiveness for this rule, because delaying this rule is contrary to the public interest. Plan Team review occurred in November 2013, and Council consideration and recommendations occurred in December 2013. Accordingly, NMFS review could not begin until after the December 2013 Council meeting, and after the public had time to comment upon the proposed action. If implemented immediately, this rule would allow these fisheries to continue fishing without the uncertainty of a potential closure, because the new TAC limits are higher than the ones under which they are currently fishing. If this rule's effectiveness is delayed, fisheries that might otherwise remain open under these rules may prematurely close based on the lower TACs established in the final 2013 and 2014 harvest specifications (78 FR 13813, March 1, 2013). Certain fisheries, such as those for pollock and Pacific cod are intensive, fast-paced fisheries. Other fisheries, such as those for flatfish, rockfish, skates, sculpins, sharks, and octopuses, are critical as directed fisheries and as incidental catch in other fisheries. U.S. fishing vessels have demonstrated the capacity to catch the TAC allocations in these fisheries. Any delay in allocating the final TAC limits in these fisheries would cause confusion to the industry and potential economic harm through unnecessary discards. Determining which fisheries may close is impossible because these fisheries are affected by several factors that cannot be predicted in advance, including fishing effort, weather, movement of fishery stocks, and market price. Furthermore, the closure of one fishery has a cascading effect on other fisheries by freeing up fishing vessels, allowing them to move from closed fisheries to open ones, increasing the fishing capacity in those open fisheries and causing them to close at an accelerated pace.

Additionally, in fisheries subject to declining sideboards, delaying this rule's effectiveness could allow some vessels to inadvertently reach or exceed their new sideboard levels. Because sideboards are intended to protect traditional fisheries in other sectors, allowing one sector to exceed its new sideboards by delaying this rule's effectiveness would effectively reduce the available catch for sectors without sideboard limits. Moreover, the new TAC and sideboard limits protect the fisheries from being overfished. Thus, the delay is contrary to the public interest in protecting traditional fisheries and fish stocks.

If the final harvest specifications are not effective by March 8, 2014, which is the start of the 2014 Pacific halibut season as specified by the IPHC, the hook-and-line sablefish fishery will not begin concurrently with the Pacific halibut IFQ season. Delayed effectiveness of this action would result in confusion for sablefish harvesters and economic harm from unnecessary discard of sablefish that are caught along with Pacific halibut, as both hook-and-line sablefish and Pacific halibut are managed under the same IFQ program. Immediate effectiveness of the final 2014 and 2015 harvest specifications will allow the sablefish IFQ fishery to begin concurrently with the Pacific halibut IFQ season. Also, immediate effectiveness of this action is required to provide consistent management and conservation of fishery resources based on the best available scientific information. This is particularly true of those species that have lower 2014 ABC and TAC limits than those established in the 2013 and 2014 harvest specifications (78 FR 13813, March 1, 2013). Immediate effectiveness also would give the fishing industry the earliest possible opportunity to plan and conduct its fishing operations with respect to new information about TAC limits. Therefore, NMFS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3).

Small Entity Compliance Guide

This final rule is a plain language guide to assist small entities in complying with this final rule as required by the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule's primary purpose is to announce the final 2014 and 2015 harvest specifications and prohibited species bycatch allowances for the groundfish fisheries of the BSAI. This action is necessary to establish harvest limits and associated management measures for groundfish during the 2014 and 2015 fishing years and to accomplish the goals and objectives of the FMP. This action directly affects all fishermen who participate in the BSAI fisheries. The specific amounts of OFL, ABC, TAC, and PSC are provided in tables to assist the reader. NMFS will announce closures of directed fishing in the **Federal Register** and information bulletins released by the Alaska Region. Affected fishermen should keep themselves informed of such closures.

Authority: 16 U.S.C. 773 *et seq.;* 16 U.S.C. 1540(f); 16 U.S.C. 1801 *et seq.;* 16 U.S.C. 3631 *et seq.;* Pub. L. 105–277; Pub. L. 106–31; Pub. L. 106–554; Pub. L. 108–199; Pub. L. 108–447; Pub. L. 109–241; Pub. L. 109–479.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2014–04762 Filed 3–3–14; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 79, No. 42
Tuesday, March 4, 2014

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–2013–1056; Directorate Identifier 2013–CE–046–AD]

RIN 2120–AA64

Airworthiness Directives; DORNIER LUFTFAHRT GmbH Airplanes

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

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of the comment period.

SUMMARY: We are revising an earlier NPRM for DORNIER LUFTFAHRT GmbH Models Dornier 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes that would supersede AD 2006–11–19. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as chafed or damaged wiring on the flight deck overhead panels (5VE and 6VE). We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by April 18, 2014.

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

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

For service information identified in this proposed AD, contact RUAG Aerospace Services GmbH, Dornier 228 Customer Support, P.O. Box 1253, 82231 Wessling, Germany; telephone: +49 (0) 8153–30 2220; fax: +49 (0) 8153–30 4258; email: *custsupport.dornier228@ruag.com;* Internet: *http://www.ruag.com/en/Aviation/Aviation_Home.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket Number FAA–2013–1056; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–1056; Directorate Identifier 2013–CE–046–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We proposed to amend 14 CFR part 39 with an NPRM for DORNIER LUFTFAHRT GmbH Models Dornier 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes, which was published in the **Federal Register** on December 23, 2013 (78 FR 77380), and proposed to supersede AD 2006–11–19, Amendment 39–14624 (71 FR 32268; June 5, 2006). The NPRM proposed to require actions intended to address the unsafe condition for the products listed above and was based on mandatory continuing airworthiness information (MCAI) originated by another country. The MCAI states that:

RUAG Aerospace Services GmbH issued Time Limits/Maintenance Checks Manual (TLMCM) TM–TLMCM–090305–ALL, Revision 5 dated 20 March 2011 respectively TM–TLMCM–228–00002–150610, Revision 1 dated 03 March 2011, listing component life limits and describing maintenance instructions for the Dornier 228 type design. The Document TM–TLMCM–228–00002–150610 is valid for airplane SN 8300 and up and other airplane SN modified according to CN–228–247. The instructions contained in that manual have been identified as mandatory actions for continued airworthiness.

In 2005, chafed wiring was found on 5VE Panel due to lost adhesive of the TY–RAP holder and subsequent vibration of the cable harness.

To address this potential unsafe condition, RUAG issued All Operators Telefax (AOT) No. AOT–228–24–028 and Temporary Revision (TR) 05–05 of the TLMCM introducing repetitive of the cockpit overhead panels 5VE and 6VE and, depending on findings, corrective actions(s). Subsequently, LBA issued AD D–2005–438 (EASA approval 2005–6430) to require those actions.

Since that AD was issued, the instructions of TR 05–05 have been incorporated into TM–TLMCM–090305–ALL, Revision 5 dated 20 March 2011 respectively into TM–TLMCM–228–00002–150610, Revision 1 dated 03 March 2011.

For the reasons described above, this AD retains the requirements of EASA AD D–2005–438, which is superseded, and requires the implementation of the life limits and maintenance actions as specified in the TLMCM (TM–TLMCM–090305–ALL

respectively TM–TLMCM–228–00002–150610) for zone 321 overhead panels 5VE/6VE.

The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA–2013–1056–0002.*

Since that NPRM was issued, we identified that we inadvertently omitted the calendar time compliance for the inspections of the wiring in the flight deck overhead panels. Because the compliance time is based on ''whichever occurs first,'' adding the calendar time with the hours time-in-service potentially increases the burden on the public.

Relevant Service Information

DORNIER LUFTFAHRT GmbH has issued RUAG Aerospace Services GmbH Dornier 228 TLMCM, TM–TLMCM–090305–ALL, Revision 5, March 20, 2011; and RUAG Aerospace Services GmbH Dornier 228 Airplane Maintenance Manual, TM–AMM–228–00014–080184, Revision 3, October 30, 2012. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

Comments

We did not receive any comments on the earlier NPRM.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Certain changes described above expand the scope of the earlier NPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on the proposed AD.

Costs of Compliance

We estimate that this proposed AD will affect 17 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $2,890 or $170 per product.

In addition, we estimate that any necessary follow-on actions would take about 3 work-hours and require parts costing $1,000, for a cost of $1,255 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

(4) Will not have a significant economic impact 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, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dornier Luftfahrt GmbH: Docket No. FAA–2013–1056; Directorate Identifier 2013–CE–046–AD.

(a) Comments Due Date

We must receive comments by April 18, 2014.

(b) Affected ADs

This AD supersedes AD 2006–11–19, Amendment 39–14624 (71 FR 32268; June 5, 2006).

(c) Applicability

This AD applies to Dornier Luftfahrt GmbH Dornier Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes, all serial numbers, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as chafed or damaged wiring on the flight deck overhead panels (5VE and 6VE). We are issuing this AD to prevent chafing and damage to the wiring in the flight deck overhead panels, which could result in short-circuiting of related wiring and possibly lead to electrical failure of affected systems and potential fire in the flight deck.

(f) Actions and Compliance

Unless already done, do the following actions in paragraphs (f)(1) through (f)(3) of this AD:

(1) Within the next 600 hours time-in-service (TIS) after the effective date of this AD or within the next 12 months after the effective date of this AD, whichever occurs first, and repetitively thereafter at intervals not to exceed 600 hours TIS or 12 months, whichever occurs first, inspect the wiring in the flight deck overhead panels, 5VE and 6VE, for chafing, damage, and/or incorrect installation (wire tie attachment holders). For the inspection, refer to zone 321 on page 5 in the Zonal Inspection Program in section 05–22–10 and zone 321 on page 5 in the Low Utilization Zonal Inspection Program in section 05–26–10 of Chapter 05 in RUAG Aerospace Services GmbH Dornier 228 Time Limits/Maintenance Checks Manual (TLMCM), TM–TLMCM–090305–ALL, Revision 5, March 20, 2011; and subjects 31–

10–07 and 31–10–08, both dated November 25, 2009, of Chapter 31, Indicating/Recording Systems in RUAG Aerospace Services GmbH Dornier 228 Airplane Maintenance Manual, TM–AMM–228–00014–080184, Revision 3, October 30, 2012.

(2) If any chafed or damaged wires are found during any inspection required in paragraph (f)(1) of this AD, before further flight, repair the affected wire(s) and assure correct installation of the wiring in the flight deck overhead panels by reattaching or replacing the wire tie attachment holders and securing any loose wires to the wire tie attachment holders with plastic wire ties following subjects 31–10–07 and 31–10–08, both dated November 25, 2009, of Chapter 31, Indicating/Recording Systems in RUAG Aerospace Services GmbH Dornier 228 Airplane Maintenance Manual, TM–AMM–228–00014–080184, Revision 3, October 30, 2012.

(3) To comply with the actions of this AD, you may insert a copy of this AD or a copy of the required actions of this AD into the airworthiness limitations section of the FAA-approved maintenance program (e.g., maintenance manual). This action may be done by an owner/operator (pilot) holding at least a private pilot certificate and must be entered into the airplane records showing compliance with this AD in accordance with 14 CFR 43.9 (a)(1)(4) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.173 or 135.439.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2013–0244, dated October 4, 2013, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–1056. For service information related to this AD, contact RUAG Aerospace Services GmbH, Dornier 228 Customer Support, P.O. Box 1253, 82231 Wessling, Germany; telephone: +49 (0) 8153–30 2220; fax: +49 (0) 8153–30 4258; email: *custsupport.dornier228@ruag.com;* Internet: *http://www.ruag.com/en/Aviation/Aviation_Home.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on February 25, 2014.

Steven W. Thompson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–04699 Filed 3–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 175

[Docket No. FAA–2014–0131]

Notice of Availability of Proposed Advisory Circular for Passenger Notification Hazardous Materials Regulations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability; request for comments.

SUMMARY: In April 2013, the FAA Administrator chartered an Aviation Rulemaking Committee to develop recommendations that would establish an acceptable and effective means for air carriers to notify passengers of hazardous materials regulations. In November 2013, that Aviation Rulemaking Committee published a report containing its recommendations, as well as a proposed Advisory Circular with one or more means for air carriers to comply with passenger notification regulations. The FAA invites public comment on the Aviation Rulemaking Committee's recommended guidance.

DATES: Comments must be received by April 3, 2014.

ADDRESSES: Send comments identified by docket number FAA–2014–0131 using any of the following methods:

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

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov*, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

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: Richard Bornhorst or Kenneth Miller, International and Domestic Standards Division, Office of Hazardous Materials Safety, Federal Aviation Administration, 470 L'Enfant Plaza SW., Washington, DC 20024; telephone (202) 385–4906, or (202) 385–4916.

SUPPLEMENTARY INFORMATION:

Background

In April 2013, the FAA Administrator chartered an Aviation Rulemaking Committee (ARC) to develop recommendations that would establish an acceptable and effective means for air carriers to notify passengers of hazardous materials regulations. The ARC's charter can be viewed online at: *http://www.faa.gov/regulations_policies/rulemaking/committees/documents/media/PassengerNotificationofHazardousMaterialsRegulations.ARC.Cht.04302013.pdf.*

In November 2013, the ARC submitted a report containing its recommendations, as well as an Advisory Circular (AC) proposing one or more means for air carriers to comply with passenger notification requirements under Title 49, Code of Federal Regulations (49 CFR) part 175. The FAA invites public comment on the ARC's recommended guidance, which can be found in the docket.

Comments Invited

As noted in the ARC's report, the ARC was comprised of experts representing air carriers, pilots, flight attendants, the

travel industry, as well as the FAA and Pipeline and Hazardous Materials Safety Administration. The ARC now seeks input from the general public and is particularly interested in feedback from entities subject to passenger notification regulations prescribed by U.S. Hazardous Materials (49 CFR 175.25). We note that operators transporting passengers in commerce under 14 CFR parts 135 and 91 are subject to the noted 49 CFR regulation, and it is important that a final AC provide a clear, acceptable, and effective means for these operators to communicate hazardous materials regulations to their passengers.

The ARC will review all comments received and consider them in its final recommendation to the FAA.

Issued in Washington, DC, on February 26, 2014.

Christopher Glasow,

Director, Office of Hazardous Materials Safety.

[FR Doc. 2014–04739 Filed 3–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 15

[Docket No. FDA–2013–N–0745]

Action Plan for the Collection, Analysis, and Availability of Demographic Subgroup Data in Applications for Approval of Food and Drug Administration-Regulated Medical Products; Notice of Public Hearing; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of public hearing; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public hearing to obtain input on the issues and challenges associated with the collection, analysis, and availability of demographic subgroup data in applications for approval of FDA-regulated human medical products.

DATES: The public hearing will be held on April 1, 2014, from 9 a.m. to 3 p.m. Submit electronic or written requests to make oral presentations at the hearing by March 21, 2014. Electronic or written comments will be accepted after the hearing until May 16, 2014.

ADDRESSES: The public hearing will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Bldg. 31, Conference Center, the Great Room (Rm. 1503A), Silver Spring, MD 20993. Entrance for the public hearing participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm*.

Submit electronic comments to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the corresponding docket number for the public meeting as follows: ''Docket No. FDA–2013–N–0745, Action Plan for the Collection, Analysis, and Availability of Demographic Subgroup Data in Applications for Approval of FDA-Regulated Human Medical Products, Public Hearing.''

FOR FURTHER INFORMATION CONTACT: Brenda Evelyn, Office of the Commissioner, Office of Minority Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 2303, Silver Spring, MD 20993 240–402–4201, email: *FDASIA907@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

In section 907 of the Food and Drug Administration Safety and Innovation Act (FDASIA) (Pub. L. 112–144), the U.S. Congress directed FDA to produce a report that addressed the extent to which clinical trial participation and the inclusion of safety and effectiveness data by demographic subgroups, including sex, age, race, and ethnicity, is included in applications submitted to FDA. Specifically, Congress asked FDA to consider four key topic areas: (1) A description of existing tools to ensure submission of demographic information along with how information about differences in safety and effectiveness of medical products according to demographic subgroup is made available to health care providers, researchers, and patients; (2) an analysis of the extent to which demographic data subset analyses are presented in applications; (3) an analysis of demographic subgroup representation in clinical trials submitted to FDA in support of product applications; and (4) an analysis of the extent to which a summary of product safety and effectiveness data by demographic subgroup is made available to the public in product labeling or on FDA's Web site.

To comply with that request, in August 2013, FDA published a report ''Collection, Analysis, and Availability of Demographic Subgroup Data for FDA-Approved Medical Products.'' [1] The report describes the Agency's evaluation of 72 applications approved during 2011 for new molecular entity drug products, original biologics, and class III devices (premarket approval).

Regarding collection of data, although there was variation by product area, the evaluation found FDA's statutory and regulatory requirements, guidances, policies, and procedures generally informed sponsors about including tabulations of the demographic data on clinical trial participants and demographic subset analyses in their medical product applications.

Similarly, tools (e.g., application review templates and FDA standard operating policies and procedures) guide regulatory review staff in the assessment of marketing applications to ensure that demographic data and subset analyses are included in the information FDA uses in its review and approval processes.

However, the extent to which demographic subset data were analyzed varied across medical product types (drugs, biologics, and devices). Applications for drugs and biologics uniformly addressed subset analyses by sex, race, and age—that is, the applications mentioned demographic subsets in some way. The report noted that FDA's new drug application regulations (21 CFR part 314; specifically § 314.50) call for demographic analysis in all applications in the integrated summaries of safety and effectiveness. Guidance and standard operating procedures for drugs and biologics also emphasize the importance of such analyses. There are no regulations requiring demographic analysis for device applications. Nonetheless, the majority of the device applications contained a subset analysis for age and sex, with a lower percentage of applications containing a subset analysis for race and ethnicity. Inclusion did not necessarily mean that the data on patient subgroups was sufficient for meaningful analysis or to detect relevant subgroup effects.

The report stated that all biologics, drugs, and the majority of the medical

[1] FDA, ''Collection, Analysis, and Availability of Demographic Subgroup Data for FDA-Approved Medical Products,'' August 2012, available at *http://www.fda.gov/downloads/regulatoryinformation/legislation/federalfooddrugandcosmeticactfdcact/significantamendmentstothefdcact/fdasia/ucm365544.pdf*.

device applications reviewed provided the composition of clinical study participants by age, race, and sex. Participants' sex was the most consistently reported in the medical product applications. For approved drugs and biologics, the extent to which patients were represented in clinical trials by age and sex tended to reflect the disease indication studied. For devices, patient participation by age and sex varied by product area. Whites represented a high percentage of clinical trial study participants for biologic, drug, and medical device applications, and in many cases, other racial subgroups were underrepresented.

FDA's internal policies, procedures, and regulations encourage demographic subgroup information be included in marketing applications. Moreover, following medical product approval, FDA communicates available information to the public both on the demographic profile of the study participants and on the demographic data subset analyses using a variety of mechanisms: Initially with product labeling and publicly posted clinical reviews, and later, once a product is on the market, with consumer updates, safety alerts, labeling changes, and other mechanisms, as needed.

As is required by section 907 of FDASIA, in response to the findings in the report, FDA is developing an action plan to address improving the completeness and quality of analyses of data on demographic subgroups in labeling, the inclusion of such data in labeling, and improving the public availability of information on demographic subgroups to patients, health care providers, and researchers.

II. Purpose and Scope of the Public Hearing

As part of FDA's process in the development of the required action plan, the Agency has decided to hold a public hearing to obtain information and viewpoints from key stakeholders and expert members of the public on the following questions:

A. Demographic Subgroup Representation in Clinical Trials

1. What approaches might be used to encourage enrollment of representative proportions of subgroup participants in clinical trials consistent with disease prevalence in the underlying population being studied?

2. What sources could be used to define disease prevalence among subgroups? Are there priority areas for study in terms of disease/condition, or in terms of demographic subgroup?

3. What are best practices and considerations for developing inclusion and exclusion criteria for clinical trials generally and for the early stages of research?

4. What approaches should FDA use to standardize the capture of race and ethnicity information, including for studies conducted outside the United States?

B. Analysis of Demographic Subgroup Data

1. What are the statistical challenges in analyzing clinical trial data to evaluate subgroup differences?

2. Given that it is not feasible to power most studies to detect subpopulation differences, what approaches should be used to analyze subgroups to explore clinically relevant information?

3. How might additional clinically relevant information about subgroups be obtained in the postmarket setting?

C. Communication of Demographic Subgroup Information to the Public

1. What information regarding demographic subgroups is helpful to health care professionals to make informed decisions about the use of medical products? To consumers/patients? To researchers?

2. What is the best way for FDA to communicate and make accessible such information to health care professionals? To consumers/patients? To researchers?

III. Attendance and Registration

If you wish to attend the hearing or make an oral presentation during the hearing, you must register by submitting either an electronic request (see the Web address listed at the end of this paragraph) or written request (see **FOR FURTHER INFORMATION CONTACT**) by close of business on March 21, 2014. You must provide your name, title, business affiliation (if applicable), address, email address, and type of organization you represent (e.g., industry, consumer organization), and a brief summary of your presentation, if applicable (including the discussion topic(s) that will be addressed), to *http://www.eventbrite.com/e/fda-public-hearing-fdasia-section-907-tickets-10678512719* by March 21, 2014.

FDA will notify registered presenters of their scheduled presentation times. Persons registered to make an oral presentation should check in before the hearing and are encouraged to arrive early to ensure the designated order of presentation times. We will try to accommodate all persons who wish to present; however, the duration of each speaker's testimony may be limited by time constraints. Questions about the meeting may also be also submitted to *FDASIA907@fda.hhs.gov* prior to the April 1, 2014, meeting date.

The hearing is free and seating will be on a first-come, first-served basis. Early registration is recommended because seating is limited. FDA may limit the numbers of participants from individual organizations as well as total number of attendees based on space limitations.

Registrants will receive confirmation once they have been accepted to attend the hearing. For those who cannot attend in person, information regarding viewing a live Web cast of the public hearing will be located on FDA's Web site.

If you need special accommodations due to a disability, contact Brenda Evelyn at 240–402–4021.

IV. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. To ensure consideration, submit comments by (see **DATES**). Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

V. Transcripts

Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov.* It may be viewed at the Division of Dockets Management (see **ADDRESSES**). A transcript will also be available in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. Written requests are to be sent to the Division of Freedom of Information (ELEM–1029), Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857.

Dated: February 26, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–04625 Filed 3–3–14; 8:45 am]

BILLING CODE 4160–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2013–0707; FRL–9907–45–Region 10]

Revision to the Washington State Implementation Plan; Update to the Solid Fuel Burning Devices Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the Washington State Department of Ecology (Ecology) received on January 30, 2014. The SIP submission contains revisions to Washington's solid fuel burning device rules to control fine particulate matter ($PM_{2.5}$) from residential wood combustion. The updated regulations reflect Washington State statutory changes made in 2012, setting revised $PM_{2.5}$ trigger levels for impaired air quality burn bans and setting criteria for prohibiting solid fuel burning devices that are not certified. The submission also contains updates to the regulations to improve the clarity of the language. We are proposing to approve these changes because they meet the requirements of the Clean Air Act and strengthen the Washington SIP.

DATES: Written comments must be received on or before April 3, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2013–0707, by any of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- Email: *R10-Public_Comments@epa.gov.*
- Mail: Jeff Hunt, EPA Region 10, Office of Air, Waste and Toxics (AWT–107), 1200 Sixth Avenue, Suite 900, Seattle WA, 98101
- Hand Delivery/Courier: EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle WA, 98101. Attention: Jeff Hunt, Office of Air, Waste and Toxics, AWT—107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R10–OAR–2013–0707. The 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 the disclosure of which 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 the 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 the 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, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt at (206) 553–0256, *hunt.jeff@epa.gov,* or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, it is intended to refer to the EPA.

The following outline is provided to aid in locating information in this preamble:

Table of Contents

I. Background

On July 18, 1997, the EPA promulgated the 1997 $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS), including an annual standard of 15.0 micrograms per cubic meter (μg/m^3) based on a three-year average of annual mean $PM_{2.5}$ concentrations, and a 24-hour (or daily) standard of 65 μg/m^3 based on a three-year average of the 98th percentile of 24-hour concentrations (62 FR 38652). The EPA established the standards based on significant evidence and numerous health studies demonstrating that serious health effects are associated with exposures to $PM_{2.5}$. On October 17, 2006, the EPA revised the $PM_{2.5}$ 24-hour standard from 65 μg/m^3 to 35 μg/m^3 based on additional evidence and health studies (71 FR 61144).

Following promulgation of a new or revised NAAQS, the EPA is required by the Clean Air Act (CAA) to designate areas throughout the United States as attaining or not attaining the NAAQS; this designation process is described in section 107(d)(1) of the CAA. Effective December 14, 2009, the EPA designated Tacoma-Pierce County, Washington (partial county designation) as a nonattainment area for the 2006 24-hour $PM_{2.5}$ standard (74 FR 58688; published on November 13, 2009). Under the CAA, a state is required to submit a revision to its SIP to meet nonattainment requirements within three years of the effective date of designation.

In 2012, the Washington State Legislature revised Chapter 70.94 Revised Code of Washington (RCW) *Washington Clean Air Act* (Washington Clean Air Act) to address the Tacoma-Pierce County $PM_{2.5}$ nonattainment area (Tacoma-Pierce County area) and other areas at risk for nonattainment statewide. On November 28, 2012, Ecology, in close coordination with the Puget Sound Clean Air Agency (PSCAA), submitted *Regulation 1—Article 13: Solid Fuel Burning Device Standards,* adopted by the PSCAA Board on October 25, 2012. These local air agency regulations, covering the Tacoma-Pierce County area, incorporated the $PM_{2.5}$ related statutory changes to Chapter 70.94 RCW. On May 29, 2013, the EPA approved the PSCAA regulations into the Washington SIP and approved Ecology's ''2008 Baseline Emissions Inventory and Documentation'' satisfying the attainment planning requirements due at the time for the Tacoma-Pierce County area (78 FR 32131).

On January 30, 2014, Ecology submitted to the EPA a SIP revision updating Chapter 173–433 of the

Washington Administrative Code (WAC) *Solid Fuel Burning Devices* for purposes of aligning the regulations with the statutory changes made in 2012 by the Washington State Legislature, and supporting the local PSCAA regulations approved on May 29, 2013 by the EPA (78 FR 32131). The SIP revision also helps provide the necessary regulatory framework to support an anticipated maintenance plan and redesignation request for the Tacoma-Pierce County area in the future.

II. Summary of SIP Revision

In the January 30, 2014 submission, Ecology revised the regulations contained in Chapter 173–433 WAC *Solid Fuel Burning Devices* to reflect two significant changes to the Washington Clean Air Act. Ecology revised Chapter 173–433–140 WAC *Criteria for Impaired Air Quality Burn Bans* to remove outdated course particulate matter (PM_{10}) burn ban trigger levels and replace them with more stringent $PM_{2.5}$ trigger levels to make it consistent with Chapter 70.94.473 of the Washington Clean Air Act. Ecology provided an analysis covering former PM_{10} nonattainment areas in both Western and Eastern Washington to demonstrate that the $PM_{2.5}$ trigger levels are more stringent and will provide continued maintenance of the PM_{10} NAAQS, established on July 1, 1987 (52 FR 24663). Ecology also removed an outdated carbon monoxide trigger level for residential wood combustion curtailment. The EPA agrees with Ecology's analysis that historic violations of the 1985 carbon monoxide NAAQS centered on areas of high traffic congestion and have little connection with dispersed residential woodstove emissions. The EPA's past approval of maintenance plans for carbon monoxide areas located in Washington applied specifically to transportation control measures, so this revision will have no impact on control measures relied upon for attainment and maintenance of the 1985 carbon monoxide NAAQS in these areas of Washington. These transportation control measures combined with continuing fleet turnover with cleaner new cars and trucks have brought carbon monoxide levels to historic lows. Ecology cites monitoring data from the Spokane carbon monoxide maintenance area where carbon monoxide levels are roughly one-fifth of the federal limit, with little to no potential for future violations.

In the January 30, 2014 submission, Ecology also added a new section, Chapter 173–433–155 WAC *Criteria for Prohibiting Solid Fuel Burning Devices that Are Not Certified* to incorporate changes to Chapter 70.94.477 of the Washington Clean Air Act. This provision allows Ecology or a local air agency to prohibit the use of uncertified solid fuel burning devices in a fine particulate matter nonattainment or maintenance area, even in the absence of an air quality episode or impaired air quality burn ban. The new Chapter 173–433–155 WAC is consistent with and supports the local PSCAA corollary contained in Regulation 1, Section 13.07 *Prohibitions on Wood Stoves That Are Not Certified Wood Stoves,* already approved into the Washington SIP. This Washington regulation and the local PSCAA corollary will be a key component in Ecology's future maintenance plan demonstration showing that the current low levels of $PM_{2.5}$ for the Tacoma-Pierce County area can be sustained over time. Lastly, Ecology updated other sections of Chapter 173–433 WAC to improve clarity and ensure that consistent terminology is used throughout all the sections.

III. Proposed Action

The EPA is proposing to approve Washington's SIP revision received January 30, 2014. Specifically, the EPA is proposing to approve and incorporate by reference into the SIP the rules shown in Table 1 below. In addition, Ecology submitted Chapter 173–433–200 WAC *Regulatory Actions and Penalties* to demonstrate adequate enforcement authority to implement the program. Regulations describing agency enforcement authority are not generally incorporated into the SIP to avoid potential conflict with the EPA's independent authorities. Therefore, the EPA has reviewed and is proposing approval of Chapter 173–433–200 WAC as having adequate enforcement authority, but will not incorporate this section by reference into the SIP codified in 40 CFR 52.2470(c). We have made the determination that this action is consistent with section 110 of the CAA. The EPA is soliciting public comments which will be considered before taking final action.

TABLE 1—SUBMITTED RULES

Agency	Citation (WAC)	Title	State effective date	Submitted
Ecology	173–433–010	Purpose	02/23/14	01/30/14
Ecology	173–433–020	Applicability	02/23/14	01/30/14
Ecology	173–433–030	Definitions	02/23/14	01/30/14
Ecology	173–433–100	Emission Performance Standards	02/23/14	01/30/14
Ecology	173–433–110	Opacity Standards	02/23/14	01/30/14
Ecology	173–433–120	Prohibited Fuel Types	02/23/14	01/30/14
Ecology	173–433–140	Criteria for Impaired Air Quality Burn Bans	02/23/14	01/30/14
Ecology	173–433–150	Restrictions on the Operation of Solid Fuel Burning Devices	02/23/14	01/30/14
Ecology	173–433–155	Criteria for Prohibiting the Use of Solid Fuel Burning Devices that Are Not Certified.	02/23/14	01/30/14

IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and

• does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not impose substantial direct costs on tribal governments or preempt tribal law. The SIP is not approved to apply in Indian country located in the State of Washington, except for non-trust land within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the *Puyallup Tribe of Indians Settlement Act of 1989,* 25 U.S.C. 1773, Congress explicitly provided state and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area and the EPA is therefore approving this SIP on such lands. Consistent with EPA policy, the EPA nonetheless provided a consultation opportunity to the Puyallup Tribe in a letter dated September 3, 2013. The EPA did not receive a request for consultation.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, and Particulate matter.

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

Dated: February 25, 2014.

Dennis J. McLerran,

Regional Adminstrator, Region 10.

[FR Doc. 2014–04783 Filed 3–3–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2013–0008; 4500030113]

RIN 1018–AZ34

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Sharpnose Shiner and Smalleye Shiner

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of the comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period on the August 6, 2013, proposed designation of critical habitat for the sharpnose shiner (*Notropis oxyrhynchus*) and smalleye shiner (*N. buccula*) under the Endangered Species Act of 1973, as amended (Act). We also announce the availability of a draft economic analysis (DEA) of the proposed designation of critical habitat for sharpnose shiner and smalleye shiner and an amended required determinations section of the proposal. We are reopening the comment period to allow all interested parties an opportunity to comment simultaneously on the proposed critical habitat rule, the associated DEA, and the amended required determinations section. Comments previously submitted need not be resubmitted, as they will be fully considered in preparation of the final rule.

DATES: We will consider comments received or postmarked on or before April 3, 2014. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: *Document availability:* You may obtain a copy of the proposed critical habitat rule and the associated draft economic analysis at Docket No. FWS–R2–ES–2013–0008, or by mail from the Arlington, Texas, Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Written Comments: You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Submit comments on the critical habitat proposal and associated DEA by searching for FWS–R2–ES–2013–0008, which is the docket number for the critical habitat proposed rulemaking.

(2) *By hard copy:* Submit comments on the critical habitat proposal and associated DEA by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R2–ES–2013–0008; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Debra Bills, Field Supervisor, Arlington, Texas, Ecological Services Field Office, 2005 NE Green Oaks Blvd., Suite 140, Arlington, Texas 76006, by telephone (817–277–1100), or by facsimile (817–277–1129). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We will accept written comments and information during this reopened comment period on our proposed designation of critical habitat for the sharpnose shiner and smalleye shiner that was published in the **Federal Register** on August 6, 2013 (78 FR 47612), our DEA of the proposed designation, and the amended required determinations provided in this document. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) The reasons why we should or should not designate habitat as ''critical habitat'' under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether there are threats to the species from human activity, the degree of which can be expected to increase due to the designation, and whether that increase in threat outweighs the benefit of designation such that the designation of critical habitat is not prudent.

(2) Specific information on:

(a) The distribution of the sharpnose shiner and smalleye shiner;

(b) The amount and distribution of sharpnose shiner and smalleye shiner habitat; and

(c) What areas occupied by the species at the time of listing that contain features essential for the conservation of the species we should include in the critical habitat designation and why; and

(d) What areas not occupied at the time of listing are essential to the conservation of the species and why.

(3) Land use designations and current or planned activities in the subject areas and their probable impacts on proposed critical habitat.

(4) Information on the projected and reasonably likely impacts of climate change on the sharpnose shiner and smalleye shiner and proposed critical habitat.

(5) Any probable economic, national security, or other relevant impacts of designating any area that may be included in the final designation; in particular, the benefits of including or excluding areas that exhibit these impacts.

(6) Information on the extent to which the description of economic impacts in the DEA is a reasonable estimate of the likely economic impacts.

(7) The likelihood of adverse social reactions to the designation of critical habitat, as discussed in the DEA, and how the consequences of such reactions, if likely to occur, would relate to the conservation and regulatory benefits of the proposed critical habitat designation.

(8) Whether any areas we are proposing for critical habitat designation should be considered for exclusion under section 4(b)(2) of the Act, and whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the Act.

(9) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

If you submitted comments or information on the proposed rule during the initial comment period from August 6, 2013, to October 7, 2013, please do not resubmit them. We have incorporated them into the public record and will fully consider them in the preparation of our final determination. Our final determination will take into consideration all written comments and any additional information we receive during both comment periods. On the basis of public comments, we may, during the development of our final determination, find that areas proposed as critical habitat are not essential, are appropriate for exclusion under section 4(b)(2) of the Act, or are not appropriate for exclusion.

You may submit your comments and materials concerning the proposed rule or DEA by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule and DEA, will be available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R2–ES–2013–0008 or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Arlington, Texas, Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

On August 6, 2013, we published in the **Federal Register** proposed rules to list the sharpnose shiner and smalleye shiner as endangered species (78 FR 47582) and designate critical habitat for both species (78 FR 47612). For more information on the species and the species' habitat, refer to the June 2013 Draft Species Status Assessment Report for the Sharpnose Shiner and Smalleye Shiner (SSA Report; Service 2013), available online at *http://www.regulations.gov* in Docket No. FWS–R2–ES–2013–0083 in association with the proposed listing rule. We proposed to designate as critical habitat approximately 1,002 river kilometers (623 river miles) in Baylor, Crosby, Fisher, Garza, Haskell, Kent, King, Knox, Stonewall, Throckmorton, and Young Counties in the upper Brazos River basin of Texas. Those proposals had 60-day comment periods, ending October 7, 2013. We will submit for publication in the **Federal Register** a final listing determination and critical habitat designation for sharpnose shiner and smalleye shiner on or before August 6, 2014.

Critical Habitat

Section 3 of the Act defines critical habitat as the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If the proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting critical habitat must consult with us on the effects of their proposed actions, under section 7(a)(2) of the Act.

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific data available, after taking into consideration the economic impact, impact on national security, or any other relevant impact of specifying any particular area as critical habitat. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

When considering the benefits of inclusion for an area, we consider the additional regulatory benefits that area would receive from the protection from adverse modification or destruction as a result of actions with a Federal nexus (activities conducted, funded, permitted, or authorized by Federal agencies), the educational benefits of mapping areas containing essential features that aid in the recovery of the listed species, and any benefits that may result from designation due to State or Federal laws that may apply to critical habitat.

When considering the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation; the continuation, strengthening, or encouragement of partnerships; or implementation of a management plan. In the case of sharpnose shiner and smalleye shiner, the benefits of critical habitat include public awareness of the

presence of sharpnose shiner and smalleye shiner and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for sharpnose shiner and smalleye shiner due to protection from adverse modification or destruction of critical habitat. In practice, situations with a Federal nexus exist primarily on Federal lands or for projects undertaken by Federal agencies.

We have not considered any areas for exclusion in our proposed critical habitat designation.

Consideration of Economic Impacts

Section 4(b)(2) of the Act and its implementing regulations require that we consider the economic impact that may result from a designation of critical habitat. To assess the probable economic impacts of a proposed designation, we must first evaluate specific land uses or activities and projects that may occur in the area of the critical habitat. We then must evaluate the impacts that a specific critical habitat designation may have on restricting or modifying specific land uses or activities for the benefit of the species and its habitat within the areas proposed. We then identify which conservation efforts may be the result of the species being listed under the Act versus those attributed solely to the designation of critical habitat for this particular species.

The probable economic impact of a proposed critical habitat designation is analyzed by comparing scenarios both ''with critical habitat'' and ''without critical habitat.'' The ''without critical habitat'' scenario represents the baseline for the analysis, which includes the existing regulatory and socio-economic burden imposed on landowners, managers, or other resource users potentially affected by the designation of critical habitat (e.g., under the Federal listing as well as other Federal, State, and local regulations). The baseline, therefore, represents the costs of all efforts attributable to the listing of the species under the Act (i.e., conservation of the species and its habitat incurred regardless of whether critical habitat is designated). The ''with critical habitat'' scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. The incremental conservation efforts and associated impacts would not be expected without the designation of critical habitat for the species. In other words, the incremental costs are those attributable solely to the designation of critical habitat, above and beyond the baseline costs. These are the costs we use when evaluating the benefits of inclusion and exclusion of particular areas from the final designation of critical habitat should we choose to conduct an optional section 4(b)(2) exclusion analysis.

For this particular designation, we developed an Incremental Effects Memorandum (IEM) considering the probable incremental economic impacts that may result from this proposed designation of critical habitat. The information contained in our IEM was then used to develop a screening analysis of the probable effects of the designation of critical habitat for the sharpnose shiner and smalleye shiner (IEc 2014, entire). We began by conducting a screening analysis of the proposed designation of critical habitat in order to focus our analysis on the key factors that are likely to result in incremental economic impacts. The purpose of the screening analysis is to filter out the geographic areas in which the critical habitat designation is unlikely to result in probable incremental economic impacts.

In particular, the screening analysis considers baseline costs (i.e., absent critical habitat designation) and includes probable economic impacts where land and water use may be subject to conservation plans, land management plans, best management practices, or regulations that protect the habitat area as a result of the Federal listing status of the species. The screening analysis filters out particular areas of critical habitat that are already subject to such protections and are, therefore, unlikely to incur incremental economic impacts. The screening analysis also assesses whether units are unoccupied by the species and may require additional management or conservation efforts as a result of the critical habitat designation for the species which may incur incremental economic impacts. This screening analysis combined with the information contained in our IEM are what we consider our draft economic analysis of the proposed critical habitat designation for the sharpnose shiner and smalleye shiner and is summarized in the narrative below.

Executive Orders 12866 and 13563 direct Federal agencies to assess the costs and benefits of available regulatory alternatives in quantitative (to the extent feasible) and qualitative terms. Consistent with the E.O. regulatory analysis requirements, our effects analysis under the Act may take into consideration impacts to both directly and indirectly impacted entities, where practicable and reasonable. We assess, to the extent practicable, the probable impacts, if sufficient data are available, to both directly and indirectly impacted entities. As part of our screening analysis, we considered the types of economic activities that are likely to occur within the areas likely affected by the critical habitat designation. In our evaluation of the probable incremental economic impacts that may result from the proposed designation of critical habitat for the sharpnose shiner and smalleye shiner, first we identified, in the IEM dated September 12, 2013, probable incremental economic impacts associated with the following categories of activities: (1) Water management, including flood control and drought protection operations; (2) in-stream projects; (3) transportation activities, including bridge construction; (4) oil and natural gas exploration and development; and (5) utilities projects, including water and sewer lines.

We considered each industry or category individually. Additionally, we considered whether their activities have any Federal involvement. Critical habitat designation will not affect activities that do not have any Federal involvement; designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies. In areas where the sharpnose shiner and smalleye shiner are present, Federal agencies will be required to consult with the Service under section 7 of the Act on activities they fund, permit, or implement that may affect the species. If we finalize this proposed critical habitat designation, consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the consultation process. Therefore, disproportionate impacts to any geographic area or sector are not likely as a result of this critical habitat designation.

In our IEM, we attempted to clarify the distinction between the effects that will result from the species being listed and those attributable to the critical habitat designation (i.e., the difference between the jeopardy and adverse modification standards) for the sharpnose and smalleye shiners' critical habitat. The designation of critical habitat for sharpnose shiners and smalleye shiners was proposed concurrently with the listing. In our experience with such simultaneous rulemaking actions, discerning which conservation efforts are attributable to the species being listed and which will result solely from the designation of critical habitat is difficult. However, the following specific circumstances in this case help to inform our evaluation: (1) The essential physical and biological

features identified for critical habitat are the same features essential for the life requisites of the species, and (2) any actions that would result in sufficient harm or harassment to constitute jeopardy to the sharpnose shiner or smalleye shiner would also likely adversely affect the essential physical and biological features of critical habitat. The IEM outlines our rationale concerning this limited distinction between baseline conservation efforts and incremental impacts of the designation of critical habitat for this species. This evaluation of the incremental effects has been used as the basis to evaluate the probable incremental economic impacts of this proposed designation of critical habitat.

We proposed to designate as critical habitat approximately 1,002 river kilometers (623 river miles) in the upper Brazos River basin of Texas and a 30 meter lateral buffer beyond the bankfull width of the river on both side of the river in the following Texas counties: Baylor, Crosby, Fisher, Garza, Haskell, Kent, King, Knox, Stonewall, Throckmorton, and Young. Only areas currently occupied by the species were proposed for designation as critical habitat. No unoccupied river segments were proposed as critical habitat. The proposed critical habitat encompasses the last areas where potentially viable populations of smalleye and sharpnose shiners remain. All stream segments included in the proposed critical habitat (the stream beds, including the small, seasonally dry, portions of the stream beds between the bankfull width, where vegetation occurs, and the wetted channel) are managed by the State, while to the best of our knowledge all adjacent riparian areas are privately owned.

The economic cost of implementing the rule through section 7 of the Act will most likely be limited to additional administrative effort to consider adverse modification. Areas proposed for critical habitat designation are remote and experience low levels of economic activity. The human population of all eleven counties containing proposed critical habitat totals only 52,613. Because these areas are so remote, we anticipate low levels of consultation due to the designation of critical habitat. All proposed units are considered occupied. Therefore, any activities with a Federal nexus will be subject to section 7 consultation requirements regardless of critical habitat designation. Further, most proposed actions that would adversely affect the physical or biological features would also likely constitute take of the species. For example, activities that fragment occupied riverine habitat or substantially alter its flow regime to the extent that critical habitat would be adversely affected would also result in the decline of sharpnose and smalleye shiner populations.. The Service anticipates that project modifications recommended to avoid adverse modification will likely be the same as those recommended to avoid jeopardy because the species is so closely dependent on its habitat for the life requisites of the species. Thus, based on the substantial baseline protections afforded the smalleye and sharpnose shiners and the close relationship between adverse modification and jeopardy in occupied habitat, we do not forecast any incremental costs associated with project modifications. When section 7 consultations occur, costs are likely to be limited to the additional administrative effort to consider adverse modification during the consultation process.

The additional administrative cost of addressing adverse modification during the section 7 consultation process ranges from approximately $410 to $5,000 per consultation, depending upon the type of consultation. Based on a review of the consultation history for the shiners, no more than 2 formal consultations, 28 informal consultations, and 16 technical assistances are expected annually. Thus, the incremental administrative burden resulting from the designation is likely to be less than $84,000 in a given year. The incremental administrative burden resulting from the designation is unlikely to reach $100 million in a given year based on the small number of anticipated consultations and pre-consultation costs.

Due to data availability limitations, we are unable to assign costs to specific units. Rather, we provide estimates of potential costs across the entire proposed critical habitat designation. We note that, of the 11 counties where critical habitat is located, Young County contains more than one-third of the overall human population. Thus, the amount of economic activity generated in this area may be larger than in the more remote counties. We did identify specific projects in Subunits 1 and 6 that would likely require section 7 consultation, but in both cases the only additional incurred incremental costs would likely be limited to administrative costs.

In some cases, proposed critical habitat may provide new information to project proponents who otherwise would not have consulted with the Service, thus resulting in incremental economic impacts. We cannot predict where or when these situations may occur, but anticipate that consultations of this nature will be infrequent. The designation of critical habitat is not expected to trigger additional requirements under State or local regulations, nor is the designation expected to have perceptional effects on markets. Additional section 7 efforts to conserve the species are not predicted to result from the designation of critical habitat. Thus, the designation is unlikely to exceed $100 million in a given year.

As we stated earlier, we are soliciting data and comments from the public on the DEA, as well as all aspects of the proposed rule and our amended required determinations. We may revise the proposed rule or supporting documents to incorporate or address information we receive during the public comment period. In particular, we may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area, provided the exclusion will not result in the extinction of this species.

Required Determinations—Amended

In our August 6, 2013, proposed rule to designate critical habitat (78 FR 47612), we indicated that we would defer our determination of compliance with several statutes and executive orders until we had evaluated the probable effects on landowners and stakeholders and the resulting probable economic impacts of the designation. Following our evaluation of the probable incremental economic impacts resulting from the designation of critical habitat for the sharpnose shiner and smalleye shiner, we have amended or affirmed our determinations below. Specifically, we affirm the information in our proposed rule concerning Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13132 (Federalism), E.O. 12988 (Civil Justice Reform), E.O. 13211 (Energy, Supply, Distribution, and Use), the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), and the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951). However, based on our evaluation of the probable incremental economic impacts of the proposed designation of critical habitat for the sharpnose shiner and smalleye shiner, we are amending our required determination concerning the

Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and E.O. 12630.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

Following recent court decisions, the Service's current understanding of the requirements under the RFA, as amended, is that Federal agencies are required to evaluate the potential incremental impacts of rulemaking only on those entities directly regulated by the rulemaking itself and, therefore, are not required to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried out by the Agency is not likely to adversely modify critical habitat. Under these circumstances, only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Therefore, it is our position that only Federal action agencies will be directly regulated by this designation. Federal agencies are not small entities, and there is no requirement under the RFA to evaluate the potential impacts to entities not directly regulated. Therefore, because no small entities are directly regulated by this rulemaking, the Service certifies that, if promulgated, the proposed critical habitat designation will not have a significant economic impact on a substantial number of small entities.

In summary, we have considered whether the proposed designation would result in a significant economic impact on a substantial number of small entities. For the above reasons and based on currently available information, we certify that, if promulgated, the proposed critical habitat designation would not have a significant economic impact on a substantial number of small business entities. Therefore, an initial regulatory flexibility analysis is not required.

E.O. 12630 (Takings)

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for sharpnose shiner and smalleye shiner in a takings implications assessment. As discussed above, the designation of critical habitat affects only Federal actions. Although private parties that receive Federal funding or assistance or require approval or authorization from a Federal agency for an action may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

The economic analysis found that no significant economic impacts are likely to result from the designation of critical habitat for sharpnose shiners and smalleye shiners. The Act's critical habitat protection requirements apply only to Federal agency actions, few conflicts between critical habitat and private property rights should result from this designation. Based on information contained in the DEA and described within this document, economic impacts to a property owner are unlikely to be of a sufficient magnitude to support a takings action. Therefore, the takings implications assessment concludes that this designation of critical habitat for sharpnose shiners and smalleye shiners does not pose significant takings implications for lands within or affected by the proposed designation.

Authors

The primary authors of this notice are the staff members of the Arlington, Texas, Ecological Services Field Office, Southwest Region, U.S. Fish and Wildlife Service.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 19, 2014.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2014–04465 Filed 3–3–14; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 79, No. 42
Tuesday, March 4, 2014

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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

[OMB Control Number: 3002–0003]

Information Collection Request Submitted to Office of Management and Budget (Renewal)

AGENCY: Administrative Conference of the United States.

ACTION: Sixty-day notice requesting comments.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1995, the Administrative Conference of the United States will submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB) requesting renewal of an existing and previously approved ICR (No. 3002–0003), substitute ''Confidential Employment and Financial Disclosure Report.'' This form is a simplified substitute for the Office of Government Ethics (OGE) Form 450, which non-government members of the Conference would otherwise be required to file. OGE has approved the use of this substitute form. This proposed information collection was previously approved by OMB in 2011, with an expiration date of May 31, 2014. The changes proposed on the current form are minor in nature. Before submitting this ICR to OMB, the Administrative Conference is inviting comments on the information collection.

DATES: Comments must be received by May 5, 2014.

ADDRESSES: Interested persons may submit written comments to either of the following:

(1) Online: *http://www.info@acus.gov,* with ICR Comments in the subject line.

(2) Mail: ICR Comments, Administrative Conference of the United States, 1120 20th Street NW., Suite 706 South, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Shawne McGibbon, General Counsel, Administrative Conference of the United States, Suite 706 South, 1120 20th Street NW., Washington, DC 20036; Telephone 202–480–2080, Email: *smcgibbon@acus.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, the Administrative Conference of the United States (ACUS) will submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB) requesting renewal of an existing and previously approved ICR (No. 3002–0003), substitute ''Confidential Employment and Financial Disclosure Report.'' The purpose of this notice is to allow 60 days for public comment on the ICR renewal.

ACUS is charged with developing recommendations for the improvement of Federal administrative procedures (5 U.S.C. 591). Its recommendations are the product of a research process overseen by a small staff, but ultimately adopted by a membership of 101 experts, including approximately 45 non-government members—5 Council members and up to 40 others (5 U.S.C. 593(b) and 5 U.S.C. 595(b)). These individuals are deemed to be ''special government employees'' within the meaning of 18 U.S.C. 202(a) and, therefore, are subject to confidential financial disclosure requirements of the Ethics in Government Act (5 U.S.C. App. 107) and regulations of the Office of Government Ethics (OGE). The ACUS substitute ''Confidential Employment and Financial Disclosure Report'' submitted (''Substitute Disclosure Form'') is a shorter substitute for OGE Form 450, which ACUS non-government members would otherwise be required to file.

In addition to the non-government members of the Conference, the Chairman, with the approval of the Council established under 5 U.S.C. 595(b), may appoint additional persons in various categories, for participation in Conference activities, but without voting privileges. These categories include senior fellows, special counsels, and liaison representatives from other government entities or professional associations. The estimated maximum number of such individuals that may also be required to submit the Substitute Disclosure Form at any particular time is 45.

Prior to the termination of funding for ACUS in 1995, the agency was authorized to use for this purpose a simplified form that was a substitute for OGE Form 450. The simplified substitute form was approved by OGE following a determination by the ACUS Chairman, pursuant to 5 CFR 2634.905(a), that greater disclosure is not required because the limited nature of the agency's authority makes very remote the possibility that a real or apparent conflict of interest will occur. ACUS received OMB approval for the simplified substitute form in 1994.

ACUS was re-established in 2010. On June 10, 2010, OGE renewed its approval for this simplified substitute form, which ACUS must provide to its non-government members in advance of membership meetings. In 2011, ACUS received approval from OMB for use of this form for a 3-year period through May 31, 2011. ACUS is now requesting approval by the Office of Management and Budget (OMB) for a renewal period of three years. The changes proposed to the form are minor in nature.

Subsequent to OMB's approval of the ICR in 2011, OGE clarified its opinion and stated that the forms need only be completed by the various types of ACUS non-government members prior to each plenary session they attend, but not prior to committee meetings they attend. This will greatly reduce the number of times individuals will have to complete the form.

As required by the Ethics in Government Act, 5 U.S.C. App. 107(a); Executive Order 12674, sec. 201(d); and OGE regulations, 5 CFR 2634.901(d), copies of the substitute form submitted to ACUS by its members are confidential and may not be released to the public.

The proposed substitute ''Confidential Employment and Financial Disclosure Report'' and the Supporting Statement submitted to OMB may be viewed at: *http://www.reginfo.gov/public/do/PRAMain.* Select ''Administrative Conference of the United States'' under ''Currently Under Review''; click on the ICR Reference Number; then click on either ''View Information Collection (IC) List'' or ''View Supporting Statement and Other Documents.'' To see the corresponding documents for the currently approved version, select ''Administrative Conference of the United States'' under ''Current Inventory.''

The total annual burden on respondents for the renewal period is estimated to be less than the 2011 estimate because the number of times the form has to be completed by each respondent has been greatly reduced. ACUS estimates a total burden of 45 hours (down from 135 hours in 2011), based on estimates of 90 persons submitting the form an average of 2 times per year, requiring no more than 15 minutes per response.

Interested persons are invited to submit comments regarding this burden estimate or any other aspect of this information collection, including its necessity, utility and clarity for the proper performance of the Conference's functions.

Dated: February 27, 2014.

Shawne C. McGibbon,

General Counsel.

[FR Doc. 2014–04752 Filed 3–3–14; 8:45 am]

BILLING CODE 6110–01–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

DATED: February 20, 2014.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 3, 2014 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20503. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service

Title: Aquaculture Survey.

OMB Control Number: 0535–0150.

Summary of Collection: The primary function of the National Agricultural Statistics Service is to estimate production and stocks of agricultural food, fiber, and specialty commodities. Congress has mandated the collection of basic data for aquaculture and provides funding for these surveys. Public Law 96–362 was passed to increase the overall effectiveness and productivity of federal aquaculture programs by improving coordination and communication among Federal agencies involved in those programs. Aquaculture is an alternative method to produce a high protein, low fat product demanded by the consumer. Aquiculture surveys provide information on trout and catfish inventory, acreage and sales as well as catfish processed.

Need and Use of the Information: The survey results are useful in analyzing changing trends in the number of commercial operations and production levels by State. The information collected is used to demonstrate the growing importance of aquaculture to officials of Federal and State government agencies who manage and direct policy over programs in agriculture and natural resources. The type of information collected and reported provides extension educators and research scientists with data that indicates important areas that require special educational and/or research efforts, such as causes for loss of fish and pond inventories of fish of various sizes. The data gathered from the various reports provide information to establish contract levels for fishing programs and to evaluate prospective loans to growers and processors.

Description of Respondents: Farms; Business or other for-profit.

Number of Respondents: 2,955.

Frequency of Responses: Reporting: Monthly; Semi-annually; Annually.

Total Burden Hours: 961.

National Agriculture Statistics Service

Title: Agricultural Surveys Program.

OMB Control Number: 0535–0213.

Summary of Collection: National Agriculture Statistics Service (NASS) primary functions are to prepare and issue state and national estimates of crop and livestock production and collect information on related environmental and economic factors. The Agricultural Surveys Program is a series of surveys that contains basic agricultural data from farmers and ranchers throughout the Nation for preparing agricultural estimates and forecasts. The surveys results provide the foundation for setting livestock and poultry inventory numbers. Estimates derived from the surveys supply information needed by farmers to make decisions for both short and long-term planning. The General authority for these data collection is granted under U.S. Code Title 7, Section 2204.

Need and Use of the Information: The surveys provide the basis for estimates of the current season's crop and livestock production and supplies of grain in storage. Crop and livestock statistics help develop a stable economic atmosphere and reduce risk for production, marketing, and distribution operations. These commodities affect the well being of the nation's farmers, commodities markets, and national and global agricultural policy. Users of agricultural statistics are farm organizations, agribusiness, state and national farm policy makers, and foreign buyers of agricultural products but the primary user of the statistical information is the producer. Agricultural statistics are also used to plan and administer other related federal and state programs in such areas as school lunch program, conservation, foreign trade, education, and recreation. Collecting the information less frequent would eliminate needed data to keep the government and agricultural industry abreast of changes at the state and national levels.

Description of Respondents: Farms.

Number of Respondents: 532,800.

Frequency of Responses: Reporting: Quarterly; Semi-annually; Monthly; Annually.

Total Burden Hours: 200,855.

National Agricultural Statistics Service

Title: Equine Survey.

OMB Control Number: 0535–0227.

Summary of Collection: General authority for these data collection activities is granted under U.S.C. Title 7, Section 2204. The primary objective of the National Agricultural Statistics

Service (NASS) is to prepare and issue current official State and national estimates of crop and livestock production, disposition, and prices. Services such as statistical consultation, data collection, summary tabulation, and analysis are performed for other Federal and State agencies on a reimbursable basis as the need arises. Equine surveys have previously been conducted in fifteen States where equine is a significant portion of their agriculture. The results are used to provide an assessment of the equine industry's contribution to the State's economy in terms of infrastructure and value.

Need and Use of the Information: NASS will collect information on equine inventories, by category; equine revenue, by activity; and equine related expenditures, by purpose. In addition, these surveys will provide NASS with names and addresses of equine operations that can be used for Census of Agriculture enumeration and for the NASS program that seeks to cover 99 percent of U.S. agricultural cash receipts.

Description of Respondents: Farms.

Number of Respondents: 91,000.

Frequency of Responses: Reporting: One-time.

Total Burden Hours: 14,537.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–04713 Filed 3–3–14; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

February 26, 2014.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725–17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received by April 3, 2014. 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.

Rural Business Service

Title: 7 CFR 4284–G, Rural Business Opportunity Grants.

OMB Control Number: 0570–0024.

Summary of Collection: The Rural Business Opportunity Grant (RBOG) program was authorized by section 741 of the Federal Agriculture Improvement and Reform Act of 1996, Public Law 104–127. 7 CFR 4284–G provides the detailed program regulations, as well as, including application procedures and reporting requirements for grant recipients. The objective of the RBOG program is to promote sustainable economic development in rural areas. This purpose is achieved through grants made by the Rural Business Cooperative Service (RBS) to public and private non-profit organizations and cooperatives to pay costs of economic development planning and technical assistance for rural businesses.

Need and Use of the Information: The information is collected by Rural Development State and Area office staff from grant applicants and grant recipients. Grantees are required to submit financial status and performance reports and should keep complete and accurate accounting records as evidence that the grant funds were used properly. The information is necessary for RBS to process applications in a responsible manner, make prudent program decisions, and effectively monitor the grantees' activities to ensure that funds obtained from the Government are used appropriately.

Description of Respondents: Not for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 267.

Frequency of Responses: Recordkeeping: Reporting: On occasion; Quarterly; Monthly.

Total Burden Hours: 18,109.

Rural Business-Cooperative Service

Title: Advanced Biofuel Payment Program.

OMB Control Number: 0570–0063.

Summary of Collection: Section 9005 of Title IX of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) authorizes Rural Business-Cooperative Service (RBS) to enter into contracts to make payments to eligible entities to support and ensure an expanding production of advanced biofuels. To receive payments under the Program, eligible entities are producers of advanced biofuels that meet all of the requirements of the Program. Eligible entities can be an individual or legal entity, including a corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, group of organizations, or non-profit that produces an advanced biofuel and that sells the advanced biofuel on the commercial market.

Need and Use of the Information: To participate in the program, advanced biofuel producers must enroll by submitting an application (Form RD–4288–1) which includes specific information about the producer and the producer's advanced biofuel biorefineries. This information will be used to determine applicant eligibility and if the advanced biofuel being produced is eligible for payments under the Program. Once the producer is approved for participation in the Program, the producer and Agency will enter into a contract (Form RD 4288–2). After the contract is signed the producer will submit payment requests using (Form RD 4288–3) preferably on a quarterly basis.

Description of Respondents: Business or other for-profit; Individuals.

Number of Respondents: 275.

Frequency of Responses: Reporting: Quarterly, Annually.

Total Burden Hours: 1,579.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–04712 Filed 3–3–14; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Tomahawk Live Trap, LLC of Hazelhurst, Wisconsin, an exclusive license to U.S. Patent No. 8,407,931, ''TRAPPING METHOD AND APPARATUS'', issued on April 2, 2013.

DATES: Comments must be received on or before April 3, 2014.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights in this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Tomahawk Live Trap, LLC of Hazelhurst, Wisconsin has submitted a complete and sufficient application for a license. 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, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument 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.

Mojdeh Bahar,

Assistant Administrator.

[FR Doc. 2014–04715 Filed 3–3–14; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Highland Specialty Grains, Inc. of Almira, Washington, an exclusive license to the variety of feed barley described in Plant Variety Protection Certificate Number 200700405, ''RWA 1758,'' issued on September 20, 2007.

DATES: Comments must be received on or before April 3, 2014.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's rights in this plant variety are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this plant variety as Highland Specialty Grains, Inc. of Almira, Washington has submitted a complete and sufficient application for a license. 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, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument 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.

Mojdeh Bahar,

Assistant Administrator.

[FR Doc. 2014–04717 Filed 3–3–14; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to LH Organics LLC of Moraga, California, an exclusive license to U.S. Patent Application Serial No. 13/485,877, ''Bioactive Gypsum Starch Composition'', filed on May 31, 2012.

DATES: Comments must be received on or before April 3, 2014.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights in this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as LH Organics LLC of Moraga, California has submitted a complete and sufficient application for a license. 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, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument 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.

Mojdeh Bahar,

Assistant Administrator.

[FR Doc. 2014–04716 Filed 3–3–14; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension of a currently approved information collection, *Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.*

DATES: Comments must be received in writing on or before May 5, 2014 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to the National Information Collections Officer, Office of Regulatory and

Management Services, Mail Stop 1150, USDA Forest Service, 1400 Independence Avenue SW., Washington, DC 20250.

Comments also may be submitted by email to *wdcota@fs.fed.us.*

Comments submitted in response to this notice may be made available to the public through relevant Web sites and upon request. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, 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. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

The public may inspect the draft supporting statement and/or comments received at 201 14th Street SW., Washington, DC 20250, 1st floor CE, during normal business hours. Visitors are encouraged to call ahead to (202) 205–1319 to facilitate entry to the building. The public may request an electronic copy of the draft supporting statement and/or any comments received be sent via return email. Requests should be emailed to *wdcota@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Wolf Cota, National Information Collections Officer, by phone (202) 205–1319 or by email *wdcota@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Number: 0596–0226.

Expiration Date of Approval: 07/31/2014.

Type of Request: Extension without change of a currently approved information collection.

Abstract: This information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Agency's commitment to improve service delivery.

By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

The Agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are noncontroversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered is intended to be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency (if released, the agency must indicate the qualitative nature of the information);
- Information gathered will not be used for the purpose of substantially informing influential policy decisions; and
- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential nonresponse bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Estimate of Burden per response: 1 to 60 minutes.

Estimated Annual Number of Respondents: 3,500,000.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 875,000 hours.

Comment Is Invited

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All written comments received will be available for public inspection.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden 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 to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request toward Office of Management and Budget approval.

Dated: February 25, 2014.

J Lenise Lago,

Deputy Chief, Business Operations.

[FR Doc. 2014–04655 Filed 3–3–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Ochoco National Forest, Paulina Ranger District; Oregon; Gap Fuels and Vegetation Management Project EIS

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Ochoco National Forest is preparing an environmental impact statement (EIS) to analyze the effects of managing fuels and vegetation within the 38,145-acre Gap project area, which is east of Prineville, Oregon. The project area includes National Forest System lands in the Upper North Fork Crooked River and Horse Heaven Creek-Crooked River Watersheds. The alternatives that will be analyzed include the proposed action, no action, and additional alternatives that respond to issues generated through the scoping process. The Ochoco National Forest will give notice of the full environmental analysis and decision making process so interested and affected people may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis must be received by April 3, 2014. The draft environmental impact statement is expected to be completed and available for public comment in November, 2014. The final environmental impact statement is expected to be completed in March, 2015.

ADDRESSES: Send written comments to Sandy Henning, District Ranger, Paulina Ranger District, Ochoco National Forest, 3160 NE Third Street, Prineville, Oregon 97754. Alternately, electronic comments may be sent to *comments-pacific northwest-ochoco@fs.fed.us.* Electronic comments must be submitted as part of the actual email message, or as an attachment in plain text (.txt), Microsoft Word (.doc), rich text format (.rtf), or portable document format (.pdf).

FOR FURTHER INFORMATION CONTACT: Marcy Anderson, Project Leader, at 3160 NE Third Street, Prineville, Oregon 97754, or at (541) 416–6463, or by email at *marcelleanderson@fs.fed.us.*

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The general purpose of entering this project area is to contribute to the resiliency of the landscape and to promote vegetative conditions that are similar to what occurred historically. The project's planning team is considering management activities that would promote and sustain late and old structured stands, increase resistance of forested vegetation to insects, disease and stand-replacing wildfire, and improve the condition of riparian vegetation.

Preliminary field work in the Gap project area indicated that vegetation conditions in the project area have departed from the historic condition in several ways:

- Changes in tree species compositions.
- A reduction in late and old structured forest.
- A reduction in open-canopy stands.
- An increased risk of large-scale loss of forest to wildfire.
- An increased risk of insect infestation and/or disease that can impact forested stands.
- A decline in the condition of riparian vegetation.

The Purpose and Need was developed based upon direction from the Ochoco Forest Plan and opportunities identified during preliminary field visits.

1. There is a need to strategically reduce forest vegetation density and fuel loadings towards a historic range of variability to provide a range of forest conditions and habitats that would support historic disturbance processes, native wildlife and plant species.

2. There is a need to increase or maintain large tree structure and to maintain the abundance of early-seral and fire tolerant species compositions, i.e. ponderosa pine, western larch and Douglas-fir.

3. There is a need to improve riparian conditions and associated upland vegetation within Riparian Habitat Conservation Areas (RHCAs) and maintain and enhance hardwood communities.

4. There is a need to contribute to the local and regional economies by providing timber and other wood fiber products now and in the future.

Proposed Action

The proposed action includes a variety of management strategies and activities, including commercial thinning with follow-up precommercial thinning and/or prescribed burning (16,665 acres), precommercial thinning with prescribed burning (3,340 acres), meadow restoration (300 acres), riparian restoration (9 sites), and aspen stand restoration (30 sites). Implementation of the proposed action would require some connected actions; these include use of temporary roads on existing disturbance (23 miles), use of new temporary roads (8 miles), and road reconstruction (3 miles). The proposal also includes closure or decommissioning of 21 miles of roads in the project area.

Responsible Official

The responsible official will be Kate Klein, Forest Supervisor, Ochoco National Forest, 3160 NE Third Street, Prineville, Oregon 97754.

Nature of Decision To Be Made

Given the purpose and need, the deciding official will review the proposed action, the other alternatives, and the environmental consequences in order to decide whether and under what circumstances fuels and vegetation management will be implemented in the Gap Fuels and Vegetation project area.

Preliminary Issues

The project's interdisciplinary team has developed a list of preliminary issues that will be used during the analysis of effects. Other issues may arise as a result of public comment and further analysis. Preliminary issues include:

- *Invasive Plant Species (Noxious Weeds).* Several populations of noxious weeds are known to exist within the project area. There is a risk that management activities may exacerbate the weed situation by spreading existing populations or introducing new ones.
- *Peck's Mariposa Lily.* Management activities can improve habitat for this sensitive species, but also risk impacting individual plants and/or habitat where it occurs in the project area.
- *Soil Productivity.* Maintenance of soil productivity is an important objective for management of National

Forest Lands. When mechanized equipment is used in the Forest, soil can become displaced and compacted, which can impact productivity.

• *Water Quality.* Management activities can result in reduced shade on streams, as well as contribute sediment into the streams, which impacts water quality and decreases habitat quality for fish and other riparian fauna.

• *Wildlife Habitat.* Activities intended to improve forest health and resiliency may reduce habitat effectiveness for some wildlife species, including forest raptors and big game.

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.

Dated: February 25, 2014.

Sandra J. Henning,

District Ranger.

[FR Doc. 2014–04705 Filed 3–3–14; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

San Juan National Forest Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The San Juan National Forest Resource Advisory Committee (RAC) will meet in Durango, Colorado. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the title II of the Act. The meeting is open to the public. The purpose of the meeting is to consider and recommend new project proposals and review past funded projects.

DATES: The meeting will be held from 9 a.m. to 1 p.m. on Tuesday, April 29, 2014.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held in the Sonoran meetings rooms at the San Juan Public Lands Center, 15 Burnett Court, Durango, CO 81301.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the San Juan Public Lands Center. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Ann Bond, San Juan National Forest Resource Advisory Committee Coordinator by phone at 970 385–1219 or via email at *abond@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday. Please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *http://www.fs.usda.gov/sanjuan/*. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by April 15, 2014 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Ann Bond, San Juan National Forest RAC Coordinator, San Juan Public Lands Center, 15 Burnett Court, Durango, CO 81301; or by email to *abond@fs.fed.us,* or via facsimile to 970 375–2331.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: February 25, 2014.

Ron J. Archuleta,

Acting San Juan National Forest Supervisor.

[FR Doc. 2014–04706 Filed 3–3–14; 8:45 am]

BILLING CODE 3511–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–19–2014]

Foreign-Trade Zone 238—Dublin, Virginia; Application for Reorganization under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the New River Valley Economic Development Alliance, Inc., grantee of FTZ 238, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on February 26, 2014.

FTZ 238 was approved by the Board on August 5, 1999 (Board Order 1047, 64 FR 8/24/99). The current zone includes the following sites: *Site 1* (35 acres)—warehouse facilities within the New River Valley Airport, VA Route 100, Dublin; and, *Site 2* (15 acres)—facility located at 4100 Bob White Blvd., Pulaski.

The grantee's proposed service area under the ASF would include the Counties of Alleghany, Amherst, Bedford, Bland, Botetourt, Campbell, Carroll, Craig, Floyd, Franklin, Giles, Grayson, Henry, Montgomery, Patrick, Pittsylvania, Pulaski, Roanoke,

Rockbridge, Smyth, Tazewell and Wythe, and the Cities of Bedford, Buena Vista, Covington, Danville, Galax, Lynchburg, Martinsville, Radford, Roanoke and Salem, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is within/adjacent to the New River Valley Airport Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize its existing zone to include all of the existing sites as ''magnet'' sites. The ASF allows for the possible exemption of one magnet site from the ''sunset'' time limits that generally apply to sites under the ASF, and the applicant proposes that Site 1 be so exempted. The application would have no impact on FTZ 238's previously authorized subzone.

In accordance with the FTZ Board's regulations, Kathleen Boyce of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is May 5, 2014. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to May 19, 2014.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.* For further information, contact Kathleen Boyce at *Kathleen.Boyce@trade.gov* or (202) 482–1346.

Dated: February 20, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–04750 Filed 3–3–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket B–54–2012]

Foreign-Trade Zone (FTZ) 143—West Sacramento, California; Application for Extended Production Authority; Mitsubishi Rayon Carbon Fiber and Composites, Inc. (formerly Grafil, Inc.), Subzone 143D; Opening of Comment Period on New Evidence

Production authority and subzone status were approved at the facilities of Mitsubishi Rayon Carbon Fiber and Composites, Inc. (MRCFC) for a period of five years, until May 7, 2014 (Board Order 1620, May 7, 2009; 74 FR 24798, 5/26/2009). The current application is requesting to extend indefinitely FTZ authority to produce carbon fiber from foreign-status polyacrylonitrile (PAN) precursor (B–54–2012, 77 FR 45575–44575, 8/1/2012).

On February 21, 2014, MRCFC made a submission to the FTZ Board that included new evidence in response to the examiner's preliminary recommendation for export only authority. Public comment is invited on MRCFC's new submission through April 3, 2014. Rebuttal comments may be submitted during the subsequent 15-day period, until April 18, 2014. Submissions shall be addressed to the Board's Executive Secretary at: Foreign-Trade Zones Board, U.S. Department of Commerce, Room 21013, 1401 Constitution Ave. NW., Washington, DC 20230.

A copy of MRCFC's February 21, 2014, submission will be available for public inspection at the address above, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Diane Finver at *Diane.Finver@trade.gov* or (202) 482–1367.

Dated: February 20, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–04751 Filed 3–3–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–92–2013]

Foreign-Trade Zone 235—Lakewood, New Jersey; Authorization of Production Activity; Cosmetic Essence Innovations, LLC (Fragrance Bottling); Holmdel, New Jersey

On October 30, 2013, Cosmetic Essence Innovations, LLC submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board for its facility within FTZ 235—Site 8, in Holmdel, New Jersey.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (78 FR 66330, 11–5–2013). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14.

Dated: February 27, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–04749 Filed 3–3–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–851]

Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On November 21, 2013, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China (PRC) covering the period February 1, 2012 through January 31, 2013.[1] This review covers the PRC-

[1] *See Certain Preserved Mushrooms From the People's Republic of China: Preliminary Results and Rescission In Part of Antidumping Duty Administrative Review; 2012–2013,* 78 FR 69817 (November 21, 2013) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (Preliminary Decision Memorandum).

wide entity, which includes Blue Field (Sichuan) Food Industrial Co., Ltd. (Blue Field), among other companies. The Department gave interested parties an opportunity to comment on the *Preliminary Results,* but we received no comments. Hence, these final results are unchanged from the *Preliminary Results.* The final dumping margin for this review is listed below in the ''Final Results of Review'' section of this notice.

DATES: *Effective* March 4, 2014.

FOR FURTHER INFORMATION CONTACT: Deborah Scott or Robert James, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2657 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 21, 2013, the Department published the *Preliminary Results* of the instant review.[2] By virtue of its failure to respond to the Department's questionnaire, Blue Field failed to establish that it was separate from the PRC-wide entity.[3] Consequently, the Department examined the PRC-wide entity, which included Blue Field, among other companies, for the *Preliminary Results* and assigned the entity a preliminary dumping margin of 308.33 percent.[4] The dumping margin applied to the PRC-wide entity was based on adverse facts available because the Department determined that an element of the entity, Blue Field, failed to act to the best of its ability in complying with the Department's request for information in this review and, consequently, significantly impeded the proceeding.[5] We invited interested parties to comment on the *Preliminary Results.*[6] We received no comments from interested parties.

The Department conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by this antidumping order are certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The certain preserved mushrooms covered under this order are the species *Agaricus bisporus* and *Agaricus bitorquis.* ''Certain Preserved Mushrooms'' refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including, but not limited to, cans or glass jars in a suitable liquid medium, including, but not limited to, water, brine, butter or butter sauce. Certain preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of this order are ''brined'' mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.

Excluded from the scope of this order are the following: (1) All other species of mushroom, including straw mushrooms; (2) All fresh and chilled mushrooms, including ''refrigerated'' or ''quick blanched mushrooms;'' (3) Dried mushrooms; (4) Frozen mushrooms; and (5) ''Marinated,'' ''acidified,'' or ''pickled'' mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.[7]

The merchandise subject to this order is classifiable under subheadings: 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153, and 0711.51.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of this order is dispositive.

Final Determination as to the PRC-Wide Entity

As explained above, in the *Preliminary Results,* the Department found that the use of adverse facts available is warranted with respect to the PRC-wide entity.[8]

Also in the *Preliminary Results,* consistent with its practice,[9] the Department stated its intent not to rescind the review for the following exporters that remain a part of the PRC-wide entity: (1) Ayecue (Liaocheng) Foodstuff Co., Ltd.; (2) China National Cereals, Oils & Foodstuffs Import & Export Corp.; (3) China Processed Food Import & Export Co.; (4) Dujiangyan Xingda Foodstuff Co., Ltd.; (5) Fujian Pinghe Baofeng Canned Foods; (6) Fujian Yuxing Fruits and Vegetables Foodstuffs Development Co., Ltd.; (7) Fujian Zishan Group Co., Ltd.; (8) Guangxi Eastwing Trading Co., Ltd.; (9) Inter-Foods (Dongshan) Co., Ltd.; (10) Longhai Guangfa Food Co., Ltd.; (11) Primera Harvest (Xiangfan) Co., Ltd.; (12) Shandong Fengyu Edible Fungus Corporation Ltd.; (13) Shandong Jiufa Edible Fungus Corporation, Ltd.; (14) Shandong Yinfeng Rare Fungus Corporation, Ltd.; (15) Sun Wave Trading Co., Ltd.; (16) Xiamen Greenland Import & Export Co., Ltd.; (17) Xiamen Gulong Import & Export Co., Ltd.; (18) Xiamen Jiahua Import & Export Trading Co., Ltd.; (19) Xiamen Longhuai Import & Export Co., Ltd.; (20) Zhangzhou Golden Banyan Foodstuffs Industrial Co., Ltd. (Zhangzhou Golden Banyan);[10] (21) Zhangzhou Long Mountain Foods Co., Ltd.; (22) Zhejiang Iceman Food Co., Ltd.;[11] and (23) Zhejiang Iceman Group Co., Ltd. We explained that, although the requests for review of these exporters were timely withdrawn, we would not rescind the review with respect to these exporters because the PRC-wide entity remains under review.[12]

After issuing the *Preliminary Results,* the Department received no comments

[2] *Id.*

[3] *See* Preliminary Decision Memorandum at 8–12.

[4] *Id.*

[5] *Id.*

[6] *See Preliminary Results,* 78 FR at 69819.

[7] On June 19, 2000, the Department affirmed that ''marinated,'' ''acidified,'' or ''pickled'' mushrooms containing less than 0.5 percent acetic acid are within the scope of the antidumping duty order. *See* ''Recommendation Memorandum-Final Ruling of Request by Tak Fat, *et al.* for Exclusion of Certain Marinated, Acidified Mushrooms from the Scope of the Antidumping Duty Order on Certain Preserved Mushrooms from the People's Republic of China,'' dated June 19, 2000. On February 9, 2005, the United States Court of Appeals for the Federal Circuit upheld this decision. *See Tak Fat v. United States,* 396 F.3d 1378 (Fed. Cir. 2005).

[8] *See* Preliminary Decision Memorandum at 8–12.

[9] *See, e.g., Small Diameter Graphite Electrodes From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012,* 78 FR 55680, 55681 (September 11, 2013).

[10] The Department considers Zhangzhou Golden Banyan to be distinct from another company with a similar name for which a review was originally requested, Fujian Golden Banyan Foodstuffs Industrial Co., Ltd. (Golden Banyan). In the administrative review covering the period February 1, 2010 through January 31, 2011, the Department considered Zhangzhou Golden Banyan to remain a part of the PRC-wide entity, while it calculated a separate rate for Golden Banyan. *See Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 77 FR 55808 (September 11, 2012). The record of this review does not contain any evidence that suggests these two companies should be considered a single entity. In the *Preliminary Results,* we rescinded this administrative review with respect to Golden Banyan because it has a separate rate and all review requests had been withdrawn for Golden Banyan. *See Preliminary Results,* 78 FR at 69818.

[11] The Department found that Zhejiang Iceman Food Co., Ltd. should be equated with Zhejiang Iceman Group Co., Ltd. *See Certain Preserved Mushrooms From the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review,* 76 FR 70112 (November 10, 2011). The Court of International Trade upheld that finding. *See Xiamen Int'l Trade & Indus. Co., Ltd. v. United States,* No. 11–00411, 2013 WL 6728248, at *14–15 (Ct. Int'l Trade Dec. 20, 2013). The record of this review does not contain any evidence that contradicts this finding.

[12] *See Preliminary Results,* 78 FR at 69818–19.

from interested parties, nor has it received any information that would cause it to revisit its preliminary determinations as to the PRC-wide entity. Therefore, for these final results, the Department continues to find that Blue Field and the other 23 exporters named in this section are part of the PRC-wide entity and that the use of adverse facts available is warranted with respect to the PRC-wide entity.

Final Determination of No Shipments

In the *Preliminary Results,* we determined that Xiamen International Trade & Industrial Co., Ltd. (XITIC) and Zhangzhou Hongda Import & Export Trading Co., Ltd. (Zhangzhou Hongda) did not have any reviewable transactions during the period of review (POR) because (1) XITIC and Zhangzhou Hongda submitted timely certifications of no shipments, entries, or sales of subject merchandise during the POR and (2) We did not receive any information from U.S. Customs and Border Protection (CBP) indicating that there were reviewable transactions for XITIC or Zhangzhou Hongda during the POR.[13] Consistent with the Department's assessment practice in non-market economy cases,[14] we stated in the *Preliminary Results* that the Department would not rescind the review in these circumstances, but rather would complete the review with respect to XITIC and Zhangzhou Hongda and issue appropriate instructions to CBP based on the final results of the review.[15]

As stated above, we did not receive any comments on our *Preliminary Results,* nor have we received any information that would cause us to revisit our preliminary determinations as to no shipments. Accordingly, in these final results, we continue to determine that XITIC and Zhangzhou Hongda had no reviewable transactions of subject merchandise during the POR.

Final Results of Review

The Department determined that the following dumping margin exists for the period February 1, 2012 through January 31, 2013:

Exporter	Dumping margin (percent)
PRC-wide entity[16]	308.33

[16] The PRC-wide entity includes, among other exporters, Blue Field.

Assessment Rates

The Department determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.[17] The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

For the PRC-wide entity, the Department will instruct CBP to assess antidumping duties on entries of subject merchandise at the PRC-wide rate of 308.33 percent.

Additionally, consistent with the Department's refinement to its assessment practice in NME cases, because the Department determined that XITIC and Zhangzhou Hongda had no reviewable transactions of subject merchandise during the POR, any suspended entries that entered under XITIC's or Zhangzhou Hongda's antidumping duty case numbers (*i.e.,* at those exporters' rates) will be liquidated at the PRC-wide rate.[18]

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice of final results of the administrative review, as provided by section 751(a)(2)(C) of the Act: (1) For XITIC and Zhangzhou Hongda, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to each exporter in the most recently-completed review of each exporter; (2) For any previously investigated or reviewed PRC and non-PRC exporters which are not under review in this segment of the proceeding that received a separate rate in a previous segment of this proceeding, the cash deposit rate will continue to be the exporter-specific rate published for the most recently-completed period; (3) For all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, including Blue Field, the cash deposit rate will be that for the PRC-wide entity (*i.e.,* 308.33 percent); and (4) For all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied the non-PRC exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing these final results and this notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: February 25, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–04643 Filed 3–3–14; 8:45 am]

BILLING CODE 3510–DS–P

[13] *Id.,* 78 FR at 69819.

[14] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) (*Assessment Practice Refinement*).

[15] *See Preliminary Results,* 78 FR at 69819.

[17] *See* 19 CFR 351.212(b).

[18] *See Assessment Practice Refinement,* 76 FR 65694.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–704]

Brass Sheet and Strip From Japan: Rescission of Antidumping Duty Administrative Review; 2012–2013

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is rescinding the administrative review of the antidumping duty order on brass sheet and strip from Japan for the period August 1, 2012, through July 31, 2013.

DATES: *Effective Date:* March 4, 2014.

FOR FURTHER INFORMATION CONTACT: Joseph Shuler, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington DC 20230; telephone: (202) 482–1293.

SUPPLEMENTARY INFORMATION:

Background

The Department initiated an administrative review of the antidumping duty order on brass sheet and strip from Japan with respect to 22 companies for the period August 1, 2012, through July 31, 2013, based on a request by GBC Metals, LLC, of Global Brass and Copper, Inc., doing business as Olin Brass; Heyco Metals, Inc.; Aurubis Buffalo, Inc.; PMX Industries, Inc.; and Revere Copper Products, Inc. (collectively, Petitioners).[1]

On December 19, 2013, Petitioners withdrew their request for an administrative review on all 22 companies. No other party requested a review.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(l), the Department will rescind an administrative review, in whole or in part, if the party that requested a review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. In this case, Petitioners withdrew their request within the 90-day deadline, and no other parties requested an administrative review of the antidumping duty order. Therefore, we are rescinding the administrative review of brass sheet and strip from Japan covering the period August 1, 2012, through July 31, 2013.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all entries of brass sheet and strip from Japan during the period August 1, 2012 to July 31, 2013, at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption in accordance with 19 CFR 351.212(c)(l)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of this notice.

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 60834 (October 2, 2013).

Notifications

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 presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under an 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 violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(l) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: February 20, 2014.

Gary Taverman,

Senior Advisor for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–04782 Filed 3–3–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–824, A–583–837]

Polyethylene Terephthalate Film, Sheet and Strip From India and Taiwan: Final Results of the Second Sunset Review of the Antidumping Duty Orders and Correction to the Preliminary Results

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* March 4, 2014.

SUMMARY: As a result of these sunset reviews, the Department of Commerce (the Department) finds that the revocation of the antidumping orders on polyethylene terephthalate film, sheet, and strip from India and Taiwan would be likely to lead to continuation or recurrence of dumping. The magnitudes of the dumping margins likely to prevail are indicated in the ''Final Results of Sunset Reviews'' section of this notice.

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith or Myrna Lobo, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–5255 or (202) 482–2371.

SUPPLEMENTARY INFORMATION: On November 8, 2013, the Department published the *Preliminary Results.*[1] Although the Department initially initiated expedited sunset reviews of these orders, the Department subsequently determined to conduct full sunset reviews in order to provide parties with the opportunity to comment regarding the implementation of the *Final Modification for Reviews* in these reviews.[2] The Department extended the deadline for completing these reviews pursuant to section 751(c)(5)(C) of the Tariff Act of 1930, as amended (the Act).[3] We invited interested parties to comment on the *Preliminary Results.* Petitioners filed a statement expressing their agreement with the Department's *Preliminary Results.*[4] No other party submitted a statement or comments concerning the *Preliminary Results.*

Scope of the Orders

India and Taiwan

The products covered by these orders are all gauges of raw, pretreated, or primed PET Film, whether extruded or coextruded. Excluded from metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET Film are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00. HTSUS subheadings are provided for convenience and customs purposes. The

[1] *Id.*

[2] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Mark Hoadley, Acting Director, Office 6, ''Sunset Reviews of the Antidumping Duty Orders on Polyethylene Terephthalate Film from India and Taiwan: Adequacy Redetermination,'' dated July 22, 2013; *see also Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification for Reviews,* 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

[3] *See Polyethylene Terephthalate Film from India and Taiwan: Extension of Time Limits for Preliminary and Final Results of the Second Antidumping Duty Sunset Reviews,* 78 FR 45512 (July 29, 2013).

[4] *See* Comments from DuPont Teijin Films, Mitsubishi Polyester, Inc., and SKC, Inc. to the Department of Commerce, dated December 30, 2013.

written description of the scope of these orders is dispositive. Since these orders were published, there was one scope determination for PET film from India, dated August 25, 2003. In this determination, requested by International Packaging Films Inc., the Department determined that tracing and drafting film is outside of the scope of the order on PET film from India.[5]

Final Results of the Sunset Reviews

For the reasons expressed in the *Preliminary Results,* pursuant to section 751(C) of the Act, the Department determines that revocation of the antidumping orders on polyethylene terephthalate film, sheet, and strip from India and Taiwan would likely lead to a continuation or recurrence of dumping at the rates listed below:

Producer or exporter	Rate (percent)
INDIA:	
Ester Industries, Limited	24.10
Polyplex Corporation Limited	3.02
All Others	[6] 13.17
TAIWAN:	
Nan Ya Plastics Corporation, Ltd	8.99
Shinkong Synthetic Fibers Corporation	0.75
All Others	4.37

Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of these proceedings. 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 violation which is subject to sanction.

We are issuing and publishing these results in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

[5] *See Notice of Scope Rulings,* 70 FR 24533 (May 10, 2005).

[6] The applicable ''all others'' rate for the preliminary results of this sunset review for India was incorrectly stated as 16.96 percent in the *Preliminary Results. See Preliminary Results,* 78 FR at 67114. However, it was accurately stated as 13.17 percent in the accompanying Issues and Decision Memorandum. *Id.,* and the accompanying Issues and Decision Memorandum at ''Magnitude of the Margin Likely to Prevail.''

Dated: February 25, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–04748 Filed 3–3–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–819]

Certain Pasta From Italy; Final Results of Countervailing Duty Administrative Review; 2011

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the ''Department'') is conducting an administrative review of the countervailing duty order on certain pasta from Italy. The period of review (POR) is January 1, 2011 through December 31, 2011. We find that Molino e Pastificio Tomasello S.p.A. (Tomasello) received countervailable subsidies during the POR, and find that Delverde Industrie Alimentari S.p.A. (Delverde) and Valdigrano di Flavio Pagani S.r.L. (Valdigrano) received *de minimis* countervailable subsidies during the POR.

DATES: *Effective Date:* March 4, 2014.

FOR FURTHER INFORMATION CONTACT: Joseph Shuler or Christopher Siepmann, AD/CVD Operations, Office I, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–1293 or (202) 482–7958, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 13, 2013, the Department published in the **Federal Register** its *Preliminary Results* of administrative review of the countervailing duty order on certain pasta from Italy for the POR of January 1, 2011, through December 31, 2011.[1] We deferred our analysis of some programs to a post-preliminary analysis in order to gather more information regarding those programs. On December 2, 2013, the Department issued its Post-Preliminary Analysis.[2]

We invited interested parties to file comments following the release of the Post-Preliminary Analysis. No comments were received.

Scope of the Order

The scope of the order consists of certain pasta from Italy. The merchandise subject to the order is currently classifiable under items 1901.90.90.95 and 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive. A full description of the scope of the order is contained in the Preliminary Decision Memorandum.

Methodology

The Department conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we determine that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[3] In making these findings, we relied, in part, on an adverse inference in selecting from among the facts otherwise available because the Government of Italy (GOI) did not act to the best of its ability to respond to the Department's requests for information regarding certain programs.[4] For further discussion, *see Preliminary Results*, and accompanying Preliminary Decision Memorandum at ''Use of Facts Otherwise Available and Adverse Inferences.''

Developments Since the Preliminary Results

Post-Preliminary Results

Law 56/87

Delverde reported that it enjoyed reduced social security payments ''pursuant to Italy's apprenticeship laws 25/55 and 56/87 as modified by Legislative Decree 276/03.'' [5] Law 25/55 and Legislative Decree 276/03 were previously found to be

[1] *See Certain Pasta From Italy: Preliminary Results of the Countervailing Duty Administrative Review; 2011,* 78 FR 49256 (August 13, 2013) (*Preliminary Results*).

[2] *See* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Post-Preliminary Analysis of Countervailing Duty Administrative Review: Certain Pasta (''Pasta'') from Italy,'' dated December 2, 2013 (Post-Preliminary Analysis).

[3] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity. For a full description of the methodology underlying our conclusions, *see Preliminary Results* and Post-Preliminary Analysis.

[4] *See* sections 776(a) and (b) of the Act.

[5] *See* Letter from Delverde, ''Certain Pasta from Italy: CVD Questionnaire Response of Delverde Industrie Alimentari S.p.A.'' (November 19, 2012) at 15–17.

noncountervailable in the *Twelfth Administrative Review*.[6] In the instant review, we reviewed relevant excerpts of Law 56/87 provided by the GOI and, in the Post-Preliminary Analysis, we found that Law 56/87 does not, in and of itself, establish a subsidy program or provide for subsidy benefits beyond those already authorized by Law 25/55.[7] Because Law 56/87 merely modifies some provisions of Law 25/55, and because Law 25/55 and Legislative Decree 276/03 were previously found to be noncountervailable, we found in the Post-Preliminary Analysis that Law 56/87 is similarly non-countervailable.[8] No information has been submitted causing us to make a different determination. Therefore, we continue to do so for these final results.

PON Program

In the *Preliminary Results,* we stated that we intended to seek additional information from the GOI to confirm whether Tomasello received funds under Piano Operativo Nazionale (National Operating Plan) (PON Program) in the POR, and would address this program in a post-preliminary analysis. As noted in the Post-Preliminary Analysis, the GOI confirmed that Tomasello did not receive funding under this program during the POR.[9] Therefore, we found that Tomasello did not use this program during the POR.[10] We continue to do so for these final results.

Training Grants from the Fondo Impresa

While Delverde received grants from the Fondo Impresa during 2011 and 2012,[11] we found that this program did not result in a measurable benefit during the POR.[12] Accordingly, it was not necessary to analyze whether the program satisfies the other elements of a countervailable subsidy under section 771(5) of the Act.[13] We continue to reach the same conclusion for these final results.

Changes Since the Preliminary Results

Law 46/82

In preliminarily calculating the benefit for this program, we did not adjust our calculation methodology to reflect the number of days of the interest payment period Tomasello reported because we were not certain that the information requested had been properly reported. However, after we issued the *Preliminary Results,* Tomasello confirmed that it had correctly reported the number of days between interest payments for this loan.[14] We have modified the calculation to properly account for the number of days between interest payments confirmed by Tomasello, thereby changing the subsidy rate for this program from 0.12 percent to 0.13 percent.[15]

Final Results of Review

For the period January 1, 2011, through December 31, 2011, we find the *ad valorem* net subsidy rate for Delverde, Tomasello, and Valdigrano to be:

Producer/exporter	Net subsidy rate
Delverde Industrie Alimentari S.p.A..	0.42 (*de minimis*).
Molino e Pastificio Tomasello S.p.A..	1.83
Valdigrano di Flavio Pagani S.r.L..	0.35 (*de minimis*).

Assessment Rates

Consistent with 19 CFR 351.212(b), the Department intends to issue assessment instructions to U.S. Customs and Border Protection (CBP) fifteen days after the date of publication of these final results. The Department will instruct CBP to assess countervailing duties on POR entries in the amounts shown above, except that entries of merchandise produced and/or exported by both Delverde and Valigrano will be liquidated without regard to countervailing duties because their subsidy rates are *de minimis.*

Cash Deposit Instructions

The Department intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown above on shipments of the subject merchandise entered or withdrawn from warehouse for consumption on or after the date of publication of these final results in the amounts shown above, except that cash deposits of zero percent will be required for entries from Delverde and Valdigrano because their subsidy rates are *de minimis.*

For all non-reviewed firms (except Barilla G. e R. F.lli S.p.A. and Gruppo Agricoltura Sana S.r.l., which are excluded from the order,[16] and Pasta Lensi S.r.l. which was revoked from the order),[17] we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company.

These cash deposit requirements shall remain in effect until further notice.

Administrative Protective Order

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 25, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–04747 Filed 3–3–14; 8:45 am]

BILLING CODE 3510–DS–P

[6] *See Certain Pasta from Italy: Preliminary Results of the 12th (2007) Countervailing Duty Administrative Review,* 74 FR 25489, 25495–96 (May 28, 2009), unchanged in *Certain Pasta from Italy: Final Results of the 12th (2007) Countervailing Duty Administrative Review,* 74 FR 47204 (September 15, 2009) (collectively, ''*Twelfth Administrative Review*).

[7] *See* Post-Preliminary Analysis at 3.

[8] *Id.*

[9] *See* Letter from the GOI, ''Sixteenth Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy (January 1, 2011–December 31, 2011). Fourth Supplemental Questionnaire,'' (September 6, 2013) at 11.

[10] *See* Post-Preliminary Analysis at 3–4.

[11] *See* Letter from Delverde, ''Certain Pasta from Italy: Second Supplemental CVD Questionnaire Response of Delverde Industrie Alimentari S.p.A.'' (June 26, 2013) at 5.

[12] *See* Post-Preliminary Analysis at 4.

[13] *Id.*

[14] *See* Letter from Tomasello, ''Pasta From Italy; Tomasello supplemental questionnaire response'' (September 6, 2013) at 1.

[15] *See* Memorandum from Joseph Shuler, International Trade Compliance Analyst, to Nancy Decker, Program Manager, ''Final Results Calculation Memorandum for Molino e Pastificio Tomasello S.p.A.,'' dated concurrently with the signature of this notice.

[16] *See Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta (''Pasta'') From Italy,* 61 FR 38544, 38545 (July 24, 1996).

[17] *See Certain Pasta from Italy: Final Results of the Ninth Countervailing Duty Administrative Review and Notice of Revocation of Order, in Part,* 71 FR 36318, 36319–36320 (June 26, 2006).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD109

Atlantic Highly Migratory Species; Atlantic Shark Management Measures; 2014 Research Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: On November 22, 2013, NMFS published a notice inviting qualified commercial shark permit holders to submit applications to participate in the 2014 shark research fishery. The shark research fishery allows for the collection of fishery-dependent data for future stock assessments and cooperative research with commercial fishermen to meet the shark research objectives of the Agency. Every year, the permit terms and permitted activities (e.g., number of hooks and trips, retention limits) specifically authorized for selected participants in the shark research fishery are designated depending on the scientific and research needs of the Agency, as well as the number of NMFS-approved observers available. In order to inform selected participants of this year's specific permit requirements and ensure all terms and conditions of the permit are met, NMFS is holding a mandatory permit holder meeting (via conference call) for selected participants. The date and time of that meeting is announced in this notice.

DATES: A conference call will be held on March 18, 2014.

ADDRESSES: A conference call will be conducted. See **SUPPLEMENTARY INFORMATION** for information on how to access the conference call.

FOR FURTHER INFORMATION CONTACT: Karyl Brewster-Geisz or Delisse Ortiz at (301) 427–8503.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The 2006 Consolidated Highly Migratory species (HMS) Fishery Management Plan (FMP) is implemented by regulations at 50 CFR part 635.

The final rule for Amendment 2 to the 2006 Consolidated HMS FMP (73 FR 35778, June 24, 2008, corrected at 73 FR 40658, July 15, 2008) established, among other things, a shark research fishery to maintain time-series data for stock assessments and to meet NMFS' research objectives. The shark research fishery gathers important scientific data and allows selected commercial fishermen the opportunity to earn more revenue from selling the sharks caught, including sandbar sharks. Only the commercial shark fishermen selected to participate in the shark research fishery are authorized to land/harvest sandbar sharks subject to the sandbar quota available each year. The 2014 sandbar shark quota is 116.6 mt dw per year. The selected shark research fishery participants also have access to the research large coastal shark, small coastal shark, and pelagic shark quotas subject to retention limits and quotas per §§ 635.24 and 635.27, respectively.

On November 22, 2013 (78 FR 70018), we published a notice inviting qualified commercial shark directed and incidental permit holders to submit an application to participate in the 2014 shark research fishery. We received 13 applications, of which 12 applicants were determined to meet all the qualifications. From the 12 qualified applicants, we randomly selected 5 participants after considering how to meet research objectives in particular regions. NMFS expects to invite qualified commercial shark permit holders to submit an application for the 2015 shark research fishery later this year.

As with past years, the 2014 permit terms and permitted activities (e.g., number of hooks and trips, retention limits) specifically authorized for selected participants in the shark research fishery were designated depending on the scientific and research needs of the Agency as well as the number of NMFS-approved observers available. In order to inform selected participants of this year's specific permit requirements and ensure all terms and conditions of the permit are met, per the requirements of § 635.32(f)(4), we are holding a mandatory permit holder meeting via conference call.

Conference Call Date, Time, and Dial-in Number

The conference call will be held on March 18, 2014, from 1:30 to 3:30 p.m. (EST). Participants and interested parties should call 888–790–3083 and use the passcode 7622417. Selected participants who do not attend will not be allowed to participate in the shark research fishery. While the conference call is mandatory for selected participants, other interested parties may call in and listen to the discussion.

Selected participants are encouraged to invite their captain, crew, or anyone else who may assist them in meeting the terms and conditions of the shark research fishery permit.

Dated: February 27, 2014.

James P. Burgess,

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

[FR Doc. 2014–04768 Filed 3–3–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD143

Western Pacific Fishery Management Council; Public Meetings; Correction

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

ACTION: Notice of amendment to a public meeting notice.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold meetings of its 115th Scientific and Statistical Committee (SSC) and its 159th Council meeting to take actions on fishery management issues in the Western Pacific Region. The Council will also convene meetings of the Marianas Plan Team (PT), Guam Regional Ecosystem Advisory Committee (REAC), the Commonwealth of the Northern Marianas (CNMI) REAC, the Mariana Archipelago Advisory Panel (AP) and the Council's Program Planning Standing Committee and Executive and Budget Standing Committee.

DATES: The meetings will be held from March 11 through March 21, 2014. For specific times and agendas, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES:

Council office, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813; telephone: (808) 522–8220.

Guam Hilton Hotel, 202 Hilton Road, Tumon Bay, Guam GU 96913; telephone: (671) 646–1835.

Fiesta Hotel, Saipan Beach, Garapan, MP CNMI 96950; telephone: (670) 234–6412.

Background documents will be available from, and written comments should be sent to, Mr. Arnold Palacios, Chair, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813, telephone: (808) 522–8220 or fax: (808) 522–8226.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: This notice is being re-published in its entirety due to a few changes. The original notice published February 21, 2014 (79 FR 9890). The 115th SSC meeting will be held in Honolulu on March 11–13, 2014 between 8:30 a.m. and 5 p.m.; the Marianas PT on March 14, 2014 between 8:30 a.m. and 5 p.m.; the CNMI REAC will meet on March 14,

2014 between 9:30 a.m. and 2:30 p.m.; The Joint Marianas PT and AP on March 14, 2014 between 6 p.m. and 9 p.m. and March 15, 2014 between 8:30 a.m. and 4 p.m.; and the Guam REAC will meet on March 19, 2014 between 1:30 p.m. and 5 p.m. The Council's Executive and Budget Standing Committee will meet on Saipan on March 16, 2014 between 3 p.m. and 5 p.m. and its Program Planning Standing Committee will meet on Saipan on March 17, 2014 between 7:30 a.m. and 9:30 a.m.; and the 159th Council Meeting will be held on Saipan between 10:30 a.m. and 5 p.m. on March 17, 2014 and between 9 a.m. and 5 p.m. on March 18, 2014; and in Guam between 8:30 a.m. and 5 p.m. on March 20, 2014, and between 9 a.m. and 5 p.m. on March 21, 2014. In addition, the Council will host Fishers Forums on Saipan on March 17, 2014 between 6 p.m. and 9 p.m. and on Guam on March 20, 2014 between 6 p.m. and 9 p.m.

The 115th SSC will be held at the Council's Office in Honolulu; the Guam REAC, Marianas PT and AP will be held at the Guam Hilton Hotel, Tumon Bay, Guam; the Council's Standing Committees, the CNMI REAC, the 159th Council Meeting on March 17 and 18 and Fishers Forum on March 17 will be held at the Fiesta Hotel, Garapan, Saipan, CNMI. The Council Meeting on March 20 and 21 and the Fishers Forum on March 20 will be held at the Guam Hilton Hotel.

In addition to the agenda items listed here, the SSC and Council will hear recommendations from Council advisory groups. Public comment periods will be provided throughout the agendas. The order in which agenda items are addressed may change. The meetings will run as late as necessary to complete scheduled business.

Schedule and Agenda for 115th SSC Meeting

8:30 a.m.–5 p.m., Tuesday, March 11, 2014

1. Introductions
2. Approval of Draft Agenda and Assignment of Rapporteurs
3. Status of the 115th SSC Meeting Recommendations
4. Report from the Pacific Islands Fisheries Science Center Director
5. Remarks from the New NMFS Senior Scientist for Ecosystem Research
6. Insular Fisheries
   - A. Main Hawaiian Islands (MHI) Bottomfish Restricted Fishing Area (BRFA) Management Plan
   - B. Report from MHI Bottomfish Working Group Research Priorities
   - C. Report on the CNMI Bottomfish Scoping (Action Item)
   - D. Informing Creel Survey Adjustment Factors Using Village-based Fisheries Profiles
   - E. Estimation of Catch Weight of Reef Fish from Hawaii Marine Recreational Fisheries Statistical Survey (HMRFSS)
   - F. Hawaii Kumu (White-saddle Goatfish) Stock Assessment
   - G. Public Comment
   - H. SSC Discussion and Recommendations
7. Program Planning
   - A. Report from P-star Working Group (Action Item)
   - B. Specifying Acceptable Biological Catches for the Coral Reef Species in the Western Pacific Region (Action Item)
   - C. Social Science Program Plan
   - D. Public Comment
   - E. SSC Discussion and Recommendations

8:30 a.m.–5 p.m., Wednesday, March 12, 2014

8. Pelagic Fisheries
   - A. Longline Fisheries Quarterly Reports
     1. Hawaii
     2. American Samoa
   - B. Economic Collapse of American Samoa Longline Fishery (Action Item)
   - C. Experimental Fishing Permit—American Samoa Large Vessel Prohibited Area (Action Item)
   - D. Modifying Hawaii Longline Fishery Eastern Pacific Ocean (EPO) Bigeye Tuna Catch Limit (Action Item)
   - E. Bigeye Tuna Movement Workshop
   - F. Disproportionate Burden Workshop
   - G. Workshop on Ecosystem Approaches to Pelagic Fisheries Management
   - H. International Fisheries
     1. 10th Regular Session of the Western & Central Pacific Fisheries Commission (WCPFC 10)
     2. International Scientific Committee (ISC)
   - I. Public Comment
   - J. SSC Discussion and Recommendations
9. Protected Species
   - A. Leatherback Turtle Bycatch Analysis and Revised TurtleWatch
   - B. SSC Subcommittee Review of the Insular False Killer Whale Photo-ID Data Analysis
   - C. Update on the Marine Mammal Stock Assessment Reports
   - D. Analysis of Impacts under the Deep-set Longline Biological Opinion
   - E. Updates on Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) Actions
     1. Results of an Update of the Corals of the World Information Base
     2. Proposed Rule to List 66 Species of Coral as Endangered or Threatened under the ESA
     3. Green Turtle Status Review
     4. North Pacific Humpback Whale Petition
     5. Proposed 2014 List of Fisheries
     6. Other Relevant Actions
   - F. Report of the Protected Species Advisory Committee Meeting
   - G. Public Comment
   - H. SSC Discussion and Recommendations

8:30 a.m.–5 p.m., Thursday, March 13, 2014

10. Other Business
    - A. Electronic Monitoring Workshop
    - B. Fishery Ecosystem Plans (FEP) and Program Review
    - C. 116th SSC Meeting
11. Summary of SSC Recommendations to the Council

Schedule and Agenda for Marianas PT Meeting

8:30 a.m.–5 p.m., Friday March 14, 2014

1. Welcome and Introductions
2. Approval of the Agenda
3. Assignment of Rapporteurs
4. Report on Previous Plan Team Recommendations and Council Actions
5. Review of the Status of the Western Pacific Insular Fisheries
   - A. Commonwealth of Northern Mariana Islands
     - i. Update of fishery dependent and independent studies
     - ii. Coral Reef Fisheries
     - iii. Incorporating BioSampling Data in the Annual Report
     - iv. Bottomfish Fisheries
     - v. Discussions
   - B. Guam
     - i. Update of Fishery Dependent and Independent Studies
     - ii. Coral Reef Fisheries
     - iii. Report on Data Summaries for the Guam BioSampling Program
     - iv. Bottomfish Fisheries
     - v. Discussions
6. Discussion on the Non-Commercial Module for the Annual Report
7. Planning for the Joint Archipelagic Plan Team Meeting
8. Pre-Workshop Activities for the Technical Committee of the Fishery Data Collection and Research Committee
9. General Discussions
10. Other Business
11. Public Comment

Schedule and Agenda for CNMI REAC Meeting

9:30 a.m.–2:30 p.m., Friday, March 14, 2014

1. Welcome and Introductions

2. Status Report on 158th Council Meeting Recommendations regarding CNMI
3. Council Action Items for 159th meeting
A. CNMI Bottomfish Management—Removing the 50 Nautical Mile Area Closure for Large Vessels Fishing Around the CNMI Southern Islands
B. Coral Reef Annual Catch Limits
C. Discussion and Recommendations
4. Local CNMI Issues
A. President Proclamation on Territorial Waters
B. Status of Local Activities to Address Conflicting Shark Regulations
i. Legislative
ii. Administration
C. Military Activities
i. Prepositioning Ships
ii. Tinian, Farallon de Medinilla (FDM) and Pagan
iii. Discussion and Recommendations
5. Other Business
6. Public Comment
7. Discussion and Recommendations

Schedule and Agenda for Joint Marianas PT and AP Meeting

6 p.m.–9 p.m. Friday, March 14, 2014

1. Welcome and Introductions
2. Status of the Marianas Fisheries
3. Status of the Council
a. New at the Council
i. Advisory Group Changes (Non-Commercial Fisheries Advisory Committee, Protected Species Advisory Committee, Education, Climate Change and Marine Spatial Planning)
ii. AP Solicitation this Year (New 4-year Term Starting 2015)
iii. Outreach-Web site, E-newsletter, etc.
b. Status of 2013 AP Recommendations
c. Council Action Items
i. Annual Catch Limits for Coral Reef Species
ii. CNMI Bottomfish Management—Removing the 50 Nautical Mile Area Closure for Large Vessels Fishing Around the CNMI Southern Islands
d. Updates on Projects and Issues
i. Data Collection Efforts
1. Guam Military Data Collection Project
2. CNMI Data Collection Efforts
ii. Fishery Development
1. Guam Projects
2. CNMI Projects
iii. Community Projects
1. Malesso Community-based Marine Resource Plan
4. Advisory Panel Reports
a. Guam
b. CNMI
5. Public Comment
6. Day 1 Recommendations and Wrap up
7. Day 2 Workshop Introduction and Expectations

8:30 a.m.–4 p.m., Saturday, March 15, 2014

8. Marianas Fishery Ecosystem Plan Review and Priorities Workshop
a. Plenary-Overview and Purpose, Setting the Process Stage
i. Current/Traditional Approaches to Management
ii. Current Policies, Regulations and Factors
iii. Review of Available Information
iv. Review of Regulatory Regime
v. Essential Fish Habitat (EFH) and Habitat of Particular Concern (HAPC)
vi. Instructions for Plenary and Breakout
b. Breakout Session 1: Data Gathering
c. Breakout Session 2: Defining Needs and Priorities
d. Plenary-Report Back from Groups
e. Breakout Session 3: Developing Management Strategies and Measures
f. Breakout Session 4: Crafting an Effective Plan
g. Plenary-Report Back from Groups
h. Plenary-Wrap-up and Discussion

Schedule and Agenda for Guam REAC Meeting

1:30 p.m.–5 p.m., Wednesday, March 19, 2014

1. Welcome and Introductions
2. Status Report on 158th Council Meeting Recommendations for Guam
3. Community Resource Management Activities and Issues
A. Malesso Community-based Management Plan for Coastal and Marine Resources
B. Micronesia Compact Issues Related to Fisheries
i. Community Issues and Concerns Regarding Fishing Activities
ii. Report on GC Review of Compact Impact Issues Related to Fishing
C. Community Concerns regarding Military Impact to Fishing Community
D. Discussion
4. NOAA Initiatives
A. NOAA Research Cruise Plans for the Mariana Islands
B. NOAA Habitat Blueprint designation of Manell-Geus, Guam
C. Discussion
5. Other Business
6. Public Comment
7. Discussion and Recommendations

Schedule for Council Standing Committee Meetings

3 p.m.–5 p.m., Sunday, March 16, 2014

Executive and Budget Standing Committee

7:30 a.m.–9:30 a.m., Monday, March 17, 2014

Program Planning Standing Committee

Schedule and Agenda for 159th Council Meeting

10:30 a.m.–5 p.m., Monday, March 17, 2014

1. Opening Ceremony and Introductions
2. Opening Remarks
3. Approval of the 159th Agenda
4. Approval of the 158th Meeting Minutes
5. Executive Director's Report
6. Election of Officers
7. Agency Reports
A. National Marine Fisheries Service
1. Pacific Islands Regional Office
2. Pacific Islands Fisheries Science Center (PIFSC)
a. 2014 PIFSC Plan
B. NOAA General Counsel, Pacific Islands Region
1. Report on Compact Impact related to Fishing
C. U.S. Fish and Wildlife Service
D. Enforcement Section
1. U.S. Coast Guard
2. NMFS Office for Law Enforcement
3. NOAA General Counsel for Enforcement and Litigation
E. Public Comment
F. Council Discussion and Action
8. Marianas Archipelago—Part 1: CNMI
A. Arongol Falu
B. Legislative Report
C. Enforcement Issues
D. Marianas Trench Marine National Monument
1. President's Proclamation regarding Northern Islands, Tinian and Farallon de Medinilla
E. Bottomfish Area Closure Modification (Action Item)
F. Report on CNMI Projects
1. Data Collection Efforts
2. CNMI Commercial Dock Report
3. Marianas Skipjack Assessment Report
4. Status of Fish Market Development at Fishing Base
G. Community Activities and Issues
1. Military Initiatives on Tinian
2. Military Proposed Plans and Status
H. Education and Outreach Initiatives
1. Report of the Lunar Calendar
I. Advisory Group Recommendations
1. AP Recommendations
2. PT recommendations
3. REAC Recommendations

J. SSC Recommendations
K. Public Hearing
L. Council Discussion and Action

6 p.m.–9 p.m., Monday, March 17, 2014

Fishers Forum: Are Sharks the Frontier?

9 a.m.–5 p.m., Tuesday, March 18, 2014

9. Program Planning and Research
A. Report from P-star Working Group (Action Item)
B. Report from the Social Economic Ecological Management Uncertainty (SEEM) Working Group (Action Item)
C. Specifying Annual Catch Limits for the Coral Reef Species in the Western Pacific Region (Action Item)
D. Social Science Program Plan
E. Five-year Program Review
F. Education and Outreach
G. Advisory Group Recommendations
1. AP Recommendations
2. PT Recommendations
H. SSC Recommendations
I. Program Planning Standing Committee Recommendations
J. Public Hearing
K. Council Discussion and Action
10. American Samoa Archipelago
A. Motu Lipoti
B. Fono Report
C. Enforcement Issues
D. Community Activities and Issues
1. Update on Community Fisheries Development
2. Seafood Market Training Workshop
E. Education and Outreach Initiatives
F. SSC Recommendations
G. Public Comment
H. Council Discussion and Action
11. Public Comment on Non-Agenda Items

8:30 a.m.–5 p.m., Thursday, March 20, 2014

Guam Opening Ceremony and Introductions
Welcoming remarks
12. Marianas Archipelago—Part 2: Guam
A. Isla Informe
B. Legislative Report
C. Enforcement Issues
D. Report on Guam Projects and Programs
1. Status Report on the Manahak (rabbitfish) Project
2. Status Report on the Fishing Platform Project
3. Status Report on Agat Dock A project
4. Marianas Skipjack Assessment Report
5. Guam Military Data Collection Project
E. Community Development Activities and Issues
1. Malesso Community-based Marine Resource Plan
2. Report on the Piti Pride Tepungan Wide
3. NOAA Habitat Blue Print
4. Ritidian Point Firing Range Proposal
5. Report on Compact Impact related to Fishing
F. Education and Outreach Initiatives
1. Report of the Lunar Calendar Festival
2. Festival of the Pacific Arts 2016
3. President's Proclamation on Climate Change
G. Advisory Group Recommendations
1. AP Recommendations
2. PT Recommendations
3. REAC Recommendations
H. SSC Recommendations
I. Public Comment
J. Council Discussion and Action
13. Protected Species
A. Update on Marine Mammal Stock Assessments
B. Deep-set Longline Fishery Biological Opinion
C. Updates on Endangered Species Act and Marine Mammal Protection Act Actions
1. Results of an Update of the Corals of the World Information Base
2. Proposed Rule to List 66 Species of Coral as Endangered or Threatened under the ESA
3. Green Turtle Status Review
4. North Pacific Humpback Whale Petition
5. Proposed 2014 List of Fisheries
6. Other Relevant Actions
D. Report on the Insular Sea Turtle Programs
E. Advisory Group Recommendations
1. Protected Species Advisory Committee Recommendations
2. AP Recommendations
3. PT Recommendations
4. REAC Recommendations
F. SSC Recommendations
G. Public Comment
H. Council Discussion and Action
14. Public Comment on Non-Agenda Items

6 p.m.–9 p.m., Thursday, March 20, 2014

Fishers Forum: Malesso Community-based Marine Management Plan

9 a.m.–5 p.m., Friday, March 21, 2014

15. Pelagic & International Fisheries
A. Economic Collapse of American Samoa Longline Fishery (Action Item)
B. Experimental Fishing Permit—American Samoa Large Vessel Prohibited Area (Action Item)
C. Modifying Hawaii Longline Fishery EPO Bigeye Tuna Catch Limit (Action Item)
D. Bigeye Tuna Movement Workshop
E. Disproportionate Burden Workshop
F. International Fisheries
1. WCPFC 10
2. ISC
3. North Pacific Regional Fishery Management Organization (NPRFMO)
4. South Pacific Regional Fishery Management Organization (SPRFMO)
G. Longline Fisheries Quarterly Reports
H. Advisory Group Recommendations
1. AP Recommendations
2. PT Recommendations
3. REAC Recommendations
I. SSC Recommendations
J. Public Hearing
K. Council Discussion and Recommendations
16. Hawaii Archipelago
A. Moku Pepa
B. Legislative Report
C. Enforcement
D. Main Hawaiian Island Bottomfish
1. State of Hawaii BRFA Management Plan
2. Bottomfish Working Group
E. Community Projects, Activities and Issues
1. Supporting the Aha Moku System
2. Outreach and Education Report
F. SSC Recommendations
G. Public Comment
H. Council Discussion and Action
17. Administrative Matters
A. Financial Reports
B. Administrative Reports
C. Standard Operating Practices and Procedures (SOPP) Review and Changes
D. Council Family Changes
E. Meetings and Workshops
F. Report on Magnuson-Stevens Act (MSA) Reauthorization
G. Other Business
H. Standing Committee Recommendations
I. Public Comment
J. Council Discussion and Action
18. Other Business

Non-Emergency issues not contained in this agenda may come before the Council for discussion and formal Council action during its 159th meeting. However, Council action on regulatory issues will be restricted to those issues specifically listed in this document and any regulatory issue arising after publication of this document that requires emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities.

Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: February 27, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–04754 Filed 3–3–14; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC668

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Seismic Survey in Cook Inlet, Alaska

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS received an application from Furie Operating Alaska LLC (Furie) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to a proposed 3D seismic survey in Cook Inlet, Alaska, between May 2014 and May 2015. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS requests comments on its proposal to issue an IHA to Furie to take, by Level B harassment only, six species of marine mammals during the specified activity.

DATES: Comments and information must be received no later than April 3, 2014.

ADDRESSES: Comments on the application should be addressed to Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is *ITP.Hopper@noaa.gov.* NMFS is not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 10-megabyte file size.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.nmfs.noaa.gov/pr/permits/incidental.htm* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

An electronic copy of the application used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Brian D. Hopper, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the U.S. can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: ''any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

Summary of Request

NMFS received an application on January 23, 2013, from Furie for the taking, by harassment, of marine mammals incidental to a 3D seismic survey program in Cook Inlet, Alaska. In response to questions and comments from NMFS, a revised application was submitted on March 7, 2013. Furie then decided to postpone the proposed seismic survey until 2014 and further revisions were made to the IHA application to reflect this change in scheduling, and a final revised application was submitted to NMFS on December 11, 2013. The seismic survey would be conducted during the 2014 open water season (May to November), but the IHA would be valid for 12 months to account for changes in the schedule due to weather, shut downs from the presence of marine mammals, or equipment maintenance.

The proposed 3D seismic surveys would employ the use of two source vessels. Each source vessel would be equipped with compressors and 2400 in^3 air gun arrays, although a lesser volume may be used if practicable. The two vessels would work in tandem, alternating discharge of the arrays to allow for efficient data acquisition and resulting in fewer survey hours. In addition, one source vessel would be equipped with a 440 in^3 to 1,800 in^3 shallow water air gun array, which it can deploy at high tide in the intertidal area in less than 1.8 m of water. The sensor, or receiving, system would be deployed to rest on the seafloor. The proposed survey would take place in the Kitchen Lights Unit (KLU) area of Cook Inlet, which encompasses approximately 337 km^2 (130 square miles (mi^2). In order to acquire data from the entire KLU area, the proposed seismic survey would be conducted in Cook Inlet from approximately Tyonek at the northern extent to the Forelands in the south, encompassing approximately 868 km^2 (335 mi^2) of

intertidal and offshore areas (see Figure A–2 in Furie's IHA application). Impacts to marine mammals may occur from noise produced from active acoustic sources (primarily air guns) used in the surveys.

Description of the Specified Activity

The proposed operations would be performed from multiple vessels; however the exact number and type of vessel used would depend on the contractor. The typical vessel use configuration for seismic surveys in Cook Inlet by the bidding contractors is what follows. The proposed survey would employ the use of two source vessels. Each source vessel would be equipped with compressors and 2400 in^3 air gun arrays. In addition, one source vessel would be equipped with a 440 in^3 to 1800 in^3 shallow water air gun array, which it can deploy at high tide in the intertidal area in less than 1.8 m of water. Shallow draft vessels would support cable/nodal deployment and retrieval operations, and monitoring/navigation vessels would also be used. Finally, smaller jet boats would be used for personnel transport and node support in the extremely shallow water of the intertidal area. For additional information, such as vessel specifications, see Furie's application.

During the 2014 Cook Inlet open water season (May to November), Furie proposes to survey the entire project area in approximately 120 days beginning in May 2014, with exact start dates and end dates dependent on the timing of permits and actual survey days, which can be influenced by other factors such as commercial fishing, other seismic surveys operations in overlapping or adjacent areas, and general operational factors (i.e., weather). Furie anticipates conducting survey operations 24 hours per day (e.g., receiver line deployment and retrieval, dependent on weather and permit conditions). During each 24 hour period, seismic operations would be active; however air guns would only be used for approximately 2–3 hours during each of the slack tide periods. There are approximately four slack tide periods in a 24-hour day, therefore, air gun operations would be active during approximately 8–12 hours per day, if weather conditions allow.

3D Seismic Surveys

Seismic surveys are designed to collect bathymetric and sub-seafloor data that allow the evaluation of potential shallow faults, gas zones, and archeological features at prospective exploration drilling locations. Data are typically collected using multiple types of acoustic equipment. During the surveys, Furie proposes to use the following in-water acoustic sources: two 2400 in^3 air gun arrays; a single 1800 in^3 air gun array; a single 440 in^3 air gun array; and a pinger, or transceiver, may be used to determine receiver location. In 2012, Apache Alaska Corporation (Apache) successfully measured the sounds produced by the air guns and pingers during a 3D seismic survey in Cook Inlet and the preliminary distances for the exclusion zone and harassment zone are based on these results; however, the distances to each sound threshold would be verified onsite and adjusted based on actual measurements at the startup of the survey.

(1) Airguns

The 2400 in^3 air gun arrays, the 1800 in^3 air gun array, and the 440 in^3 air gun array would be used to obtain geological data during the survey. In 2011, the acoustic source level of the 2400 in^3 air gun array was predicted using an air gun array source model (AASM) developed by JASCO (Warner *et al.,* 2011). The AASM simulates the expansion and oscillation of the air bubbles generated by each air gun within a seismic array, taking into account pressure interaction effects between bubbles from different air guns. It includes effects from surface-reflected pressure waves, heat transfer from the bubbles to the surrounding water, and the movements of bubbles due to their buoyancy. The model outputs high-resolution air gun pressure signatures for each air gun, which are superimposed with the appropriate time delays to yield the overall array source signature in any direction. Based on this modeling, the broadband seismic source level is anticipated to be 240 dB re 1 μPa^2/Hz at 1 meter or less with dominant frequency components from 1 to 500 Hz. Higher frequencies are expected to have increasingly lower decibel levels. For example, the source level at 2,000 Hz is anticipated to be less than 180 dB re 1 μPa^2/Hz at 1 meter. The 440 to 1800 in^3 airgun array to be used in the intertidal environment will have a lower sound level. Isopleths were estimated at three different water depths (5 m, 25 m, and 45 m) for nearshore surveys and at 80 m for channel surveys. The distances to these thresholds for the nearshore survey locations are provided in Table 1 and correspond to the three transects modeled at each site in the onshore, offshore, and parallel to shore directions. The distances to the thresholds for the channel survey locations are provided in Table 2 and correspond to the broadside and endfire directions. The areas ensonified to the 160 dB isopleth for the nearshore survey are provided in Table 3. The area ensonifed to the 160 dB isopleth for the channel survey is 389 km^2.

TABLE 1—DISTANCES TO SOUND THRESHOLDS FOR THE NEARSHORE SURVEYS

Threshold (dB re 1 μPa)	Water depth at source location (m)	Distance in the onshore direction (km)	Distance in the Offshore Direction (km)	Distance in the Parallel to Shore Direction (km)
160	5	0.85	3.91	1.48
	25	4.70	6.41	6.34
	45	5.57	4.91	6.10
180	5	0.46	0.60	0.54
	25	1.06	1.07	1.42
	45	0.70	0.83	0.89
190	5	0.28	0.33	0.33
	25	0.35	0.36	0.44
	45	0.10	0.10	0.51

TABLE 2—DISTANCE TO SOUND THRESHOLDS FOR THE CHANNEL SURVEYS

Threshold (dB re 1 μPa)	Water depth at source location (m)	Distance in the broadside direction (km)	Distance in the endfire direction (km)
160	80	4.24	4.89
180	80	0.91	0.98
190	80	0.15	0.18

TABLE 3—AREAS ENSONIFIED TO 160 dB FOR NEARSHORE SURVEYS

Nearshore survey depth classification	Depth range (m)	Area ensonifed to 160 dB (km^2)
Shallow	5–21	346
Mid-Depth	21–38	458
Deep	38–54	455

(2) Pingers

These instruments would be operated during survey operations to determine the exact position of the nodes after they have been placed on the seafloor. One device, the Scout Ultra-Short Baseline Transceiver, operates at frequencies between 33 and 55 kHz with a source level of 188 dB re 1 μPa at 1 m. The other device, an LR Ultra-Short Baseline Transponder, operates at a frequency of 35–50 kHz at a source level of 185 dB re 1 μPa at 1 m. With respect to these two sources, Furie provided and NMFS relied on the distances to the Level B harassment thresholds estimated for the ''louder'' of the two; therefore, assuming a simple spreading loss of 20 log R (where R is radius), with a source level of 188 dB the distance to the 190, 180, and 160 dB isopleths would be 1, 3, and 25 m, respectively. Another technique for locating the nodes in deeper water is called Ocean Bottom Receiver Location, which uses a small volume air gun (10 in^3) firing parallel to the node line.

Description of Marine Mammals in the Area of the Specified Activity

The marine mammal species under NMFS's jurisdiction that could occur near operations in Cook Inlet include four cetacean species (three odontocetes) (toothed whales) and one mysticete (baleen whale): Beluga whale (*Delphinapterus leucas*), killer whale (*Orcinus orca*), harbor porpoise (*Phocoena phocoena*), and gray whale (*Eschrichtius robustus*) and two pinniped species: Harbor seal (*Phoca vitulina richardsi*) and Steller sea lions (*Eumetopias jubatus*). The marine mammal species that is likely to be encountered most widely (in space and time) throughout the period of the planned surveys is the harbor seal.

Of the six marine mammal species likely to occur in the proposed marine survey area, only Cook Inlet beluga whales and Steller sea lions are listed as endangered under the ESA (Steller sea lions are listed as two distinct population segments (DPSs), an eastern and a western DPS; the relevant DPS in Cook Inlet is the western DPS). These species are also designated as ''depleted'' under the MMPA. Despite these designations, Cook Inlet beluga whales and the western DPS of Steller sea lions have not made significant progress towards recovery. Over the last 10 years (2002–2012), the Cook Inlet beluga whale population has declined at a rate of 0.6 percent per year (Allen and Angliss, 2013). With respect to Steller sea lions, results of aerial surveys conducted in 2008 (Fritz *et al.,* 2008) confirmed that the recent (2004–2008) overall trend in the western population of adult and juvenile Steller sea lions in Alaska is stable or possibly in decline; however, there continues to be considerable regional variability in recent trends. Pursuant to the ESA, critical habitat has been designated for Cook Inlet beluga whales and Steller sea lions. The proposed action falls within critical habitat designated in Cook Inlet for beluga whales, but is not within critical habitat designated for Steller sea lions. The portion of beluga whale critical habitat—identified as Area 2 in the critical habitat designation—where the seismic survey will occur is located south of the Area 1 critical habitat where belugas are particularly vulnerable to impacts due to their high seasonal densities and the biological importance of the area for foraging, nursery, and predator avoidance. Area 2 is largely based on dispersed fall and winter feeding and transit areas in waters where whales typically appear in lower densities or deeper waters (76 FR 20180, April 11, 2011).

Cetaceans

Beluga Whales—Cook Inlet beluga whales reside in Cook Inlet year-round although their distribution and density changes seasonally. Factors that are likely to influence beluga whale distribution within the inlet include prey availability, predation pressure, sea-ice cover, and other environmental factors, reproduction, sex and age class, and human activities (Rugh *et al.,* 2000; NMFS, 2008). Seasonal movement and density patterns as well as site fidelity appear to be closely linked to prey availability, coinciding with seasonal salmon and eulachon concentrations (Moore *et al.,* 2000). For example, during spring and summer, beluga whales are generally concentrated near the warmer waters of river mouths where prey availability is high and predator occurrence in low (Huntington, 2000; Moore *et al.,* 2000). During the winter (November to April), belugas disperse throughout the upper and mid-inlet areas, with animals found between Kalgin Island and Point Possession (Rugh *et al.,* 2000). During these months, there are generally fewer observations of beluga whales in the Anchorage and Knik Arm area (NMML 2004; Rugh *et al.,* 2004).

Beluga whales use several areas of the upper Cook Inlet for repeated summer and fall feeding. The primary hotspots for beluga feeding include the Big and Little Susitna rivers, Eagle Bay to Eklutna River, Ivan Slough, Theodore River, Lewis River, and Chickaloon River and Bay (NMFS, 2008). Availability of prey species appears to be the most influential environmental variable affecting Cook Inlet beluga whale distribution and relative abundance (Moore *et al.,* 2000). The

patterns and timing of eulachon and salmon runs have a strong influence on beluga whale feeding behavior and their seasonal movements (Nemeth *et al.,* 2007; NMFS, 2008). The presence of prey species may account for the seasonal changes in beluga group size and composition (Moore *et al.,* 2000). Aerial and vessel-based monitoring conducted by Apache during the March 2011 2D test program in Cook Inlet reported 33 beluga sightings. One of the sightings was of a large group (~25 individuals on March 27, 2011) of feeding/milling belugas near the mouth of the Drift River. Also on March 27, 2011, PSOs onboard the *M/V Dreamcatcher* reported a group of seven beluga whales approximately 0.5 nm from the vessel. Land-based PSOs were able to observe this group of beluga whales for approximately 2.5 hrs. A single beluga whale was observed near the mouth of the Drift River by the aerial-based monitors on March 28, 2011, prior to the seismic ramp-up period. If belugas are present during the late summer/early fall, they are more likely to occur in shallow areas near river mouths in upper Cook Inlet. For example, no beluga whales were sighted in Trading Bay during the SSV conducted in September 2011 because during this time of year they are more likely to be in the upper regions of Cook Inlet. Expected densities were calculated from the annual aerial surveys conducted by NMFS between 2000 and 2011 (Rugh *et al.,* 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007; Shelden *et al.,* 2008, 2009, 2010; Hobbs *et al.,* 2011). Those densities are presented below in Table 6.

Killer Whales—In general, killer whales are rare in upper Cook Inlet, where transient killer whales are known to feed on beluga whales and resident killer whales are known to feed on anadromous fish (Shelden *et al.,* 2003). The availability of these prey species largely determines the likeliest times for killer whales to be in the area. Between 1993 and 2004, 23 sightings of killer whales were reported in the lower Cook Inlet during aerial surveys by Rugh *et al.* (2005). Surveys conducted over a span of 20 years by Shelden *et al.* (2003) reported 11 sightings in upper Cook Inlet between Turnagain Arm, Susitna Flats, and Knik Arm. No killer whales were spotted during recent surveys by Funk *et al.* (2005), Ireland *et al.* (2005), Brueggeman *et al.* (2007a, 2007b, 2008), or Prevel Ramos *et al.* (2006, 2008). Eleven killer whale strandings have been reported in Turnagain Arm, six in May 1991 and five in August 1993. Therefore, very few killer whales, if any, are expected to approach or be in the vicinity of the action area.

Harbor Porpoise—The most recent estimated density for harbor porpoises in Cook Inlet is 7.2 per 1,000 km^2 (Dahlheim *et al.,* 2000) indicating that only a small number use Cook Inlet. Harbor porpoise have been reported in lower Cook Inlet from Cape Douglas to the West Foreland, Kachemak Bay, and offshore (Rugh *et al.,* 2005). Small numbers of harbor porpoises have been consistently reported in upper Cook Inlet between April and October, except for a recent survey that recorded higher than usual numbers. Prevel Ramos *et al.* (2008) reported 17 harbor porpoises from spring to fall 2006, while other studies reported 14 in the spring of 2007 (Brueggeman *et al.,* 2007) and 12 in the fall (Brueggeman *et al.,* 2008). During the spring and fall of 2007, 129 harbor porpoises were reported between Granite Point and the Susitna River; however, the reason for the increase in numbers of harbor porpoise in the upper Cook Inlet remains unclear and the disparity with the result of past sightings suggests that it may be an anomaly. The spike in reported sightings occurred in July, which was followed by sightings of 79 harbor porpoises in August, 78 in September, and 59 in October, 2007. It is important to note that the number of porpoises counted more than once was unknown, which suggests that the actual numbers are likely smaller than those reported. In addition, recent passive acoustic research in Cook Inlet by the Alaska Department of Fish and Game and the National Marine Mammal Laboratory have indicated that harbor porpoises occur in the area more frequently than previously thought, particularly in the West Foreland area in the spring (NMFS, 2011); however overall numbers are still unknown at this time.

Gray Whale—The gray whale is a large baleen whale known to have one of the longest migrations of any mammal. This whale can be found all along the shallow coastal waters of the North Pacific Ocean.

The Eastern North Pacific stock, which includes those whales that travel along the coast of Alaska, was delisted from the ESA in 1994 after a distinction was made between the western and eastern populations (59 FR 31094, June 16, 1994). It is estimated that approximately 18,000 individuals exist in the eastern stock (Allen and Angliss, 2012).

Although observations of gray whales are rare within Cook Inlet, marine mammal observers noted individual gray whales on nine occasions in the vicinity of Furie's proposed survey location in 2012 while conducting marine mammal monitoring for seismic survey activities under the IHA NMFS issued to Apache: Four times in May; twice in June; and three times in July (Apache, 2013). Annual survey conducted by NMFS in Cook Inlet since 1993 have resulted in a total of five gray whale sightings (Rugh *et al.,* 2005). Although Cook Inlet is not believed to comprise either essential feeding or social ground, and gray whales are typically not observed within upper Cook Inlet, due to the sightings reported during Apache's survey in 2012, Furie includes gray whales in their request for takes incidental to seismic survey activities in 2013.

Pinnipeds

Two species of pinnipeds may be encountered in Cook Inlet: Harbor seal and Steller sea lion.

Harbor Seals—Harbor seals inhabit the coastal and estuarine waters of Cook Inlet. In general, harbor seals are more abundant in lower Cook Inlet than in upper Cook Inlet, but they do occur in the upper inlet throughout most of the year (Rugh *et al.,* 2005). Harbor seals are non-migratory; their movements are associated with tides, weather, season, food availability, and reproduction. The major haulout sites for harbor seals are located in lower Cook Inlet and their presence in the upper inlet coincides with seasonal runs of prey species. For example, harbor seals are commonly observed along the Susitna River and other tributaries along upper Cook Inlet during the eulachon and salmon migrations (NMFS, 2003). During aerial surveys of upper Cook Inlet in 2001, 2002, and 2003, harbor seals were observed 24 to 96 km south-southwest of Anchorage at the Chickaloon, Little Susitna, Susitna, Ivan, McArthur, and Beluga Rivers (Rugh *et al.,* 2005). Many harbor seals were observed during the 3D seismic survey conducted under Apache's April 2012 IHA, especially when survey operations were conducted close to shore. NMFS and Apache do not anticipate encountering large haulouts of seals in Area 2—the closest haulout site to the action area is located on Kalgin Island, which is approximately 22 km away from the McArthur River—but we do expect to see curious individual harbor seals; especially during large fish runs in the various rivers draining into Cook Inlet.

Steller Sea Lion—Two separate stocks of Steller sea lions are recognized within U.S. waters: An eastern U.S. stock, which includes animals east of Cape Suckling, Alaska; and a western U.S. stock, which includes animals west of Cape Suckling (NMFS, 2008).

Individuals in Cook Inlet are considered part of the western U.S. stock, which is listed as endangered under the ESA. Steller sea lions primarily occur in lower, rather than upper Cook Inlet and are rarely sighted north of Nikiski on the Kenai Peninsula. Haul-outs and rookeries are located near Cook Inlet at Gore Point, Elizabeth Island, Perl Island, and Chugach Island (NMFS, 2008). No Steller seal lion haul-outs or rookeries are located in the vicinity of the proposed seismic survey. Furthermore, no sightings of Steller sea lions were reported by Apache during the 2D test program in March 2011. During the 3D seismic survey, from May 6 to September 30, 2012, one Steller sea lion was observed on May 6, two on June 23, and one Steller sea lion was observed on August 18, 2012, during a period when the air guns were not active. Although Furie has requested takes of Steller sea lions, Steller sea lions would be rare in the action area during seismic survey operations.

Furie's application contains information on the status, distribution, seasonal distribution, and abundance of each of the species under NMFS jurisdiction mentioned in this document. Please refer to the application for that information (see **ADDRESSES**). Additional information can also be found in the NMFS Stock Assessment Reports (SAR). The draft Alaska 2013 SAR is available at: *http://www.nmfs.noaa.gov/pr/sars/pdf/ak2013_draft.pdf*.

Potential Effects of the Specified Activity on Marine Mammals

Operating active acoustic sources, such as air gun arrays, has the potential for adverse effects on marine mammals.

Potential Effects of Air Gun Sounds on Marine Mammals

The effects of sounds from air gun pulses might include one or more of the following: tolerance, masking of natural sounds, behavioral disturbance, and temporary or permanent hearing impairment or non-auditory effects (Richardson *et al.,* 1995). As outlined in previous NMFS documents, the effects of noise on marine mammals are highly variable, often depending on species and contextual factors, and can be categorized as follows (based on Richardson *et al.,* 1995):

(1) Tolerance

Numerous studies have shown that pulsed sounds from air guns are often readily detectable in the water at distances of many kilometers. Numerous studies have also shown that marine mammals at distances more than a few kilometers from operating survey vessels often show no apparent response. That is often true even in cases when the pulsed sounds must be readily audible to the animals based on measured received levels and the hearing sensitivity of that mammal group. In general, pinnipeds and small odontocetes (toothed whales) seem to be more tolerant of exposure to air gun pulses than baleen whales. Although various toothed whales, and (less frequently) pinnipeds have been shown to react behaviorally to air gun pulses under some conditions, at other times, mammals of both types have shown no overt reactions. For example, the available evidence also indicates that Cook Inlet beluga whales are less impacted behaviorally by anthropogenic sounds compared to marine mammals in more pristine acoustic environments (e.g., the Beaufort Sea) given the Cook Inlet population's greater experience with anthropogenic sounds.

(2) Behavioral Disturbance

Marine mammals may behaviorally react to sound when exposed to anthropogenic noise. These behavioral reactions are often shown as: changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where noise sources are located; and/or flight responses (e.g., pinnipeds flushing into water from haulouts or rookeries).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification have the potential to be biologically significant if the change affects growth, survival, or reproduction. Examples of significant behavioral modifications include:

- Drastic change in diving/surfacing patterns (such as those thought to be causing beaked whale stranding due to exposure to military mid-frequency tactical sonar);
- Habitat abandonment due to loss of desirable acoustic environment; and
- Cessation of feeding or social interaction.

The onset of behavioral disturbance from anthropogenic noise depends on both external factors (characteristics of noise sources and their paths) and the receiving animals (hearing, motivation, experience, demography) and is also difficult to predict (Southall *et al.,* 2007).

Currently NMFS uses a received level of 160 dB re 1 μPa to estimate the onset threshold for marine mammal behavioral harassment for impulse noises (such as air gun pulses). As explained below, NMFS has determined that use of this threshold is appropriate for Furie's IHA considering the scientific literature pertaining to this issue and the evidence specific to the marine mammal species and populations in question.

(3) Masking

Marine mammals use acoustic signals for a variety of purposes, which differ among species, but include communication between individuals, navigation, foraging, reproduction, and learning about their environment (e.g., predator avoidance) (Erbe and Farmer, 2000; Tyack, 2000). Masking, or auditory interference, generally occurs when sounds in the environment are louder than, and of a similar frequency as, auditory signals an animal is trying to receive. Masking is a phenomenon that affects animals that are trying to receive acoustic information about their environment, including sounds from other members of their species, predators, prey, and sounds that allow them to orient in their environment. Masking these acoustic signals can disturb the behavior of individual animals, groups of animals, or entire populations.

Masking occurs when noise and signals (that the animal utilizes) overlap at both spectral and temporal scales. For the air gun noise generated from the proposed seismic surveys, noise will consist of low frequency (under 500 Hz) pulses with extremely short durations (less than one second). Lower frequency man-made noises are more likely to affect detection of communication calls and other potentially important natural sounds such as surf and prey noise. There is little concern regarding masking near the noise source due to the brief duration of these pulses and relatively longer silence between air gun shots (approximately 12 seconds). However, at long distances (over tens of kilometers away), due to multipath propagation and reverberation, the durations of air gun pulses can be ''stretched'' to seconds with long decays (Madsen *et al.* 2006), although the intensity of the noise is greatly reduced.

This could affect communication signals used by low frequency mysticetes when they occur near the noise band and thus reduce the communication space of animals (e.g., Clark *et al.,* 2009) and cause increased

stress levels (e.g., Foote *et al.,* 2004; Holt *et al.,* 2009); however, baleen whales are rarely reported to occur within the action area. Marine mammals are thought to be able to compensate for masking, at least partially, by adjusting their acoustic behavior by shifting call frequencies, and/or increasing call volume and vocalization rates. For example, blue whales are found to increase call rates when exposed to seismic survey noise in the St. Lawrence Estuary (Di Iorio and Clark 2010). The North Atlantic right whales (*Eubalaena glacialis*) exposed to high shipping noise increase call frequency (Parks *et al.,* 2007), while some humpback whales respond to low-frequency active sonar playbacks by increasing song length (Miller *el al.,* 2000).

(4) Hearing Impairment

Marine mammals exposed to high intensity sound repeatedly or for prolonged periods can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Kastak *et al.,* 1999; Schlundt *et al.,* 2000; Finneran *et al.,* 2002; 2005). TS can be permanent (PTS), in which case the loss of hearing sensitivity is unrecoverable, or temporary (TTS), in which case the animal's hearing threshold will recover over time (Southall *et al.,* 2007). Just like masking, marine mammals that suffer from PTS or TTS could have reduced fitness in survival and reproduction, either permanently or temporarily. Repeated noise exposure that leads to TTS could cause PTS. For transient sounds, the sound level necessary to cause TTS is inversely related to the duration of the sound.

Researchers have studied TTS in certain captive odontocetes and pinnipeds exposed to strong sounds (reviewed in Southall *et al.,* 2007). However, there has been no specific documentation of TTS let alone permanent hearing damage, i.e., permanent threshold shift (PTS), in free-ranging marine mammals exposed to sequences of airgun pulses during realistic field conditions.

Temporary Threshold Shift—TTS is the mildest form of hearing impairment that can occur during exposure to a strong sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises and a sound must be stronger in order to be heard. At least in terrestrial mammals, TTS can last from minutes or hours to (in cases of strong TTS) days. For sound exposures at or somewhat above the TTS threshold, hearing sensitivity in both terrestrial and marine mammals recovers rapidly after exposure to the noise ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals, and none of the published data concern TTS elicited by exposure to multiple pulses of sound. Available data on TTS in marine mammals are summarized in Southall *et al.* (2007).

To safely avoid the potential for injury, NMFS (1995, 2000) concluded that cetaceans and pinnipeds should not be exposed to pulsed underwater noise at received levels exceeding 180 and 190 dB re 1 µPa (rms), respectively. Based on the available scientific information, NMFS also assumes that cetaceans and pinnipeds exposed to levels exceeding 160 dB re 1 µPa (rms) may experience Level B harassment.

For toothed whales, researchers have derived TTS information for odontocetes from studies on captive bottlenose dolphin and beluga whale. The experiments show that exposure to a single impulse at a received level of 207 kPa (or 30 psi, p-p), which is equivalent to 228 dB re 1 Pa (p-p), resulted in a 7 and 6 dB TTS in the beluga whale at 0.4 and 30 kHz, respectively. Thresholds returned to within 2 dB of the pre-exposure level within 4 minutes of the exposure (Finneran *et al.,* 2002). For the one harbor porpoise tested, the received level of airgun sound that elicited onset of TTS was lower (Lucke *et al.,* 2009). If these results from a single animal are representative, it is inappropriate to assume that onset of TTS occurs at similar received levels in all odontocetes (*cf.* Southall *et al.,* 2007). Some cetaceans apparently can incur TTS at considerably lower sound exposures than are necessary to elicit TTS in the beluga or bottlenose dolphin.

In pinnipeds, researchers have not measured TTS thresholds associated with exposure to brief pulses (single or multiple) of underwater sound. Initial evidence from more prolonged (non-pulse) exposures suggested that some pinnipeds (harbor seals in particular) incur TTS at somewhat lower received levels than do small odontocetes exposed for similar durations (Kastak *et al.,* 1999, 2005; Ketten *et al.,* 2001). The TTS threshold for pulsed sounds has been indirectly estimated as being an SEL of approximately 171 dB re 1 $\mu Pa^2 \cdot s$ (Southall *et al.,* 2007) which would be equivalent to a single pulse with a received level of approximately 181 to 186 dB re 1 µPa (rms), or a series of pulses for which the highest rms values are a few dB lower. Corresponding values for California sea lions and northern elephant seals are likely to be higher (Kastak *et al.,* 2005).

No cases of TTS are expected as a result of Furie's proposed activities given the strong likelihood that marine mammals would avoid the approaching air guns (or vessel) before being exposed to levels high enough for there to be any possibility of TTS, and the mitigation measures proposed to be implemented during the survey described later in this document.

Permanent Threshold Shift—When PTS occurs, there is physical damage to the sound receptors in the ear. In severe cases, there can be total or partial deafness, whereas in other cases, the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985). There is no specific evidence that exposure to pulses of airgun sound can cause PTS in any marine mammal, even with large arrays of airguns. However, given the possibility that mammals close to an airgun array might incur at least mild TTS, there has been further speculation about the possibility that some individuals occurring very close to airguns might incur PTS (e.g., Richardson *et al.,* 1995; Gedamke *et al.,* 2008). Single or occasional occurrences of mild TTS are not indicative of permanent auditory damage, but repeated or (in some cases) single exposures to a level well above that causing TTS onset might elicit PTS.

Relationships between TTS and PTS thresholds have not been studied in marine mammals, but are assumed to be similar to those in humans and other terrestrial mammals (Southall *et al.,* 2007). PTS might occur at a received sound level at least several dBs above that inducing mild TTS if the animal were exposed to strong sound pulses with rapid rise times. Based on data from terrestrial mammals, a precautionary assumption is that the PTS threshold for impulse sounds (such as airgun pulses as received close to the source) is at least 6 dB higher than the TTS threshold on a peak-pressure basis, and probably greater than 6 dB (Southall *et al.,* 2007).

Given the higher level of sound necessary to cause PTS as compared with TTS, it is considerably less likely that PTS would occur during the proposed seismic survey in Cook Inlet. Cetaceans generally avoid the immediate area around operating seismic vessels, as do some other marine mammals. Some pinnipeds show avoidance reactions to airguns, but their avoidance reactions are generally not as strong or consistent as those of cetaceans, and occasionally they seem to be attracted to operating seismic vessels (NMFS, 2010).

(5) Non-Auditory Physical Effects

Non-auditory physical effects might occur in marine mammals exposed to strong underwater pulsed sound. Possible types of non-auditory physiological effects or injuries that theoretically might occur in mammals close to a strong sound source include stress, neurological effects, bubble formation, and other types of organ or tissue damage. Some marine mammal species (i.e., beaked whales) may be especially susceptible to injury and/or stranding when exposed to strong pulsed sounds. However, there is no definitive evidence that any of these effects occur even for marine mammals in close proximity to large arrays of air guns, and beaked whales do not occur in the proposed project area. In addition, marine mammals that show behavioral avoidance of seismic vessels, including most baleen whales, some odontocetes (including belugas), and some pinnipeds, are especially unlikely to incur non-auditory impairment or other physical effects. The preliminary distances to the 180 and 190 dB thresholds for the air gun array proposed to be used by Furie are provided above in Tables 1 and 2.

Therefore, it is unlikely that such effects would occur during Furie's proposed survey given the brief duration of exposure and the planned monitoring and mitigation measures described later in this document.

(6) Stranding and Mortality

Marine mammals close to underwater detonations of high explosive can be killed or severely injured, and the auditory organs are especially susceptible to injury (Ketten *et al.* 1993; Ketten 1995). Air gun pulses are less energetic and their peak amplitudes have slower rise times. To date, there is no evidence that serious injury, death, or stranding by marine mammals can occur from exposure to air gun pulses, even in the case of large air gun arrays.

However, in numerous past IHA notices for seismic surveys, commenters have referenced two stranding events allegedly associated with seismic activities, one off Baja California and a second off Brazil. NMFS has addressed this concern several times, including in the **Federal Register** notice announcing the 2012 IHA for Apache's seismic survey in Cook Inlet, and, without new information, does not believe that this issue warrants further discussion. For information relevant to strandings of marine mammals, readers are encouraged to review NMFS' response to comments on this matter found in 69 FR 74905 (December 14, 2004), 71 FR 43112 (July 31, 2006), 71 FR 50027 (August 24, 2006), 71 FR 49418 (August 23, 2006), and 77 FR 27720 (May 11, 2012).

It should be noted that strandings related to sound exposure have not been recorded for marine mammal species in Cook Inlet. Beluga whale strandings in Cook Inlet are not uncommon; however, these events often coincide with extreme tidal fluctuations (''spring tides'') or killer whale sightings (Shelden *et al.,* 2003). For example, in August 2012, a group of Cook Inlet beluga whales stranded in the mud flats of Turnagain Arm during low tide and were able to swim free with the flood tide. No strandings or marine mammals in distress were observed during the 2D test survey conducted by Apache in March 2011 and none were reported by Cook Inlet inhabitants. Furthermore, no strandings were reported during seismic survey operations conducted under Apache's April 2012 IHA. As a result, NMFS does not expect any marine mammals will incur serious injury or mortality in Cook Inlet or strand as a result of Furie's proposed seismic survey.

Potential Effects From Pingers on Marine Mammals

Active acoustic sources other than the airguns have been proposed for Furie's 2014 seismic survey in Cook Inlet. The specifications for the pingers (source levels and frequency ranges) were provided earlier in this document. In general, the potential effects of this equipment on marine mammals are similar to those from the airguns, except the magnitude of the impacts is expected to be much less due to the lower intensity of the source.

Potential Effects From Vessels and Vessel Noise on Marine Mammals

Vessel activity and noise associated with vessel activity will temporarily increase in the action area during Furie's seismic survey as a result of the operation of multiple vessels. To minimize the effects of vessels and noise associated with vessel activity, Furie will follow NMFS' Marine Mammal Viewing Guidelines and Regulations and will alter heading or speed if a marine mammal gets too close to a vessel. In addition, vessels will be operating at slow speed (2–4 knots) when conducting surveys and in a purposeful manner to and from work sites in as direct a route as possible. Marine mammal monitoring observers and passive acoustic devices will alert vessel captains as animals are detected to ensure safe and effective measures are applied to avoid coming into direct contact with marine mammals. Therefore, NMFS neither anticipates nor authorizes takes of marine mammals from ship strikes.

Odontocetes, such as beluga whales, killer whales, and harbor porpoises, often show tolerance to vessel activity; however, they may react at long distances if they are confined by ice, shallow water, or were previously harassed by vessels (Richardson, 1995). Beluga whale response to vessel noise varies greatly from tolerance to extreme sensitivity depending on the activity of the whale and previous experience with vessels (Richardson, 1995). Reactions to vessels depends on whale activities and experience, habitat, boat type, and boat behavior (Richardson, 1995) and may include behavioral responses, such as altered headings or avoidance (Blane and Jaakson, 1994; Erbe and Farmer, 2000); fast swimming; changes in vocalizations (Lesage *et al.,* 1999; Scheifele *et al.,* 2005); and changes in dive, surfacing, and respiration patterns.

There are few data published on pinniped responses to vessel activity, and most of the information is anecdotal (Richardson, 1995). Generally, sea lions in water show tolerance to close and frequently approaching vessels and sometimes show interest in fishing vessels. They are less tolerant when hauled out on land; however, they rarely react unless the vessel approaches within 100–200 m (330–660 ft; reviewed in Richardson, 1995).

The addition of multiple vessels and noise due to vessel operations associated with the seismic survey would not be outside the present experience of marine mammals in Cook Inlet, although levels may increase locally. Given the large number of vessels in Cook Inlet and the apparent habituation to vessels by Cook Inlet beluga whales and the other marine mammals that may occur in the area, vessel activity and noise is not expected to have effects that could cause significant or long-term consequences for individual marine mammals or their populations.

Potential Effects From Aircraft Noise on Marine Mammals

Furie plans to utilize aircraft to conduct aerial surveys near river mouths in order to identify locations or congregations of beluga whales and other marine mammals prior to the commencement of operations. The aircraft would not be used every day, but will be used for surveys near river mouths. Aerial surveys would fly at an altitude of 305 m (1,000 ft) when practicable and weather conditions permit. In the event of a marine

mammal sighting, aircraft would try to maintain a radial distance of 457 m (1,500 ft) from the marine mammal(s). Aircraft would avoid approaching marine mammals from head-on, flying over or passing the shadow of the aircraft over the marine mammals.

Studies on the reactions of cetaceans to aircraft show little negative response (Richardson *et al.,* 1995). In general, reactions range from sudden dives and turns and are typically found to decrease if the animals are engaged in feeding or social behavior. Whales with calves or in confined waters may show more of a response. Generally there has been little or no evidence of marine mammals responding to aircraft overflights when altitudes are at or above 1,000 ft (305 m), based on three decades of flying experience in the Arctic (NMFS, unpublished data). Based on long-term studies that have been conducted on beluga whales in Cook Inlet since 1993, NMFS expect that there will be no effects of this activity on beluga whales or other cetaceans. No change in beluga swim directions or other noticeable reactions have been observed during the Cook Inlet aerial surveys flown from 600 to 800 ft. (e.g., Rugh *et al.,* 2000). By applying the operational requirements discussed above, sound levels underwater are not expected to reach NMFS' harassment thresholds.

The majority of observations of pinnipeds reacting to aircraft noise are associated with animals hauled out on land or ice. There are very little data describing the reactions of pinnipeds in water to aircraft (Richardson *et al.,* 1995). In the presence of aircraft, pinnipeds hauled out for pupping or molting generally became alert and then rushed or slipped (when on ice) into the water. Stampedes often result from this response and may increase pup mortality due to crushing or an increase rate of pup abandonment. The greatest reactions from hauled out pinnipeds were observed when low flying aircrafts passed directly above the animal(s) (Richardson *et al.,* 1995). Although noise associated with aircraft activity could cause hauled out pinnipeds to rush into the water, there are no known haul out sites in the vicinity of the survey site.

Therefore, the operation of aircraft during the seismic survey is not expected to have effects that could cause significant or long-term consequences for individual marine mammals or their populations. To minimize the noise generated by aircraft, Furie would follow NMFS' Marine Mammal Viewing Guidelines and Regulations found at *http://www.alaskafisheries.noaa.gov/protectedresources/mmv/guide.htm.*

Anticipated Effects on Marine Mammal Habitat

The primary potential impacts to marine mammal habitat and other marine species, including prey species, are associated with elevated sound levels produced by airguns and other active acoustic sources. However, other potential impacts to the surrounding habitat from physical disturbance are also possible and are discussed below.

Potential Impacts on Prey Species

With regard to fish as a prey source for cetaceans and pinnipeds, fish are known to hear and react to sounds and to use sound to communicate (Tavolga *et al.,* 1981) and possibly avoid predators (Wilson and Dill, 2002). Experiments have shown that fish can sense both the strength and direction of sound (Hawkins, 1981). Primary factors determining whether a fish can sense a sound signal, and potentially react to it, are the frequency of the signal and the strength of the signal in relation to the natural background noise level.

The level of sound at which a fish will react or alter its behavior is usually well above the detection level. Fish have been found to react to sounds when the sound level increased to about 20 dB above the detection level of 120 dB (Ona, 1988); however, the response threshold can depend on the time of year and the fish's physiological condition (Engas *et al.,* 1993). In general, fish react more strongly to pulses of sound rather than a continuous signal (Blaxter *et al.,* 1981), and a quicker alarm response is elicited when the sound signal intensity rises rapidly compared to sound rising more slowly to the same level.

Investigations of fish behavior in relation to vessel noise (Olsen *et al.,* 1983; Ona, 1988; Ona and Godo, 1990) have shown that fish react when the sound from the engines and propeller exceeds a certain level. Avoidance reactions have been observed in fish such as cod and herring when vessels approached close enough that received sound levels are 110 dB to 130 dB (Nakken, 1992; Olsen, 1979; Ona and Godo, 1990; Ona and Toresen, 1988). However, other researchers have found that fish such as polar cod, herring, and capeline are often attracted to vessels (apparently by the noise) and swim toward the vessel (Rostad *et al.,* 2006). Typical sound source levels of vessel noise in the audible range for fish are 150 dB to 170 dB (Richardson *et al.,* 1995).

Potential Impacts to the Benthic Environment

Furie's seismic survey requires the deployment of a submersible receiving and recording system in the inter-tidal and marine zones. The systems that may be used are a nodal system, an ocean bottom cable (OBC) system, or a combination of the two. The system would be deployed in parallel lines, laid out in units or patches. An entire patch would be placed on the seafloor prior to air gun activity. As the patches are surveyed, the receiver lines would be moved either side to side or inline to the next location. Placement and retrieval of the receivers may cause temporary and localized increases in turbidity on the seafloor. The substrate of Cook Inlet consists of glacial silt, clay, cobbles, pebbles, and sand (Sharma and Burrell, 1970). Sediments like sand and cobble dissipate quickly when suspended, but finer materials like clay and silt can create thicker plumes that may harm fish; however, the turbidity created by placing and removing nodes on the seafloor would settle to background levels within minutes after the cessation of activity.

In addition, seismic noise will radiate throughout the water column from air guns and pingers until is dissipates to background levels. No studies have demonstrated that seismic noise affects the life stages, condition, or amount of food resources (fish, invertebrates, eggs) used by marine mammals, except when exposed to sound levels within a few meters of the seismic source or in few very isolated cases. Where fish or invertebrates did respond to seismic noise, the effects were temporary and of short duration. Consequently, disturbance to fish species due to the activities associated with the seismic survey (i.e., placement and retrieval of nodes and noise from sound sources) would be short term and fish would be expected to return to their pre-disturbance behavior once seismic survey activities cease.

Based on the preceding discussion, the proposed activity is not expected to have any habitat-related effects that could cause significant or long-term consequences for individual marine mammals or their populations.

Proposed Mitigation

In order to issue an incidental take authorization under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to

rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses.

For the proposed seismic survey in Cook Inlet, Furie worked with NMFS and proposed the following mitigation measures to minimize the potential impacts to marine mammals in the project vicinity as a result of the survey activities.

Mitigation Measures Proposed in Furie's IHA Application

For the proposed mitigation measures, Furie listed the following protocols to be implemented during its seismic survey in Cook Inlet.

(1) Operation of Mitigation Air Gun at Night

Furie proposes to conduct both daytime and nighttime operations. Nighttime operations would only be initiated if a ''mitigation air gun'' (typically the 10 in^3) has been continuously operational from the time that PSO monitoring has ceased for the day to alert marine mammals of the presence of the seismic survey. The mitigation airgun would operate on a longer duty cycle than the full airgun arrays, firing every 30–45 seconds. Seismic activity would not ramp up from an extended shut-down (i.e., when the airgun has been down with no activity for at least 10 minutes) during nighttime operations and survey activities would be suspended until the following day because dedicated PSOs would not be on duty and any unseen animals may be exposed to injurious levels of sound from the full array. At night, the vessel captain and crew would maintain lookout for marine mammals and would order the airgun(s) to be shut down if marine mammals are observed in or about to enter the established safety radii.

(2) Designation of Disturbance and Safety Zones

NMFS typically identifies two zones to help with mitigation, monitoring, and analyses. One zone is used for shutdowns to limit marine mammal exposure to received sound levels that are ≥180 dB_{rms} re 1 μPa for cetaceans and ≥190 dB_{rms} re 1 μPa for pinnipeds, which is based on the assumption that SPLs received at levels lower than these will not injure these animals or impair their hearing abilities. In their IHA application, Furie refers to the distances to the 180/190 dB thresholds as the ''exclusion'' radii; however, to avoid confusion with other actions, for consistency NMFS will refer to this zone as the ''safety zone'' for the remainder of this notice. NMFS also typically identifies the zone between the 180/190 dB isopleths and the 160 dB threshold where harassment in the form of behavioral disturbance may occur. Furie's IHA application refers to this area as the ''safety zone;'' however, to avoid confusion with other actions where ''safety zone'' has meant the area above 180/190 dB, NMFS will use the term ''disturbance zone.''

The proposed survey would use airgun sources composed of two 2400 in^3 airguns, a single 440 in^3 to 1800 in^3 airgun, and a single 10 in^3 airgun. Safety and disturbance radii for the sound levels produced by the planned airgun configurations and pinger have been estimated (see Table 4) and would be used for mitigation purposes (see description of measures below) during the seismic survey activities. However, Furie plans on conducting a sound source verification study for this project prior to the start of the seimic survey, which will be used to modify the distances to the actual isopleths, if necessary.

TABLE 4—PRELIMINARY DISTANCES TO SAFETY AND DISTURBANCE ZONE ISOPLETHS

Source	190 dB	180 dB	160 dB
Pinger	1 m	3 m	25 m.
10 in^3 Airgun	10 m	10 m	280 m.
440 in^3 Airgun	100 m	310 m	2.5 km.
2400 in^3 Airgun	380 m	1.4 km	9.5 km.

In addition to the required mitigation associated with the safety and disturbance zones (which are described below), pursuant to Alaska Department of Fish and Game restrictions, there would be a 1.6 km setback of sound source points from the mouths of any anadromous streams.

Furie also plans to use dedicated vessels to deploy and retrieve the receiving and recording system. Sounds produced by the vessels are not expected to exceed ambient sound levels in Cook Inlet. Therefore, mitigation related to acoustic impacts from vessels is not expected to be necessary.

(3) Speed and Course Alterations

If a marine mammal is detected outside the applicable 160 dB disturbance zone and, based on its position and the relative motion, is likely to enter the disturbance zone, changes of the vessel's speed and/or direct course would be considered if this does not compromise operational safety to increase the distance between the observed marine mammal and the disturbance zone. For marine seismic surveys using large arrays, course alterations are not typically possible. However, for the smaller air gun arrays planned during the proposed site surveys, such changes may be possible. After any such speed and/or course alteration is begun, the marine mammal activities and movements relative to the survey vessel would be closely monitored to ensure that the marine mammal does not approach within the disturbance zone. If the mammal appears likely to enter the disturbance zone, further mitigative actions would be taken, including a power down or shut down of the airgun(s).

(4) Power-Downs

A power-down for mitigation purposes is the immediate reduction in the number of operating airguns such that the radii of the 190 dB rms, 180 dB rms, and 160 dB rms zones are decreased to the extent that an observed marine mammal(s) are not in the applicable zone of the full array. During a power-down, one air gun, typically the 10 in^3, continues firing. Operation of the 10 in^3 air gun decreases the radii to 10 m, 10 m, and 280 m for the safety and disturbance zones, respectively. The continued operation of one airgun is intended to alert marine mammals to the presence of the survey vessel in the area.

The array would be immediately powered down whenever a marine mammal is sighted approaching the 160 dB disturbance zone of the full array. Likewise, if a mammal is already within the disturbance zone when first detected, the airguns would be powered down immediately. If a marine mammal is sighted within or about to enter the disturbance zone of the single

mitigation airgun, it would be shut down (see following section).

Following a power-down, operation of the full airgun array would not resume until the marine mammal has cleared the disturbance zone. The animal would be considered to have cleared the disturbance zone if it:

- Is visually observed to have left the disturbance zone of the full array, or
- Has not been seen within the zone for 15 min in the case of pinnipeds or small odontocetes, or
- Has not been seen within the zone for 30 min in the case of large odontocetes and mysticetes.

(5) Shut-Downs

The operating airgun(s) would be shut down completely if a marine mammal approaches or enters the safety radius and a power-down is not practical or adequate to reduce exposure to less than 190 or 180 dB rms, as appropriate. In most cases, this means that the full array, including the mitigation airgun would be shut down completely if a marine mammal approaches or enters the estimated safety radius around the single 10 in^3 air gun while it is operating during a power down. Airgun activity would not resume until the marine mammal has cleared the safety radius. The animal would be considered to have cleared the safety radius as described above under power down procedures.

(6) Ramp-Ups

A ramp-up of an airgun array provides a gradual increase in sound levels, and involves a step-wise increase in the number and total volume of air guns firing until the full volume is achieved. The purpose of a ramp-up (or ''soft start'') is to ''warn'' cetaceans and pinnipeds in the vicinity of the airguns and to provide the time for them to leave the area and thus avoid any potential injury or impairment of their hearing abilities.

During the proposed seismic survey, the seismic operator will ramp up the airgun array slowly, at a rate of no more than 6 dB per 5-minute period. Ramp-up is used at the start of airgun operations, after a power- or shut-down, and after any period of greater than 10 minutes in duration without airgun operations (i.e., extended shutdown).

A full ramp-up after a shut down will not begin until there has been a minimum of 30 minutes of observation of the 160 dB disturbance zone by PSOs to assure that no marine mammals are present. The entire zone must be visible during the 30-minute lead-in to a full ramp up. If the entire zone is not visible, then ramp-up from a cold start cannot begin. If a marine mammal(s) is sighted within the zone during the 30-minute watch prior to ramp-up, ramp-up will be delayed until the marine mammal(s) is sighted outside of the zone or the animal(s) is not sighted for at least 15–30 minutes: 15 Minutes for small odontocetes and pinnipeds (e.g. harbor porpoises, harbor seals, and Steller sea lions), or 30 minutes for large odontocetes (e.g., killer whales and beluga whales) and mysticetes (gray whales).

(7) Shut-Downs for Aggregations of Marine Mammals and Beluga Cow-Calf Pairs

The following additional protective measures for beluga whale cow-calf pairs and aggregations of marine mammals are proposed. Whenever an aggregation of beluga whales, killer whales, harbor porpoises, gray whales, or Steller sea lions (four or more whales of any age/sex class), or beluga whale cow-calf pairs are observed approaching the 160-dB disturbance zone around the survey operations, the survey activity would not commence or would shut down, until they are no longer present within the 160-dB disturbance zone of seismic surveying operations.

Additional Mitigation Measures Proposed by NMFS

Furthermore, NMFS proposes the following measures be included in the IHA, if issued:

(1) All vessels should reduce speed when within 300 yards (274 m) of whales, and those vessels capable of steering around such groups should do so. Vessels may not be operated in such a way as to separate members of a group of whales from other members of the group;

(2) Avoid multiple changes in direction and speed when within 300 yards (274 m) of whales; and

(3) When weather conditions require, such as when visibility drops, support vessels must adjust speed (increase or decrease) and direction accordingly to avoid the likelihood of injury to whales.

Mitigation Measures Considered But Not Proposed

NMFS considered whether time/area restrictions were warranted. NMFS has preliminary determined that such restrictions are not necessary or practicable here. Beluga whales remain in Cook Inlet year-round, but demonstrate seasonal movement within the Inlet; in the summer and fall, they concentrate in upper Cook Inlet's rivers and bays, but tend to disperse offshore and move to mid-Inlet in winter (Hobbs *et al.,* 2005). The available information indicates that in the winter months belugas are dispersed in deeper waters in mid-Inlet past Kalgin Island, with occasional forays into the upper inlet, including the upper ends of Knik and Turnagain Arms. Their winter distribution does not appear to be associated with river mouths, as it is during the warmer months. The spatial dispersal and diversity of winter prey are likely to influence the wider beluga winter range throughout the mid-Inlet. Furie expects to mobilize crews and equipment for its seismic survey in May 2014, which would coincide with the time of year when belugas are located in the upper Inlet. In the spring, beluga whales are regularly sighted in Knik Arm, which is located in the upper Inlet, beginning in late April or early May, coinciding with eulachon runs in the Susitna River and Twenty Mile River in Turnagain Arm, and well outside of the area where Furie would be conducting seismic surveys. Therefore, NMFS believes that the timing and location of the seismic survey, as proposed, will avoid areas and seasons that overlap with important beluga whale behavioral patterns.

NMFS also considered whether to require time area restrictions for areas identified as home ranges during August through March for 14 satellite-tracked beluga whales in Hobbs *et al.,* 2005. NMFS has preliminarily determined not to require time/area restrictions for these areas within the proposed survey area. The areas in question are relatively large throughout which belugas are dispersed. In addition, data for 14 tracked belugas does not establish that belugas will not appear in other areas—particularly during the periods of the year when belugas are more dispersed in Cook Inlet. Time/area restrictions for these areas thus would not yield a material benefit for the species. Such restrictions also are not practicable given the applicant's need to survey the areas in question and the need for operational flexibility given weather conditions, real-time adjustment of operations to avoid marine mammals and other factors.

Mitigation Conclusions

NMFS has carefully evaluated the applicant's proposed mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

• The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;

• The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and

• The practicability of the measure for applicant implementation.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking''. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area.

Monitoring Measures Proposed in Furie's IHA Application

The monitoring plan proposed by Apache can be found in section 1.4 of the IHA application. The plan may be modified or supplemented based on comments or new information received from the public during the public comment period. A summary of the primary components of the plan follows.

(1) Visual Vessel-Based Monitoring

Vessel-based monitoring for marine mammals would be done by experienced PSOs throughout the period of marine survey activities. PSOs would monitor the occurrence and behavior of marine mammals near the survey vessel during all daylight periods during operation and during most daylight periods when airgun operations are not occurring. PSO duties would include watching for and identifying marine mammals, recording their numbers, distances, and reactions to the survey operations, and documenting ''take by harassment.''

A sufficient number of PSOs would be required onboard the survey vessel to meet the following criteria: (1) 100 Percent monitoring coverage during all periods of survey operations in daylight; (2) maximum of 4 consecutive hours on watch per PSO; and (3) maximum of 12 hours of watch time per day per PSO.

PSO teams would consist of experienced field biologists. An experienced field crew leader would supervise the PSO team onboard the survey vessel. Furie currently plans to have PSOs aboard up to four vessels: the two source vessels and two support vessels. Two PSOs would be on the source vessels and two PSOs would be on the support vessel to observe the safety, power down, and shut down areas. When marine mammals are about to enter or are sighted within designated disturbance (i.e., 160 dB) zones, airgun or pinger operations would be powered down (when applicable) or shut down immediately. The vessel-based observers would watch for marine mammals during all periods when sound sources are in operation and for a minimum of 30 minutes prior to the start of airgun or pinger operations after an extended shut down.

Crew leaders and most other biologists serving as observers would be individuals with experience as observers during seismic surveys in Alaska or other areas in recent years.

The observer(s) would watch for marine mammals from the best available vantage point on the source and support vessels, typically the flying bridge. The observer(s) would scan systematically with the unaided eye and 7×50 reticle binoculars. Laser range finders would be available to assist with estimating distance. Personnel on the bridge would assist the observer(s) in watching for marine mammals.

All observations would be recorded in a standardized format. Data would be entered into a custom database using a notebook computer. The accuracy of the data would be verified by computerized validity data checks as the data are entered and by subsequent manual checks of the database. These procedures would allow for initial summaries of the data to be prepared during and shortly after the completion of the field program, and would facilitate transfer of the data to statistical, geographical, or other programs for future processing and achieving. When a mammal sighting is made, the following information about the sighting would be recorded:

(A) Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from the PSO, apparent reaction to activities (e.g., none, avoidance, approach, paralleling, etc.), closest point of approach, and behavioral pace;

(B) Time, location, speed, activity of the vessel, sea state, ice cover, visibility, and sun glare; and

(C) The positions of other vessel(s) in the vicinity of the PSO location.

The ship's position, speed of support vessels, and water temperature, water depth, sea state, ice cover, visibility, and sun glare would also be recorded at the start and end of each observation watch, every 30 minutes during a watch, and whenever there is a change in any of those variables.

(2) Visual Shore-Based Monitoring

In addition to the vessel-based PSOs, Furie proposes to utilize a shore-based station to visually monitor for marine mammals when the disturbance radius includes the intertidal area within one mile from shore. The shore-based station would follow all safety procedures, including bear safety. The location of the shore-based station would need to be sufficiently high to observe marine mammals; the PSOs would be equipped with pedestal mounted ''big eye'' (20x110) binoculars. The shore-based PSOs would scan the area prior to, during, and after the air gun operations, and would be in contact with the vessel-based PSOs via radio to communicate sightings of marine mammals approaching or within the project area.

(3) Aerial-Based Monitoring

When survey operations occur within 1.6 km (1 mi) a river mouth, Furie would conduct aerial surveys utilizing either a helicopter or fixed-wing aircraft prior to the commencement of airgun operations in order to identify locations where beluga whales congregate. The aircraft may also be used at other times, when practicable. Weather and scheduling permitting, aerial surveys would fly at an altitude of 305 m (1,000 ft). In the event of a marine mammal sighting, aircraft would attempt to maintain a radial distance of 457 m (1,500 ft) from the marine mammal(s). Aircraft would avoid approaching marine mammals from head-on, flying over or passing the shadow of the aircraft over the marine mammal(s). By following these operational requirements, sound levels underwater are not expected to meet or exceed NMFS harassment thresholds (Richardson *et al.,* 1995; Blackwell *et al.,* 2002).

Based on data collected from Apache during its survey operations conducted

under the April 2012 IHA, NMFS believes that the foregoing monitoring measures will allow Furie to identify animals nearing or entering the 160 db zone with a reasonably high degree of effectiveness.

Reporting Measures

(1) Field Reports

During the proposed survey program, the PSOs would prepare a report each day or at such other interval as the IHA (if issued), or Furie may require, summarizing the recent results of the monitoring program. The field reports would summarize the species and numbers of marine mammals sighted. These reports would be provided to NMFS and to the survey operators on a weekly basis. At the end of each month, a summary of the weekly reports would be submitted to NMFS.

(2) Technical Report

The results of Furie's 2014 monitoring program, including estimates of ''take'' by harassment (based on presence in the 160 dB harassment zone), would be presented in the ''90-day'' and Final Technical reports. The Technical Report would include:

(a) Summaries of monitoring effort (e.g., total hours, total distances, and marine mammal distribution through the study period, accounting for sea state and other factors affecting visibility and detectability of marine mammals);

(b) analyses of the effects of various factors influencing detectability of marine mammals (e.g., sea state, number of observers, and fog/glare);

(c) species composition, occurrence, and distribution of marine mammal sightings, including date, water depth, numbers, age/size/gender categories (if determinable), group sizes, and ice cover;

(d) analyses of the effects of survey operations;

- Sighting rates of marine mammals during periods with and without seismic survey activities (and other variables that could affect detectability), such as:
- Initial sighting distances versus survey activity state;
- Closest point of approach versus survey activity state;
- Observed behaviors and types of movements versus survey activity state;
- Numbers of sightings/individuals seen versus survey activity state;
- Distribution around the source vessels versus survey activity state; and
- Estimates of take by harassment based on presence in the 160 dB disturbance zone.

(3) Comprehensive Report

Following the survey season, a comprehensive report describing the vessel-based, shore-based, aerial-based, and acoustic monitoring programs would be prepared. The comprehensive report would describe the methods, results, conclusions and limitations of each of the individual data sets in detail. The report would also integrate (to the extent possible) the studies into a broad based assessment of industry activities, and other activities that occur in Cook Inlet, and their impacts on marine mammals. The report would help to establish long-term data sets that can assist with the evaluation of changes in the Cook Inlet ecosystem. The report would attempt to provide a regional synthesis of available data on industry activity in this part of Alaska that may influence marine mammal density, distribution and behavior.

(4) Notification of Injured or Dead Marine Mammals

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA (if issued), such as an injury (Level A harassment), serious injury or mortality (e.g., ship-strike, gear interaction, and/or entanglement), Furie would immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinators. The report would include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS would work with Furie to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Furie would not be able to resume their activities until notified by NMFS via letter, email, or telephone.

In the event that Furie discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as described in the next paragraph), Furie would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinators. The report would include the same information identified in the paragraph above. Activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with Furie to determine whether modifications in the activities are appropriate.

In the event that Furie discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Apache would report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinators, within 24 hours of the discovery. Furie would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

Exposure Analysis and Estimated Take of Marine Mammals

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment]. Only take by Level B behavioral harassment is anticipated as a result of the proposed marine survey program. Anticipated impacts to marine mammals are associated with noise propagation from the sound sources (e.g., airguns and pingers) used in the

seismic survey; no take is expected to result from vessel strikes.

Furie requests authorization to take six marine mammal species by Level B harassment. These six marine mammal species are: Cook Inlet beluga whale (*Delphinapterus leucas*); killer whale (*Orcinus orca*); harbor porpoise (*Phocoena phocoena*); gray whale (*Eschrichtius robustus*); harbor seal (*Phoca vitulina richardsi*), and Steller sea lion (*Eumetopias jubatus*).

The full suite of potential impacts to marine mammals was described in detail in the ''Potential Effects of the Specified Activity on Marine Mammals'' section found earlier in this document. The potential effects of sound from the proposed seismic survey might include one or more of the following: Tolerance; masking of natural sounds; behavioral disturbance; non-auditory physical effects; and, at least in theory, temporary or permanent hearing impairment (Richardson *et al.,* 1995). The most common and likely impact would be from behavioral disturbance, including avoidance of the ensonified area or changes in speed, direction, and/or diving profile of the animal. Hearing impairment (TTS and PTS) are highly unlikely to occur based on the proposed mitigation and monitoring measures that would preclude marine mammals being exposed to noise levels high enough to cause hearing impairment.

For impulse sounds, such as those produced by airgun(s) used in the seismic survey, NMFS uses the 160 dB_{rms} re 1 µPa isopleth to indicate the onset of Level B harassment. To estimate potential exposure of marine mammals to sound generated during seismic survey operations, Furie used the 160-dB isopleths measured by Apache in 2012 and then overlaid those isopleth areas with the density of marine mammals in the total area ensonified within those isopleths over the time of the surveys. Furie provided a full description of the methodology used to estimate takes by harassment in its IHA application (see **ADDRESSES**), which is also provided in the following sections. NMFS reviewed and used Furie's exposure analysis and take estimates in our analyses.

Basis for Estimating Exposure to Sound Levels at or Exceeding 160 dB

As stated previously, NMFS considers exposure to impulsive sounds at a received level of 160 dB_{rms} re 1µPa or above to be Level B harassment. As described earlier in this notice, impulsive sounds would be generated by airgun arrays that would be used to obtain geological data during the surveys. The following series of calculations and assumptions were applied to estimate potential Level B harassment in this application:

(1) The expected density of each marine mammal species in the project area is estimated using the best available data.

(2) The total estimated number of marine mammals that could potentially (without the implementation of mitigation measures) be exposed to pulsed sound levels at or exceeding 160 dB_{rms} re 1µPa, is calculated by multiplying the density of the marine mammals expected to be present by the area that would be ensonified to 160 dB or above. The area predicted to be ensonified to ≥160 dB is presented below in Table 5 for each priority area under two proposed scenarios identified by different contractors:

TABLE 5—MONTHY AREA PREDICTED TO BY ENSONIFIED TO ≥160 dB

Priority area	Area Ensonified to ≥160 dB (km^2)	
	Proposal A	Proposal B
Priority Area 1 ...	890	905
Priority Area 2 ...	880	885
Priority Area 3a	775	865
Priority Area 3b	1050	1000

Furie has indicated that Priority Area 1 is the highest priority area for seismic survey operations in 2014.

(3) The estimated numbers of marine mammals that may be taken by Level B harassment are derived by modifying the number of calculated exposures above 160 dB based on the data and information regarding site-specific observations of marine mammals and the effects of the proposed mitigation measures. Specifically, the following two factors are expected to lower the number of animals that are actually exposed above 160 dB and taken: (1) The coordination of timing and location of the proposed seismic survey to avoid areas where marine mammals (particularly Cook Inlet beluga whales) concentrate at certain times of the year; and (2) power-down and shut-down procedures that would suspend airgun operations when marine mammals are observed in or about to enter the 160 dB zone. Of note, as described above in the mitigation section, Furie would be utilizing more protective power-down/shut-down procedures than are typically employed during seismic survey operations. In addition to the regular shut-down for the safety zone, Furie would be implementing power-downs in the disturbance zone for all marine mammals and special aggregation/cow-calf shut-downs in disturbance zone.

The following subsections describe the estimated densities of marine mammals that may occur in the areas where activities are planned, and areas of water that may be ensonified by pulsed sounds to ≥160 dB. The densities presented here are likely to be higher than those expected in the project area because the population surveys target areas where marine mammals are concentrated (e.g., haulout areas, feeding grounds), which are outside of the proposed survey site, and, therefore, over-estimate the densities that would be found in the open waters of upper Cook Inlet, which is where the survey will take place. According to Furie's IHA application, a survey crew will collect seismic data 10–12 hours per day over approximately 4 months (120 days). Furie has identified four ''priority areas'' for surveying with each requiring about 30 days to complete. It is important to note that environmental conditions (such as ice, wind, and fog) will play a significant role in the actual number of operating days; therefore, these estimates are conservative in order to provide a basis for the probability of encountering these marine mammal species in the action area. The timing and location of the survey for each priority area can be adjusted to avoid anticipated locations of higher concentrations of beluga whales during each month.

Beluga Whales

Annual surveys of the Cook Inlet beluga whale provide total population estimates, but because the whales are not typically distributed across the entire survey area, the data do not allow for the direct calculation of density across their entire range. Assumptions are necessary to estimate density for the proposed seismic survey project area.

A population estimate is developed annually for Cook Inlet beluga whales through aerial surveys that cover approximately 30 percent of the Cook Inlet surface area using the methods described by Hobbs *et al.* (2000) (Rugh *et al.,* 2000; Rugh *et al.,* 2005). During early June, three to seven surveys of upper Cook Inlet and one survey of lower Cook Inlet are conducted. During each aerial survey, the entire coastline to approximately 3 km offshore and all river mouths are surveyed. Transects across the Inlet are flown as well. The daily counts during the annual aerial survey are corrected for perception bias, which is the possibility of not seeing or counting a visible whale, as well as for availability bias, which is the inverse of the probability that a typical beluga is at or will appear at the surface during the survey. The population estimate for

the Cook Inlet beluga whales was 312 individuals for 2012 (Shelden *et al.,* 2012). Based on the coefficient of variation, Shelden *et al.* (2012) reported a minimum Cook Inlet beluga population estimate of 280 and an upper confidence limit of 402 individuals in 2012.

During May and for most of the summer, beluga whales are concentrated in the upper Cook Inlet near river mouths in Turnagain Arm, Knik Arm, Chickaloon Bay and the Susitna Delta (Rugh *et al.,* 2005; Hobbs *et al.,* 2005). The majority of the total population was observed in these areas from approximately June through September. In most years of the June aerial survey since the mid-1990s, beluga whales were not observed south of the East and West Forelands, with the majority of the population occurring in the Susitna Delta (Rugh *et al.,* 2010). The median daily count of beluga whales in mid Cook Inlet near the proposed Furie project area was nine in 1993, one in 1994, and four in 1995. There were no beluga whales counted in mid Cook Inlet near the proposed Furie project area in any year from 1996 through 2011, until a group of 21 beluga whales was observed in Trading Bay in June of 2012 for the first time since 1995 (Rugh *et al.,* 2005; Shelden *et al,* 2012; NMFS unpublished data). However, in August 2012, an aerial survey did not observe any beluga in the Trading Bay area, or even south of the Beluga River (Sims *et al.,* 2012).

Due to the seasonal concentration of beluga whales in certain areas of Cook Inlet, accurate densities cannot be calculated by assuming the total population is spread evenly throughout the Inlet at all times of the year; doing so would greatly overestimate the density of belugas expected in most areas of the upper Cook Inlet from May through November. Although the actual distribution of the Cook Inlet beluga population during the proposed project period is unknown and inherently varies over time, some studies and additional observations inform the calculation of the best density estimates (see Section 4.1 of Furie's IHA application for a more detailed discussion on seasonal distribution of beluga whales in Cook Inlet).

The distribution of beluga whales varies over the course of the summer and into the fall, depending largely on the timing of various fish runs. Movements of 14 satellite-tagged beluga whales studied from 2000 to 2003 indicate that 95 percent of the range where belugas are found from August through November varies from 982 km^2 to 2,945 km^2 (Hobbs *et al.,* 2005; Figure A–7). Hobbs *et al.* (2005) did not predict distributions for the months of May, June, or July; however, given that the annual aerial surveys in June typically observe the population in the Susitna Delta and Chickaloon Bay and that the population remains in the Susitna Delta and moves into the Knik Arm around August, the predicted distribution for the month of August is generally expected to represent the distribution of beluga whales during June and July. Prey species, specifically eulachon, arrive in upper Cook Inlet in April with major spawning runs in the Susitna River beginning in May (NMFS, 2008a). The arrival of eulachon appears to draw Cook Inlet beluga whales north around mid-April (NMFS, 2008a; Huntington, 2000) and thus the distribution of beluga whales in May is assumed to be similar to June, July, and August. Accordingly, the 95 percent probability range area estimated for May, June, and July is assumed to be equal to the area presented for August (982 km^2).

The predicted densities set forth below are based on the reasonable assumption that 95 percent of the total Cook Inlet beluga whale population will be distributed within the 95 percent probability range area for any given month (high concentration area) and that the remaining 5 percent of the population will occur in other areas of the upper Cook Inlet (low concentration area). Figures A–8 through A–23 of Furie's IHA application show the high concentration areas (shaded red, green and yellow per Hobbs *et al.,* 2005) in relation to the proposed project area. The density for the high and low concentration areas is calculated by dividing 95 percent of the population estimate by the area within the 95 percent range probability kernel of the given month, and 5 percent of the population by the remaining area of upper Cook Inlet (3840 km^2 total), respectively. Table 6 presents the population density estimate for the high and low concentration areas of upper Cook Inlet based on the 2012 population estimate (312) and the 95 percent probability range areas published by Hobbs *et al.* (2005).

TABLE 6—PREDICTED COOK INLET BELUGA WHALE DENSITIES WITHIN AND OUTSIDE OF THE 95% PROBABILITY KERNEL

Month	Area of 95% probability (km^2)	High concentration area (number of animals/km^2)	Low concentration area (number of animals/km^2)
May/June/July/August	982	0.3018	0.005458
July	982	0.3018	0.005458
August	982	0.3018	0.005458
September	1605	0.1847	0.006980
October	2945	0.1006	0.01743
November	2013	0.1472	0.008539

Goetz *et al.* (2012a) re-analyzed the data reported in Hobbs *et al.* (2005) and also predicted low numbers of belugas per km^2 in the vicinity of the proposed project area, with the greatest numbers occurring along the coastline along Trading Bay and a shallow area known as Middle Ground Shoal. The density of belugas in the 2012 modeling study was derived as the product of the probability of beluga presence in a specific location and the expected number of individuals when beluga whales are present, using aerial survey data from 1994 to 2008. Of these years, belugas were only observed near the proposed project area in 1994 and 1995.

Additionally, site-specific observations support the findings reported by Hobbs *et al.* (2005) and Goetz *et al.* (2012a). Individual observers have reported sighting beluga whales ranging from 1 to 75 individuals (average 16.5) on 24 occasions from 2000 through 2010 in the area south of Threemile Creek connecting to Point Possession and north of East Forelands connecting to West Forelands (observations were made from planes, vessels, shore, and oil platforms; NMFS unpublished data). Only 13 of these sightings occurred in the months of June through September, and no sightings were reported in May, October or

November. This average number of beluga whales (16.5) represents 5 percent of the average population abundance estimate (350) from the same time period.

Marine mammal observations are available for the vicinity of the proposed Furie project area as part of monitoring efforts for seismic survey work conducted during May through September of 2012 (Apache, 2013). In 2012, Apache conducted a seismic survey in a 2,719 km^2 area extending from the McArthur River to the Beluga River. During the 2012 survey, Apache was required to monitor the area for the presence of marine mammals and regularly submitted reports to NMFS containing marine mammal observations. These observations were made as part of the implementation of mitigation measures to avoid potential harassment and injury to marine mammal species and not for the purpose of estimating population abundance. However, this monitoring data from Apache's 2012 seismic program represents the best available site-specific observational data (Table 7). Monitoring was conducted from land-based, vessel-based, and aerial platforms. Belugas whales were most often observed in coastal waters and in river mouths along the western side of Cook Inlet, as far south as the McArthur River to as far north as the Ivan River. Beluga whales were also commonly observed adjacent to the shoreline near river mouths, which is consistent with other studies conducted in the area (Rugh *et al.,* 2000; Nemeth *et al.,* 2007). Beluga whale abundance in the vicinity of the 2012 survey decreased and moved north (Beluga River to Susitna River) July through September, when beluga whales are more commonly observed in the upper reaches of Cook Inlet (e.g., Knik and Turnagain Arms; Hobbs *et al.,* 2005). Dividing the number of individuals visually recorded through vessel and land-based observers per month by the number of sightings, the average group size of beluga whales in May, June, July, and September was 6.9. No belugas were observed by vessel and land-based observers in August.

TABLE 7—BELUGA WHALES OBSERVED DURING 2012 SEISMIC SURVEY ACTIVITIES

Month	Estimated number of individuals observed	Number of sightings	Assumed average group size
May	52	20	2.6
June	77	7	11
July	161	23	7
August	0	0	N/A
September	35	5	7
Average	.....	.....	6.9

Tables 7 and 8 show two estimates of the number of individual Cook Inlet beluga whales potentially exposed to sound levels at or above the Level B harassment threshold each month over the course of the entire 2014 survey season. Table 17 presents the calculated number of potential exposures for other marine mammal species.

In order to calculate the number of individual beluga whales potentially exposed to sound at or above 160 dB, the following factors were considered:

(1) The size of the ensonified area: The size of the ensonified area varies for each priority area surveyed and varies with the proposals submitted by the surveying contractors. Tables 8 and 9 present the predicted number of beluga exposures under Proposals A and B, respectively. Proposal C is identical to Proposal A and, therefore, is not presented in a separate table.

(2) The month during which work will take place in that area: The month during which each priority area would be surveyed depends on the available start date for work and the desire to avoid working in areas where beluga whales would be present in higher concentrations. Figures A–9 to A–24 in Furie's IHA application show work in each priority area over four different months, August through November. The distribution of beluga whales is presumed to be similar in May, June, and July to that observed in August based on the best available data.

(3) The size of the ensonified area that overlaps predicted high and low beluga concentration areas: The fact that there are more belugas in some areas compared to others is relevant in different ways depending on what type of data is used and how it is analyzed. The difference comes down to accounting for the overall density of animals and their distribution. Information about beluga distribution and abundance is available in different formats. Some data (coarse-scale distribution and density estimates) were used to estimate potential exposures, but other types of information have more biological relevance to the calculation of take.

The beluga whale densities used to calculate potential exposure are based on models that provide density estimates on a monthly time scale and assume an even distribution of individuals (per square kilometer) throughout each of the predicted concentration areas (high and low density). These density estimates are based on the best available data and allow for an estimate of the total number of individuals in the entire survey area; however, at a finer scale, they do not account for the beluga whale's gregarious social behavior or habitat preferences. Therefore, the exposure estimates only account for coarse-scale density of the species (even distribution across the entire area) whereas belugas are social animals that generally travel in groups within relatively small portions of their habitat.

As mentioned above, the degree to which each ensonified area overlaps high concentration areas for beluga whales varies from month to month. For example, the entire ensonified area for Priority Area 1 (890 km^2) in August is within the predicted low concentration area for belugas. However, in October the ensonified area for Priority Area 1 overlaps the high concentration area by 240 km^2. Therefore, the predicted number of beluga whales exposed to sound at or exceeding 160 dB was calculated for each priority area for each month by multiplying the ensonified area by the density of beluga whales in that area, accounting for the degree of overlap with low and high beluga concentration areas. (Table 8 for Proposal A and Table 9 for Proposal B).

Using Priority Area 1 in August as an example, the predicted number of beluga whales exposed to sound at or exceeding 160 dB is calculated by multiplying the ensonified area (890 km^2) by the density of belugas in low concentration areas in August (0.005458 belugas per km^2) to equal 4.8 beluga whales (rounded to 5). For Priority Area 1 in October, the number of belugas was

calculated by first multiplying the ensonified area overlapping the red ''high concentration'' area (240 km^2) by the density of beluga whales in that area (0.1006 belugas per km^2) resulting in 24.1 belugas (rounded up to 25) and then by adding this number to the number calculated for the remaining low concentration area ([890 km^2–240 km^2] × 0.01743 belugas per km^2 = 11.3 rounded up to 12). The total for Priority Area 1 in October is 37 beluga whales (Table 8). This method is carried through for each priority area in each month.

TABLE 8—PREDICTED NUMBER OF BELUGAS POTENTIALLY EXPOSED TO 160 dB (PROPOSAL A)

Month	Priority area 1 (890 km^2)	Priority area 2 (880 km^2)	Priority area 3a (775 km^2)	Priority area 3b (1,050 km^2)
May	5	42	5	6
June	5	42	5	6
July	5	42	5	6
August	5	42	5	6
September	7	28	6	8
October	37	37	36	76
November	8	27	7	23

The same calculations were applied to the Proposal B survey area using the methods described above (Table 9).

TABLE 9—PREDICTED NUMBER OF BELUGAS POTENTIALLY EXPOSED TO 160 dB (PROPOSAL B)

Month	Priority area 1 (905 km^2)	Priority area 2 (885 km^2)	Priority area 3a (865 km^2)	Priority area 3b (1,000 km^2)
May	6	51	5	6
June	6	51	5	6
July	6	51	5	6
August	6	51	5	6
September	7	33	7	7
October	35	39	43	74
November	10	30	8	20

The timing of survey activities in various tracts can be adjusted, to some extent, to avoid areas where beluga whales may be expected in greater densities. The modeling data are fairly coarse and can be expected to vary annually, but the best available anecdotal and scientific knowledge shows that belugas would be concentrated in the Susitna River delta, Turnagain Arm, and Knik Arm following the timing of various fish runs. The number of potential exposures that could occur depends upon the time frames during which Furie could accomplish the proposed work and the priority of the area. Under Proposal A, the proposed project dates would result in an exposure estimate of 58 beluga whales at the lower end of the range to 186 at the upper end of the range. Furie has identified Priority Area 1 as the highest priority area for conducting seismic survey operations.

To estimate takes, the fine-scale distribution of beluga whales within discrete portions of their range was used rather than the overall density of whales in the larger ''concentration area.'' The fine-scale distribution makes it less likely that the total number of individuals in given monthly ensonified area would fall within the areas actually ensonified during the time that air guns are actually fired. In addition, the implementation of mitigation measures when animals are reported approaching the 160 dB disturbance zone is expected to reduce the number of beluga whales actually exposed to sound levels at or above 160 dB (i.e., make it lower than in the exposure analysis described above). The estimated number of beluga whales (and other marine mammals) that may be taken by Level B harassment takes into account the exposure analysis, the effects of implementing mitigation measures, and actual observer data from similar operations (i.e., Apache's 2012 seismic survey). Recent implementation of other mitigation measures in Cook Inlet—shut down of airguns if animals approach or occur within the 180/190 dB zone—have been effective in reducing harassment. Furthermore, qualified PSOs would monitor the 160 dB isopleth zone around the source vessel prior to and during all airgun operations. This monitoring would be used to detect marine mammals approaching the 160 dB zone and implement power downs and shut downs. Airguns would be shut down if groups of four or more beluga whales or cow/calf pairs are observed approaching the 160 dB zone. The monitoring reports submitted by Apache in 2012 suggest that the proposed mitigation measures would be effective at reducing the potential for beluga incidental takes. Between June and October, Apache's PSOs reported no observed takes of beluga whales during seismic survey operations, which included similar monitoring and less conservative mitigation measures to those proposed by Furie. However, due to the potential for observers missing whales because of the conditions in Cook Inlet that make sighting marine mammals challenging (i.e., the opacity of the water due to high turbidity) and low surface profile of beluga whales, it is not realistic to assume that seismic survey activities conducted over a period of months would consistently result in zero takes; therefore, Furie has requested a small number of beluga whale takes incidental to the proposed activity.

The requested takes are based on a consideration of the data from Apache's monitoring program, the fine-scale distribution analysis of beluga whales provided above, the implementation mitigation measures before animals

reach the 160 dB threshold, and the available information on beluga distribution and abundance, which estimates that up to two groups of nine (18) beluga whales may be harassed incidental to Furie's seismic survey operations. This group size is based on the average group size reported from vessel and land-based platforms by Apache in 2012, which is considered to be the best available information. In estimating potential beluga group size, Furie considered all group size data reported by Apache and based its group size estimate on data reported in June, July, and August. Group sizes reported by Apache in May were significantly smaller than those observed in June through August and may not accurately reflect average beluga group size in Cook Inlet.

Harbor Porpoise

A population estimate for the harbor porpoise is available for the Gulf of Alaska stock encompassing the area from Cape Suckling to Unimak Pass, which includes Cook Inlet (Allen and Angliss, 2012). The most current estimate of 31,046 individuals is based on a 1998 harbor porpoise aerial survey of the Gulf of Alaska and the 1998 Cook Inlet beluga whale aerial survey and was corrected for availability bias in 2010 (Hobbs and Waite, 2010). According to Hobbs and Waite (2010) the survey area for the Gulf of Alaska stock was 158,733 km^2, and the estimated density was 0.196 porpoise per km^2 across the Gulf of Alaska area. Using data specific to Cook Inlet, the Cook Inlet harbor porpoise density estimate can be calculated as 0.0389 porpoises per km^2 (Hobbs and Waite, 2010) (Table 10). Both of these estimates are greater than the calculated Cook Inlet harbor porpoise density from 1991 aerial surveys (0.0072 porpoises per km^2) (Dahlheim *et al.,* 2000). The 1991 estimate was not corrected for availability bias and application of the same correction factor used in Hobbs and Waite (2010) results in a density estimate of 0.0214 porpoises per km^2. The average density of harbor porpoise in Cook Inlet, combining the results from the two Cook Inlet specific surveys, is 0.0302 porpoise per km^2 (Table 10).

TABLE 10—HARBOR PORPOISE DENSITIES OBSERVED OR CALCULATED FROM COOK INLET SURVEYS

Stock and survey year	Population estimate	Area (km^2)	Density (number of animals/km^2)
Cook Inlet, 1998	[1]737	18948	0.0389
Cook Inlet, 1991	[2]402	18787	0.0214

Notes:
[1] Population estimate and area from Hobbs and Waite 2010.
[2] Population estimate reported in Dahlheim et al. 2000 of 136 multiplied by 2.96 correction factor.

Harbor porpoise are documented during the annual aerial surveys for beluga whales, but are generally not observed in the upper Cook Inlet. The numbers of harbor porpoises observed in lower Cook Inlet in recent surveys are reported in Table 11 (Shelden *et al.,* 2009, 2010, 2012). The 2011 survey did not report sightings of marine mammals other than beluga whales and is not included in this table. The observed number of harbor porpoises is multiplied by a 2.96 correction factor and divided by the area of the aerial survey each year to estimate harbor porpoise densities.

TABLE 11—HARBOR PORPOISE DENSITIES BASED ON OBSERVATIONS DURING ANNUAL AERIAL SURVEYS

Year	Observed number of porpoises	Corrected numbers	Area (km^2)	Density (number of animals/km^2)
2009	86	254.56	5766	0.044
2010	10	29.6	6120	0.0048
2012	11	32.56	6219	0.0052
Average	.....	.....	.....	0.018

The average of the calculated density from three recent aerial surveys (0.018 porpoises per km^2) and the two published harbor porpoise densities for Cook Inlet (0.0389 and 0.0214 porpoises per km^2) is 0.0261 porpoises per km^2. Using this average as an approximation of Cook Inlet harbor porpoise density provides better accounts for variability in the areas of Cook Inlet surveyed in each study by considering the potential for bias due to some of the surveys being for porpoise and some for belugas with incidental porpoise sightings, and for inclusion of the most recent data than could be accounted for by using only one of the calculated densities.

Marine mammal observations gathered by Apache during 2012 seismic survey work reports the number of individuals visually recorded through vessel and land-based observers (Table 12). Dividing the number of individuals visually recorded by the number of sightings, the average group size in May, June, July, August, and September was 1.37.

TABLE 12—HARBOR PORPOISES

Month	Estimated number of individuals observed	Number of sightings	Assumed average group size
May	49	41	1.20

TABLE 12—HARBOR PORPOISES

Month	Estimated number of individuals observed	Number of sightings	Assumed average group size
June	81	53	1.52
July	37	26	1.42
August	6	5	1.2
September	15	10	1.5
Average	.....	.....	1.37

Harbor Seals

Harbor seal population estimates are available for the Cook Inlet/Shelikof stock (Allen and Angliss, 2012). The most current estimate of 22,900 individuals is based on a multi-year study of seasonal movements and abundance of harbor seals in Cook Inlet conducted between 2004 and 2007 (Montgomery *et al.,* 2007). The surveys were conducted only in the lower Cook Inlet from the Forelands south to Cape Douglas. Actual abundance in the survey area is not reported so presumed density cannot be calculated from this information.

Harbor seals are observed during the annual aerial surveys for beluga whales and are the only marine mammals other than belugas to be routinely reported in the upper Cook Inlet. The number of harbor seals observed in upper Cook Inlet in recent surveys are reported in Table 6–6 (Shelden *et al.,* 2009, 2010, 2012). The 2011 survey did not report sightings of marine mammals other than beluga whales and is not included in this table. The observed number of harbor seals is divided by the area of the upper Cook Inlet surveyed each year to estimate harbor seal densities. Harbor seals tend to concentrate and spend much of their time in haulout areas in June when these surveys are conducted. In contrast, harbor seals are not expected to be present at these densities in open water, as they tend to travel in small groups or as individuals when not hauled out. Accordingly, the densities reported in Table 13 overestimate the actual densities that likely occur in the proposed project area.

TABLE 13—HARBOR SEAL DENSITIES BASED ON OBSERVATIONS DURING ANNUAL AERIAL SURVEYS

Year	Observed number of seals	Area (km^2)	Density (number of animals/km^2)
2009	387	2036	0.190
2010	543	2340	0.232
2012	937	1756	0.534
Average	.....	.....	0.319

Marine mammal observations gathered by Apache during 2012 seismic survey work reports the number of individual harbor seals visually recorded through vessel and land-based observers (Table 14). Dividing the number of individuals visually recorded by the number of sightings, the average group size in May, June, July, August, and September was 1.17. This average group size supports the concept of harbor seals in the open water traveling in small groups or as individuals, thus at a lower density, through the project area.

TABLE 14—HARBOR SEALS OBSERVED DURING 2012 SEISMIC SURVEY ACTIVITIES

Month	Estimated number of individuals observed	Number of sightings	Assumed average group size
May	184	182	1.01
June	174	166	1.05
July	115	104	1.11
August	31	29	1.07
September	64	39	1.64
Average	.....	.....	1.17

Gray Whale

Gray whale population estimates are available for the Eastern North Pacific stock (Allen and Angliss, 2012). The most current population estimate is 19,126 individuals, but most of the stock spends the summer in the northern and western Bering and Chukchi seas. During the annual aerial surveys for beluga whales, a total of seven individual gray whales were observed from 1993 to 2004 in the lower Cook Inlet (Rugh *et al.,* 2005). More recently, aerial surveys report only one gray whale in lower Cook Inlet and none in upper Cook Inlet in 2009, 2010, and 2012 (Shelden *et al.,* 2009, 2010, 2012). During Apache's 2012 seismic survey work in a similar area, at least one individual gray whale was observed by protected species observers on four occasions in May, two times in June, and again three times in July (Apache, 2013). In sum, gray whales are rarely observed in Cook Inlet. For purposes of the analysis set forth in this application, and based upon the recent observation by Apache, this analysis assumes that two gray whales will potentially occur in the project area.

Killer Whale

Killer whale population estimates are available for the Gulf of Alaska, Aleutian Islands, and Bering Sea transient stock. The most recent population estimate is 587 individuals for the entire stock with 136 in the Gulf of Alaska (Allen and Angliss, 2013). Estimates for the Eastern North Pacific Alaska resident stock are 2,347 individuals with 751 of those in the Prince William Sound area (Allen and Angliss, 2013).

Most killer whale sightings are recorded in lower Cook Inlet and the observed animals may be from any one of the stocks identified above. The number of killer whales observed in Cook Inlet during recent aerial surveys for beluga whales are reported in Table 15 below (Shelden *et al.,* 2009, 2010, 2012). The 2011 survey did not report sightings of marine mammals other than beluga whales and is not included in this table. The observed number of killer whales is divided by the area of the aerial survey each year to estimate density. No killer whales were observed by protected species observers during Apache's seismic survey from May through September 2012 in a similar project area (Apache, 2013).

TABLE 15—KILLER WHALE DENSITIES BASED ON OBSERVATIONS DURING ANNUAL AERIAL SURVEYS

Year	Number of killer whales	Area (km^2)	Density (number of animals/km^2)
2009	0	5766	0
2010	33	6120	0.0054
2012	3	6219	0.00048
Average	.....	.....	0.00196

Steller Sea Lion

The population estimate available for the Western DPS of Steller Sea Lions is 45,659 (Allen and Angliss, 2013) but the actual number of sea lions that occur in Cook Inlet is unknown. During the annual aerial surveys for beluga whales, a total of 560 individuals were observed in 42 sightings from 1993 to 2004 (Rugh *et al.,* 2005). The sea lions are considered to be undercounted in these surveys, however, because researchers were mainly scanning the water and not shore areas. The numbers of Steller Sea lions observed in Cook Inlet in recent surveys are reported in Table 16 (Shelden *et al.,* 2009, 2010, 2012). All sea lions were observed in lower Cook Inlet. The observed number of sea lions is divided by the area of the aerial survey each year to estimate densities. The 2011 survey did not report sightings of marine mammals other than beluga whales and is not included in this table. During seismic survey work from May through September 2012 in a similar project area, one individual Steller sea lion was observed in May, two in June, and one in August (Apache, 2013).

TABLE 16—STELLER SEA LION DENSITIES BASED ON OBSERVATIONS DURING ANNUAL AERIAL SURVEYS

Year	Number of Steller Sea Lions	Area (km^2)	Density (number of animals/km^2)
2009	39	5766	0.00676
2010	1	6120	0.000163
2012	65	6219	0.0105
Average	.....	.....	0.00579

For other marine mammals, the densities reported are not as seasonally dependent as for belugas, so the predicted density of animals is multiplied across the entire project area and is not reported on a monthly basis (Table 17). The largest exposure area of 1,925 km2 was used to calculate for Proposal A.

The actual number of marine mammals that may be incidentally taken will be much less than the number potentially exposed due to the implementation of a suite of mitigation measures (Section 1.3 of Furie's IHA application). Similar measures used by Apache in this area resulted in 13 observed instances of harbor seals within the 160 dB zone, four reports of harbor porpoises within the 160 dB zone and no observed reports of any other marine mammals, including belugas, inside the 160 dB zone during May through September 2012 (Apache, 2013). The final estimates of the number of marine mammals (including beluga whales) that may be incidentally taken as a result of the proposed project, after mitigation measures and other information are taken into account, are presented in Table 18.

TABLE 17—ESTIMATED NUMBER OF OTHER MARINE MAMMALS POTENTIALLY EXPOSED TO ≥160 DB

Species	Average density (number of animals/km^2)	Ensonified area (km^2)	Number of individuals
Harbor Porpoise	0.0261	1925	51.
Harbor Seal	0.319	1925	614.
Gray Whales	unknown	1925	assumed at 2.
Killer Whales	0.00196	1925	4.
Steller Sea Lions	0.00579	1925	12.

Proposed Incidental Takes

Cetaceans—Effects on cetaceans are generally expected to be restricted to avoidance of an area around the seismic survey and short-term changes in behavior, falling within the MMPA definition of ''Level B harassment.''

Using the 160 dB criterion, the requested take numbers of individual cetaceans exposed to sounds> 160 dB_{rms} re 1 μPa represent varying proportions of the populations of each species in Cook Inlet (Table 18). For Cook Inlet beluga whales, Furie requests 18 takes by Level B harassment. The proposal to power down air guns when animals approach the 160 dB disturbance zone and shut down air guns when aggregations of marine mammals or cow-calf pairs approach the disturbance zone would substantially reduce the potential for takes incidental to seismic survey activities. Therefore, the requested number of takes is based on the assumption that the implementation of mitigation and monitoring would significantly reduce the number of takes to below the estimated exposures above 160 dB that were calculated without consideration of mitigation, though not completely eliminate, the potential for incidental harassment. In summary, the number of beluga whale takes requested is based, in part, on the average number of sightings and group size estimated over the course of the seismic survey conducted by Apache in 2012, as well as the seasonal distribution and habitat use of belugas in Cook Inlet, the assumption that belugas would avoid approaching the area during survey activities, and the effective implementation of mitigation measures. This number is approximately 6 percent of the population of approximately 312 animals (Shelden *et al.,* 2012). For other cetaceans that might occur in the vicinity of the seismic survey in Cook Inlet, the requested takes represent an even smaller percentage of their respective populations. The requested takes of 4 killer whales and 25 harbor porpoises represent 0.7 percent and 0.08 percent of their respective populations in the proposed action area. The requested takes of 2 gray whales represents 0.01 percent of their population.

Pinnipeds—Two pinniped species may be encountered in the proposed action area, but the harbor seal is likely to be the more abundant species in this area. The number of takes requested for individuals exposed to sounds at received levels> 160 dB_{rms} re 1 μPa during the proposed seismic survey are as follows: harbor seals (160) and Steller sea lions (12). These numbers represent 0.7 percent and 0.02 percent of their respective populations in the proposed action area.

TABLE 18—REQUESTED NUMBER OF TAKES

Species	Number of Requested Takes	Population Abundance	Percent of Population
Beluga whales	18	312	5.8
Harbor seals	160	22,900	0.7
Harbor porpoises	25	31,783	0.08
Gray whales	2	19,126	0.01
Killer whales	4	2,934	0.1
Steller sea lions	12	45,659	0.02

Preliminary Determinations

Negligible Impact

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' In making a negligible impact determination, NMFS considers a variety of factors, including but not limited to: (1) the number of anticipated mortalities; (2) the number and nature of anticipated injuries; (3) the number, nature, intensity, and duration of Level B harassment; and (4) the context in which the takes occur.

Given the required mitigation and related monitoring, no injuries or mortalities are anticipated to occur as a result of Furie's proposed seismic survey in Cook Inlet, and none are proposed to be authorized. Additionally, animals in the area are not expected to incur hearing impairment (i.e., TTS or PTS) or non-auditory physiological effects. The small number of takes that are anticipated are expected to be limited to short-term Level B behavioral harassment. Although it is possible that some marine mammals individuals may be exposed to sounds from seismic survey activities more than once, the duration of these multi-exposures is expected to be low since both the animals and the survey vessels will be moving constantly in and out of the survey area and the seismic airguns do not operate continuously all day, but for a few hours at a time totaling about 12 hours a day.

Odontocete (including Cook Inlet beluga whales, killer whales, and harbor porpoises) reactions to seismic energy pulses are usually assumed to be limited to shorter distances from the airgun(s) than are those of mysticetes, in part because odontocete low-frequency hearing is assumed to be less sensitive than that of mysticetes. When in the Canadian Beaufort Sea in summer, belugas appear to be fairly responsive to seismic energy, with few being sighted within 6–12 mi (10–20 km) of seismic vessels during aerial surveys (Miller *et al.,* 2005). However, as noted above, Cook Inlet belugas are more accustomed to anthropogenic sound than beluga whales in the Beaufort Sea. Accordingly, NMFS does not find this data determinative here. Also, due to the dispersed distribution of beluga whales in Cook Inlet during winter and the concentration of beluga whales in upper Cook Inlet from late April through early fall, belugas would likely occur in small numbers in the proposed survey area during the survey period and few will likely be affected by the survey activity in a manner that would be considered behavioral harassment. In addition, due to the constant moving of the survey vessel, the duration of the noise exposure by cetaceans to seismic impulse would be brief. For the same reason, it is unlikely that any individual animal would be exposed to high received levels multiple times.

Taking into account the mitigation measures that are planned, effects on cetaceans are generally expected to be restricted to avoidance of a limited area around the survey operation and short-term changes in behavior, falling within the MMPA definition of ''Level B harassment''. Animals are not expected to permanently abandon any area that is surveyed, and any behaviors that are interrupted during the activity are expected to resume once the activity ceases. Only a very small portion of

marine mammal habitat will be affected at any time, and other areas within Cook Inlet will be available for necessary biological functions. In addition, although the area where the survey will take place is within designated beluga whale critical habitat, beluga whales do not appear to congregate in the area for important life functions such as feeding, calving, or nursing.

Furthermore, the estimated numbers of animals potentially exposed to sound levels sufficient to cause Level B harassment are low percentages of the population sizes in Cook Inlet, as shown in Table 18.

Mitigation measures such as controlled vessel speed, dedicated marine mammal observers, non-pursuit, and shut downs or power downs when marine mammals are seen within or approaching the 160 dB zone will further reduce short-term reactions and minimize any effects on hearing sensitivity. In all cases, the effects of the seismic survey are expected to be short-term, with no lasting biological consequence. Therefore, the exposure of cetaceans to sounds produced by the seismic survey is not anticipated to have an effect on annual rates or recruitment or survival, and therefore will have a negligible impact on affected cetacean species.

Some individual pinnipeds may be exposed to sound from the proposed marine surveys more than once during the time frame of the project. However, as discussed previously, due to the constant moving of the survey vessel, the probability of an individual pinniped being exposed to sound multiple times is much lower than if the source is stationary. Taking into account the mitigation measures that are planned, effects on pinnipeds are generally expected to be restricted to avoidance of a limited area around the survey operation and short-term changes in behavior, falling within the MMPA definition of ''Level B harassment''. Animals are not expected to permanently abandon any area that is surveyed, and any behaviors that are interrupted during the activity are expected to resume once the activity ceases. Only a very small portion of marine mammal habitat will be affected at any time, and other areas within Cook Inlet will be available for necessary biological functions. In addition, the area where the survey will take place is not known to be an important location where pinnipeds haulout. The closest known haulout site is located on Kalgin Island, which is about 22 km from the McArther River. Therefore, NMFS has preliminarily determined that the exposure of pinnipeds to sounds produced by the proposed seismic survey in Cook Inlet is not expected to result in more than Level B harassment and will have no effect on annual rates of recruitment or survival, and therefore is anticipated to have no more than a negligible impact on the affected species.

Small Numbers

The requested takes proposed to be authorized represent 5.8 percent of the Cook Inlet beluga whale population of approximately 312 animals (Shelden *et al.,* 2012), 0.1 percent of the combined Alaska resident stock and Gulf of Alaska, Aleutian Island and Bering Sea stock of killer whales (2,347 residents and 587 transients), 0.01 percent of the Eastern North Pacific stock of approximately 19,126 gray whales, and 0.08 percent of the combined Gulf of Alaska and Cook Inlet stocks of approximately 31,783 harbor porpoises. The take requests presented for harbor seals represent 0.7 percent of the Gulf of Alaska stock of approximately 22,900 animals. The requested takes proposed for Steller sea lions represent 0.02 percent of the western stock of approximately 45,659 animals. These take estimates represent the percentage of each species or stock that could be taken by Level B behavioral harassment if each animal is taken only once. In each case, the numbers of marine mammals taken is small relative to the affected species or stocks.

Conclusion

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS preliminarily finds that the total taking from Furie's proposed seismic survey in Cook Inlet will have a negligible impact on the affected species or stocks. NMFS also preliminarily finds that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

Section 101(a)(5)(D) also requires NMFS to determine that the authorization will not have an unmitigable adverse effect on the availability of marine mammal species or stocks for subsistence use. NMFS has defined ''unmitigable adverse impact'' in 50 CFR 216.103 as: An impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) Directly displacing subsistence users; or (iii) Placing physical barriers between the marine mammals and the subsistence hunters; and (2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

The subsistence harvest of marine mammals transcends the nutritional and economic values attributed to the animal and is an integral part of the cultural identity of the region's Alaska Native communities. Inedible parts of the whale provide Native artisans with materials for cultural handicrafts, and the hunting itself perpetuates Native traditions by transmitting traditional skills and knowledge to younger generations (NOAA, 2007). However, due to dramatic declines in the Cook Inlet beluga whale population, on May 21, 1999, legislation was passed to temporarily prohibit (until October 1, 2000) the taking of Cook Inlet belugas under the subsistence harvest exemption in section 101(b) of the MMPA without a cooperative agreement between NMFS and the affected Alaska Native Organizations (ANOs) (Public Law No. 106–31, section 3022, 113 Stat. 57,100).. That prohibition was extended indefinitely on December 21, 2000 (Pub. L. 106–553, section 1(a)(2), 114 Stat. 2762). NMFS subsequently entered into six annual co-management agreements (2000–2003, 2005–2006) with the Cook Inlet Marine Mammal Council, an ANO representing Cook Inlet beluga hunters, which allowed for the harvest of 1–2 belugas. On October 15, 2008, NMFS published a final rule that established long-term harvest limits on the Cook Inlet beluga whales that may be taken by Alaska Natives for subsistence purposes (73 FR 60976). That rule prohibits harvest for a 5-year period (2008–2012), if the average abundance for the Cook Inlet beluga whales from the prior five years (2003–2007) is below 350 whales. The next 5-year period that could allow for a harvest (2013–2017), would require the previous five-year average (2008–2012) to be above 350 whales.

There is a low level of subsistence hunting for harbor seals in Cook Inlet. Seal hunting occurs opportunistically among Alaska Natives who may be fishing or travelling in the upper Inlet near the mouths of the Susitna River, Beluga River, and Little Susitna River.

Furie concluded, and NMFS agrees, that the size of the affected area, mitigation measures, and input from the consultations Alaska Natives should result in the proposed action having no

effect on the availability of marine mammals for subsistence uses. Furie and NMFS recognize the importance of ensuring that ANOs and federally recognized tribes are informed, engaged, and involved during the permitting process and will continue to work with the ANOs and tribes to discuss operations and activities.

Prior to the publication of the proposed IHA, NMFS contacted the local Native Villages to inform them of the upcoming availability of the **Federal Register** notice and the opening of the public comment period.

NMFS anticipates that any effects from Furie's proposed seismic survey on marine mammals, especially harbor seals and Cook Inlet beluga whales, which are or have been taken for subsistence uses, would be short-term, site specific, and limited to inconsequential changes in behavior and mild stress responses. NMFS does not anticipate that the authorized taking of affected species or stocks will reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (1) Causing the marine mammals to abandon or avoid hunting areas; (2) directly displacing subsistence users; or (3) placing physical barriers between the marine mammals and the subsistence hunters; and that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met. Therefore, NMFS has preliminarily determined that the proposed regulations will not have an unmitigable adverse impact on the availability of marine mammal stocks for subsistence uses.

Endangered Species Act (ESA)

There are two marine mammal species listed as endangered under the ESA with confirmed or possible occurrence in the proposed project area: The Cook Inlet beluga whale and Steller sea lion. In addition, the proposed action would occur within designated critical habitat for the Cook Inlet beluga whales. NMFS' Permits and Conservation Division has begun consultation with NMFS' Alaska Region Protected Resources Division under section 7 of the ESA on the issuance of an IHA to Furie under section 101(a)(5)(D) of the MMPA for this activity. Consultation will be concluded prior to a determination on the issuance of an IHA.

National Environmental Policy Act (NEPA)

NMFS is currently preparing an Environmental Assessment, pursuant to NEPA, to determine whether or not this proposed activity may have a significant effect on the human environment. This analysis will be completed prior to the issuance or denial of the IHA.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to authorize the take of marine mammals incidental to Furie's seismic survey in Cook Inlet, Alaska, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

IHA language is provided next.

This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued). The language contained in the draft IHA is not intended for codification and would not be published in the Code of Federal Regulations, if issued.

1. This Authorization is valid from May 1, 2014, through April 30, 2015.

2. This Authorization is valid only for Furie's activities associated with seismic survey operations that shall occur within the areas between Tyonek and the Forelands as denoted in Figure A–2 of Furie's IHA application to NMFS.

3. Species Authorized and Level of Take

a. The incidental taking of marine mammals, by Level B harassment only, is limited to the following species in the waters of Cook Inlet:

i. Odontocetes: 18 beluga whales; 25 harbor porpoise; and 4 killer whales.

ii. Mysticetes: 2 gray whales.

iii. Pinnipeds: 160 harbor seals and 12 Steller sea lions.

iv. If any marine mammal species are encountered during seismic activities that are not listed in conditions 3.a.i., ii., or iii. for authorized taking and are likely to be exposed to sound pressure levels (SPLs) greater than or equal to 160 dB re 1 μPa (rms), then the Holder of this Authorization must alter speed or course, powerdown or shut-down the sound source to avoid take.

b. The taking by injury (Level A harassment) serious injury, or death of any of the species listed in condition 3.a. or the taking of any kind of any other species of marine mammal is prohibited and may result in the modification, suspension or revocation of this Authorization.

c. If the number of detected takes of any marine mammal species listed in condition 3.a. is met or exceeded, Furie shall immediately cease survey operations involving the use of active sound sources (e.g., airguns and pingers) and notify NMFS.

4. The authorization for taking by harassment is limited to the following acoustic sources (or sources with comparable frequency and intensity):

i. Two airgun arrays, each with a capacity of 2,400 in^3;

ii. A 1,800 in^3airgun arrays;

iii. A 440 in^3 airgun array;

iv. A 10 in^3 airgun;

v. A Scott Ultra-Short Baseline (USBL) transceiver; and

vi. A Lightweight Release USBL transponder.

5. The taking of any marine mammal in a manner prohibited under this Authorization must be reported immediately to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS or his designee.

6. The holder of this Authorization must notify the Chief of the Permits and Conservation Division, Office of Protected Resources, or his designee at least 48 hours prior to the start of seismic survey activities (unless constrained by the date of issuance of this Authorization in which case notification shall be made as soon as possible).

7. Mitigation and Monitoring Requirements: The Holder of this Authorization is required to implement the following mitigation and monitoring requirements when conducting the specified activities to achieve the least practicable impact on affected marine mammal species or stocks:

a. Utilize a sufficient number of NMFS-qualified, vessel-based Protected Species Observers (PSOs) (except during meal times and restroom breaks, when at least one PSO shall be on watch) to visually watch for and monitor marine mammals near the seismic source vessels during daytime operations (from nautical twilight-dawn to nautical twilight-dusk) and before and during start-ups of sound sources day or night. Two PSOs will be on each source vessel, and two PSOs will be on the support vessel to observe the safety and disturbance zones. PSVOs shall have access to reticle binoculars (7x50 Fujinon), big-eye binoculars (25xI50), and night vision devices. PSO shifts shall last no longer than 4 hours at a time. PSOs shall also make observations during daytime periods when the sound sources are not operating for comparison of animal abundance and behavior, when feasible. When practicable, as an additional means of visual observation, Furie's vessel crew may also assist in detecting marine mammals.

b. In addition to the vessel-based PSOs, utilize a shore-based station to visually monitor for marine mammals.

The shore-based station will follow all safety procedures, including bear safety. The location of the shore-based station will need to be sufficiently high to observe marine mammals; the PSOs would be equipped with pedestal mounted ''big eye'' (20 x 110) binoculars. The shore-based PSOs would scan the area prior to, during, and after the survey operations involving the use of sound sources, and would be in contact with the vessel-based PSOs via radio to communicate sightings of marine mammals approaching or within the project area.

c. Weather and safety permitting, aerial surveys shall be conducted. Surveys are to be flown even if the airguns are not being fired. If weather or safety conditions prevent Furie from conducting aerial surveys, seismic survey operations may proceed subject to the terms and conditions of the IHA.

i. When survey operations occur within 1.6 km (1 mi) of a river mouth, Furie shall conduct aerial surveys to identify large congregations of beluga whales and harbor seal haul-outs.

ii. Aerial surveys may be conducted from either a helicopter or fixed-wing aircraft. A fixed-wing aircraft may be used in lieu of a helicopter. If flights are to be conducted with a fixed-wing aircraft, it must have adequate viewing capabilities, i.e., view not obstructed by wing or other part of the plane.

iii. Weather and safety permitting, aerial surveys will fly at an altitude of 305 m (1,000 ft). In the event of a marine mammal sighting, aircraft will attempt to maintain a radial distance of 457 m (1,500 ft) from the marine mammal(s). Aircraft will avoid approaching marine mammals from head-on, flying over or passing the shadow of the aircraft over the marine mammal(s).

d. PSOs shall conduct monitoring while the air gun array and nodes are being deployed or recovered from the water.

e. Record the following information when a marine mammal is sighted:

i. Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel (e.g., none, avoidance, approach, paralleling, etc., and including responses to ramp-up), and behavioral pace;

ii. Time, location, heading, speed, activity of the vessel (including number of airguns operating and whether in state of ramp-up or power-down), Beaufort sea state and wind force, visibility, and sun glare; and

iii. The data listed under Condition 7.e.ii. shall also be recorded at the start and end of each observation watch and during a watch whenever there is a change in one or more of the variables.

f. Establish a 180 dB re 1 µPa (rms) and 190 dB re 1 µPa (rms) ''safety zone'' for marine mammals before the full array (2400 in^3) is in operation; and a 180 dB re 1 µPa (rms) and 190 dB re 1 µPa (rms) safety zone before a single airgun (10 in^3) is in operation, respectively. Prior to the commencement of survey activities, a sound source verification will be conducted to determine site-specific sound attenuation and confirm the appropriate 180 and 190 dB safety zones, and 160 dB disturbance zones.

g. Visually observe the entire extent of the safety zone (180 dB re 1 µPa [rms] for cetaceans and 190 dB re 1 µPa [rms] for pinnipeds) using NMFS-qualified PSOs, for at least 30 minutes (min) prior to starting the airgun array (day or night). If the PSO finds a marine mammal within the safety zone, Furie must delay the seismic survey until the marine mammal(s) has left the area. If the PSO sees a marine mammal that surfaces, then dives below the surface, the PSO shall wait 30 min. If the PSO sees no marine mammals during that time, they should assume that the animal has moved beyond the safety zone. If for any reason the entire radius cannot be seen for the entire 30 min (i.e., rough seas, fog, darkness), or if marine mammals are near, approaching, or in the safety zone, the airguns may not be ramped-up.

h. Implement a ''ramp-up'' procedure when starting up at the beginning of seismic operations or any time after the entire array has been shut down for more than 10 min, which means start the smallest sound source first and add sound sources in a sequence such that the source level of the array shall increase in steps not exceeding approximately 6 dB per 5-min period. During ramp-up, the PSOs shall monitor the safety zone, and if marine mammals are sighted, a power-down, or shutdown shall be implemented as though the full array were operational. Therefore, initiation of ramp-up procedures from shutdown requires that the PSOs be able to visually observe the full safety zone as described in Condition 7(f) (above).

i. Alter speed or course during seismic operations if a marine mammal, based on its position and relative motion, appears likely to enter the relevant safety zone. If speed or course alteration is not safe or practicable, or if after alteration the marine mammal still appears likely to enter the safety zone, further mitigation measures, such as a power-down or shutdown, shall be taken.

j. Power-down or shutdown the sound source(s) if a marine mammal is detected within, approaches, or enters the relevant safety zone. A shutdown means all operating sound sources are shut down (i.e., turned off). A power-down means reducing the number of operating sound sources to a single operating 10 in^3 airgun, which reduces the safety zone to the degree that the animal(s) is no longer in or about to enter it.

k. Following a power-down, if the marine mammal approaches the smaller designated safety zone, the sound sources must then be completely shut down. Seismic survey activity shall not resume until the PSO has visually observed the marine mammal(s) exiting the safety zone and is not likely to return, or has not been seen within the safety zone for 15 min for species with shorter dive durations (small odontocetes and pinnipeds) or 30 min for species with longer dive durations (large odontocetes, including killer whales and beluga whales and mysticetes).

l. Following a power-down or shutdown and subsequent animal departure, survey operations may resume following ramp-up procedures described in Condition 7(h).

m. Marine geophysical surveys may continue into night and low-light hours if such segment(s) of the survey is initiated when the entire relevant safety zones can be effectively monitored visually (i.e., PSO(s) must be able to see the extent of the entire relevant safety zone).

n. No initiation of survey operations involving the use of sound sources is permitted from a shutdown position at night or during low-light hours (such as in dense fog or heavy rain).

o. If any marine mammal is visually sighted approaching or within the 160-dB disturbance zone, survey activity will not commence or the sound source(s) shall be powered down in accordance with the Condition 7.j. until the animals are no longer present within the 160-dB zone.

p. Whenever aggregations or groups of marine mammals (beluga whales, killer whales, gray whales, harbor porpoises, and Steller sea lion) or beluga cow/calf pairs are detected approaching or within the 160-dB disturbance zone, survey activity will not commence or the sound source(s) shall be shut-down until the animals are no longer present within the 160-dB zone. An aggregation or group of marine mammals shall consist of four or more individuals of any age/sex class.

q. Furie must not operate airguns within 10 miles (16 km) of the mean higher high water (MHHW) line of the Susitna Delta (Beluga River to the Little Susitna River) between mid-April and mid-October (to avoid any effects to belugas in an important feeding and potential breeding area).

r. Seismic survey operations involving the use of air guns and pingers must cease if takes of any marine mammal are met or exceeded.

8. Reporting Requirements: The Holder of this Authorization is required to:

a. Submit a weekly field report, no later than close of business (Alaska time) each Thursday during the weeks when in-water seismic survey activities take place. The field reports will summarize species detected, in-water activity occurring at the time of the sighting, behavioral reactions to in-water activities, and the number of marine mammals taken.

b. Submit a monthly report, no later than the 15th of each month, to NMFS' Permits and

Conservation Division for all months during which in-water seismic survey activities occur. These reports must contain and summarize the following information:

i. Dates, times, locations, heading, speed, weather, sea conditions (including Beaufort sea state and wind force), and associated activities during all seismic operations and marine mammal sightings;

ii. Species, number, location, distance from the vessel, and behavior of any marine mammals, as well as associated seismic activity (number of power-downs and shutdowns), observed throughout all monitoring activities;

iii. An estimate of the number (by species) of: A. pinnipeds that have been exposed to the seismic activity (based on visual observation) at received levels greater than or equal to 160 dB re 1 μPa (rms) and/or 190 dB re 1 μPa (rms) with a discussion of any specific behaviors those individuals exhibited; and B. cetaceans that have been exposed to the seismic activity (based on visual observation) at received levels greater than or equal to 160 dB re 1 μPa (rms) and/or 180 dB re 1 μPa (rms) with a discussion of any specific behaviors those individuals exhibited.

iv. A description of the implementation and effectiveness of the: (A) terms and conditions of the Biological Opinion's Incidental Take Statement (ITS); and (B) mitigation measures of the Incidental Harassment Authorization. For the Biological Opinion, the report shall confirm the implementation of each Term and Condition, as well as any conservation recommendations, and describe their effectiveness, for minimizing the adverse effects of the action on Endangered Species Act-listed marine mammals.

c. Submit a draft Technical Report on all activities and monitoring results to NMFS' Permits and Conservation Division within 90 days of the completion of the Furie survey. The Technical Report will include:

i. Summaries of monitoring effort (e.g., total hours, total distances, and marine mammal distribution through the study period, accounting for sea state and other factors affecting visibility and detectability of marine mammals);

ii. Analyses of the effects of various factors influencing detectability of marine mammals (e.g., sea state, number of observers, and fog/glare);

iii. Species composition, occurrence, and distribution of marine mammal sightings, including date, water depth, numbers, age/size/gender categories (if determinable), group sizes, and ice cover;

iv. Analyses of the effects of survey operations;

v. Sighting rates of marine mammals during periods with and without seismic survey activities (and other variables that could affect detectability), such as: A. initial sighting distances versus survey activity state; B. closest point of approach versus survey activity state; C. observed behaviors and types of movements versus survey activity state; D. numbers of sightings/individuals seen versus survey activity state; E. distribution around the source vessels versus survey activity state; and F. estimates of take by Level B harassment based on presence in the 160 dB harassment zone.

d. Submit a final report to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, within 30 days after receiving comments from NMFS on the draft report. If NMFS decides that the draft report needs no comments, the draft report shall be considered to be the final report.

e. Furie must immediately report to NMFS if 18 belugas are detected within the 160 dB re 1 μPa (rms) disturbance zone during seismic survey operations to allow NMFS to consider making necessary adjustments to monitoring and mitigation.

9.a. In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this Authorization, such as an injury (Level A harassment), serious injury or mortality (e.g., ship-strike, gear interaction, and/or entanglement), Furie shall immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, his designees, and the Alaska Regional Stranding Coordinators. The report must include the following information:

i. Time, date, and location (latitude/longitude) of the incident;

ii. The name and type of vessel involved;

iii. The vessel's speed during and leading up to the incident;

iv. Description of the incident;

v. Status of all sound source use in the 24 hours preceding the incident;

vi. Water depth;

vii. Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);

viii. Description of marine mammal observations in the 24 hours preceding the incident;

ix. Species identification or description of the animal(s) involved;

x. The fate of the animal(s); and

xi. Photographs or video footage of the animal (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with Furie to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Furie may not resume their activities until notified by NMFS via letter or email, or telephone.

b. In the event that Furie discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as described in the next paragraph), Furie will immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, his designees, and the NMFS Alaska Stranding Hotline. The report must include the same information identified in the Condition 9(a) above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with Furie to determine whether modifications in the activities are appropriate.

c. In the event that Furie discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in Condition 2 of this Authorization (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Furie shall report

the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, his designees, the NMFS Alaska Stranding Hotline (1–877–925–7773), and the Alaska Regional Stranding Coordinators within 24 hours of the discovery. Furie shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. Activities may continue while NMFS reviews the circumstances of the incident.

10. Furie is required to comply with the Reasonable and Prudent Measures and Terms and Conditions of the ITS corresponding to NMFS' Biological Opinion issued to both U. S. Army Corps of Engineers and NMFS' Office of Protected Resources.

11. A copy of this Authorization and the ITS must be in the possession of all contractors and PSOs operating under the authority of this Incidental Harassment Authorization.

12. Penalties and Permit Sanctions: Any person who violates any provision of this Incidental Harassment Authorization is subject to civil and criminal penalties, permit sanctions, and forfeiture as authorized under the MMPA.

13. This Authorization may be modified, suspended or withdrawn if the Holder fails to abide by the conditions prescribed herein or if the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals, or if there is an unmitigable adverse impact on the availability of such species or stocks for subsistence uses.

Request for Public Comments

NMFS requests comments on our analysis, the draft authorization, and any other aspect of the Notice of Proposed IHA for Furie's 3D seismic survey in Cook Inlet, Alaska. Please include with your comments any supporting data or literature citations to help inform our final decision on Furie's request for an MMPA authorization.

Dated: February 26, 2014.

Perry F. Gayaldo,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–04770 Filed 3–3–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD068

Whaling Provisions; Aboriginal Subsistence Whaling Quotas

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

ACTION: Notice; notification of quota for bowhead whales.

SUMMARY: NMFS notifies the public of the aboriginal subsistence whaling quota for bowhead whales that it has assigned to the Alaska Eskimo Whaling Commission (AEWC), and of limitations on the use of the quota deriving from regulations of the International Whaling Commission (IWC). For 2014, the quota is 75 bowhead whales struck. This quota and other applicable limitations govern the harvest of bowhead whales by members of the AEWC.

DATES: Effective March 4, 2014.

ADDRESSES: Office of International Affairs, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Melissa Garcia, (301) 427–8385.

SUPPLEMENTARY INFORMATION: Aboriginal subsistence whaling in the United States is governed by the Whaling Convention Act (WCA) (16 U.S.C. 916 *et seq.*). Regulations that implement the Act, found at 50 CFR 230.6, require the Secretary of Commerce (Secretary) to publish, at least annually, aboriginal subsistence whaling quotas and any other limitations on aboriginal subsistence whaling deriving from regulations of the IWC.

At the 64th Annual Meeting of the IWC, the Commission set catch limits for aboriginal subsistence use of bowhead whales from the Bering-Chukchi-Beaufort Seas stock. The bowhead catch limits were based on a joint request by the United States and the Russian Federation, accompanied by documentation concerning the needs of two Native groups: Alaska Eskimos and Chukotka Natives in the Russian Far East.

The IWC set a 6-year block catch limit of 336 bowhead whales landed. For each of the years 2013 through 2018, the number of bowhead whales struck may not exceed 67, except that any unused portion of a strike quota from any prior year may be carried forward. No more than 15 strikes may be added to the strike quota for any one year. At the end of the 2013 harvest, there were 15 unused strikes available for carry-forward, so the combined strike quota set by the IWC for 2014 is 82 (67 + 15).

An arrangement between the United States and the Russian Federation ensures that the total quota of bowhead whales landed and struck in 2014 will not exceed the limits set by the IWC. Under this arrangement, the Russian natives may use no more than seven strikes, and the Alaska Eskimos may use no more than 75 strikes.

Through its cooperative agreement with the AEWC, NOAA has assigned 75 strikes to the Alaska Eskimos. The AEWC will in turn allocate these strikes among the 11 villages whose cultural and subsistence needs have been documented, and will ensure that its hunters use no more than 75 strikes.

Other Limitations

The IWC regulations, as well as the NOAA regulation at 50 CFR 230.4(c), forbid the taking of calves or any whale accompanied by a calf.

NOAA regulations (at 50 CFR 230.4) contain a number of other prohibitions relating to aboriginal subsistence whaling, some of which are summarized here:

- Only licensed whaling captains or crew under the control of those captains may engage in whaling.
- Captains and crew must follow the provisions of the relevant cooperative agreement between NOAA and a Native American whaling organization.
- The aboriginal hunters must have adequate crew, supplies, and equipment to engage in an efficient operation.
- Crew may not receive money for participating in the hunt.
- No person may sell or offer for sale whale products from whales taken in the hunt, except for authentic articles of Native American handicrafts.
- Captains may not continue to whale after the relevant quota is taken, after the season has been closed, or if their licenses have been suspended. They may not engage in whaling in a wasteful manner.

Dated: February 24, 2014.

Jean-Pierre Plé,

Acting Director, Office of International Affairs, National Marine Fisheries Service.

[FR Doc. 2014–04481 Filed 3–3–14; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 10 a.m., Friday, March 21, 2014.

PLACE: 1155 21st St. NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance, Enforcement Matters, and Examinations. In the event that the times, dates, or locations of this or any future meetings change, an announcement of the change, along with the new time and place of the meeting will be posted on the Commission's Web site at *http://www.cftc.gov*.

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, 202–418–5964.

Natise Allen,

Executive Assistant.

[FR Doc. 2014–04817 Filed 2–28–14; 11:15 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 10 a.m., Friday, March 14, 2014.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance, Enforcement Matters, and Examinations. In the event that the times, dates, or locations of this or any future meetings change, an announcement of the change, along with the new time and place of the meeting will be posted on the Commission's Web site at http://www.cftc.gov.

CONTACT PERSON FOR MORE INFORMATION: Melissa D. Jurgens, 202–418–5516.

Natise Allen,

Executive Assistant.

[FR Doc. 2014–04809 Filed 2–28–14; 11:15 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 10 a.m., Friday, March 7, 2014.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance, Enforcement Matters, and Examinations. In the event that the times, dates, or locations of this or any future meetings change, an announcement of the change, along with the new time and place of the meeting will be posted on the Commission's Web site at *http://www.cftc.gov*.

CONTACT PERSON FOR MORE INFORMATION: Melissa D. Jurgens, 202–418–5516.

Natise Allen,

Executive Assistant.

[FR Doc. 2014–04808 Filed 2–28–14; 11:15 am]

BILLING CODE 6351–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2010–0075]

Agency Information Collection Activities; Submission for OMB Review; Comment Request—Safety Standards for Full-Size Baby Cribs and Non-Full Size Baby Cribs

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. chapter 35), the Consumer Product Safety Commission (Commission or CPSC) announces that the Commission has submitted to the Office of Management and Budget (OMB) a request for extension of approval of a collection of information associated with the CPSC's Safety Standards for Full-Size Baby Cribs and Non-Full-Size Baby Cribs (OMB No. 3041–0147). In the **Federal Register** of December 24, 2013 (78 FR 77660), the CPSC published a notice to announce the agency's intention to seek extension of approval of the collection of information. One commenter stated that drop-side cribs should not be eliminated because the problem is caused by cheap plastic hardware provided by the manufacturers. That comment is outside the scope of the proposed renewal request, which sought comments on the burden hours associated with recordkeeping requirements in the safety standards. Therefore, by publication of this notice, the Commission announces that CPSC has submitted to the OMB a request for extension of approval of that collection of information, without change.

DATES: Written comments on this request for extension of approval of information collection requirements should be submitted by April 3, 2014.

ADDRESSES: Submit comments about this request by email: *OIRA_submission@omb.eop.gov* or fax: 202–395–6881. Comments by mail should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the CPSC, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503. In addition, written comments that are sent to OMB also should be submitted electronically at *http://www.regulations.gov*, under Docket No. CPSC–2010–0075.

FOR FURTHER INFORMATION CONTACT: Robert H. Squibb, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7815, or by email to: *rsquibb@cpsc.gov*.

SUPPLEMENTARY INFORMATION: CPSC has submitted the following currently approved collection of information to OMB for extension:

Title: Safety Standards for Full-Size Baby Cribs and Non-Full-Size Baby Cribs.

OMB Number: 3041–0147.

Type of Review: Renewal of collection.

Frequency of Response: On occasion.

Affected Public: Manufacturers and importers of cribs.

Estimated Number of Respondents: 78 firms supply full-size cribs with an estimated 11 models per firm; 24 firms supply non-full-size cribs with an estimated 4 models per firm.

Estimated Time per Response: 1 hour per model.

Total Estimated Annual Burden: 954 hours (78 firms × 11 models × 1 hours) + (24 firms × 4 models × 1 hour).

General Description of Collection: The Commission issued a safety standard for full-size cribs (16 CFR part 1219) and non-full-size cribs (16 CFR part 1220) in 2010. The standards impose requirements on manufacturers and importers of cribs concerning marking, labeling, and instructional literature. The information collection covered by this notice relates to the annual burden hours associated with the requirements for marking, labeling, and instructional literature.

Dated: February 27, 2014.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2014–04727 Filed 3–3–14; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2010–0053]

Agency Information Collection Activities; Proposed Extension of Approval of Information Collection; Comment Request—Safety Standard for Multi-Purpose Lighters

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. chapter 35), the Consumer Product Safety Commission (Commission or CPSC) may not conduct or sponsor, and the respondent is not required to respond to, an information collection, unless the CPSC displays a currently valid Office of Management and Budget (OMB) control number. As part of the Commission's continuing effort to reduce paperwork and respondent burden, the CPSC invites comments on a proposed request for extension of approval of a collection of information on the Safety Standard for Multi-Purpose Lighters (OMB No. 3041–0130). The Commission will consider all comments received in response to this notice before requesting an extension of approval of this collection of information from OMB.

DATES: The Office of the Secretary must receive comments not later than May 5, 2014.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2010–0053, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *http://www.regulations.gov*. Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through *www.regulations.gov*. The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions by mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov*. Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov*, and insert the docket number CPSC–2010–0053, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: For further information contact: Robert H. Squibb, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7815, or by email to: *rsquibb@cpsc.gov*.

SUPPLEMENTARY INFORMATION: CPSC seeks to renew the following currently approved collection of information:

Title: Safety Standard for Multi-Purpose Lighters.

OMB Number: 3041–0130.

Type of Review: Renewal of collection.

Frequency of Response: On occasion.

Affected Public: Manufacturers and importers of multi-purpose lighters.

Estimated Number of Respondents: 59 firms will test on average 2 models per firm.

Estimated Time per Response: 50 hours/model.

Total Estimated Annual Burden: 5,900 hours (59 firms × 2 models × 50 hours).

General Description of Collection: The Commission issued a safety standard for multi-purpose lighters (16 CFR part 1212) in 1999. The standard includes requirements that manufacturers (including importers) of multi-purpose lighters issue certificates of compliance based on a reasonable testing program. The standard also requires that manufacturers and importers maintain certain records. Respondents must comply with these testing, certification, and recordkeeping requirements for multi-purpose lighters.

B. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

—Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;

—Whether the estimated burden of the proposed collection of information is accurate;

—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and

—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: February 27, 2014.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2014–04726 Filed 3–3–14; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2010–0054]

Agency Information Collection Activities; Proposed Extension of Approval of Information Collection; Comment Request—Procedures for Export of Noncomplying Products

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. chapter 35), the Consumer Product Safety Commission (Commission or CPSC) may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless the CPSC displays a currently valid Office of Management and Budget (OMB) control number. As part of the Commission's continuing effort to reduce paperwork and respondent burden, the CPSC invites comments on a proposed request for extension of approval of a collection of information relating to the procedures for the export of noncomplying products (OMB No. 3041–0003). The Commission will consider all comments received in response to this notice before requesting an extension of approval of this collection of information from OMB.

DATES: The Office of the Secretary must receive comments not later than May 5, 2014.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2010–0054, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *http://www.regulations.gov*. Follow the instructions for submitting comments.

The Commission does not accept comments submitted by electronic mail (email), except through *www.regulations.gov.* The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions by mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov,* and insert the docket number CPSC–2010–0054, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: For further information contact: Robert H. Squibb, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7815, or by email to: *rsquibb@cpsc.gov.*

SUPPLEMENTARY INFORMATION: CPSC seeks to renew the following currently approved collection of information:

Title: Procedures for the Export of Noncomplying Products.

OMB Number: 3041–0003.

Type of Review: Renewal of collection.

Frequency of Response: On occasion.

Affected Public: Exporters of products that do not comply with Commission requirements.

Estimated Number of Respondents: 5 exporters will file approximately 8 notifications.

Estimated Time per Response: 1 hour per notification.

Total Estimated Annual Burden: 8 hours (8 notifications × 1 hour).

General Description of Collection: The Commission has procedures that exporters must follow to notify the Commission of the exporter's intent to export products that are banned or fail to comply with an applicable CPSC safety standard, regulation, or statute. Respondents must comply with the requirements in 16 CFR part 1019 and file a statement with the Commission in accordance with these requirements.

B. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

—Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;

—Whether the estimated burden of the proposed collection of information is accurate;

—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and

—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: February 27, 2014.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2014–04725 Filed 3–3–14; 8:45 am]

BILLING CODE 6355–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, CNCS is soliciting comments concerning its proposed new information collection AmeriCorps State and National Community Impact Survey. CNCS will collect information on service activities and scope from AmeriCorps grantees in order to evaluate the program's impact on the communities they serve. CNCS will also collect information from grantee partners in order to develop a more comprehensive understanding of the impact of CNCS AmeriCorps investments. Participation in data collection efforts is not required to be considered to obtain support from CNCS.

Copies of the information collection request can be obtained by contacting the office listed in the Addresses section of this Notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by May 5, 2014.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) By mail sent to: Corporation for National and Community Service, Office of Research and Evaluation; Attention Anthony Nerino, Research Associate, Rm #10913A; 1201 New York Avenue NW., Washington, DC 20525.

(2) By hand delivery or by courier to the CNCS mailroom at Room 8100 at the mail address given in paragraph (1) above, between 9:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday, except Federal holidays.

(3) Electronically through *www.regulations.gov.*

Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Anthony Nerino, (202–606–3913), or by email at *anerino@cns.gov.*

SUPPLEMENTARY INFORMATION: CNCS is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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 expected to respond, including 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).

Background

While previous evaluation efforts have confirmed CNCS's impact on volunteers and organizations, such as increased education, skills, and volunteer activity, the current effort will be the first evaluation of whether and how CNCS is achieving its central goal of building overall community capacity and how increasing community capacity affects change in those areas. Survey results will allow CNCS to assess whether its grantee programs are improving communities, and which targeted outcomes CNCS is most effective in achieving (e.g., citizen-led action, organizational collaboration). Results also will inform the Corporation of the range of civic capacity among the communities it serves. These findings will inform policy and program improvement efforts. Information will be collected electronically via SurveyMonkey and through telephone interviews.

Current Action

This is a new information collection request.

Type of Review: New.

Agency: Corporation for National and Community Service.

Title: AmeriCorps State and National Community Impact Survey.

OMB Number: None.

Agency Number: None.

Affected Public: AmeriCorps grantees and their community partners.

Total Respondents: 200.

Frequency: Once.

Average Time per Response: 30 minutes.

Estimated Total Burden Hours: 100.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: February 26, 2014.

Mary Hyde,

Acting Director, Research and Evaluation.

[FR Doc. 2014–04659 Filed 3–3–14; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2013–OS–0132]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by April 3, 2014.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Physical Access Control System—G–BADGE; DLA Form 1815—Request for DLA Badge; OMB Control Number 0704–XXXX.

Type of Request: New Collection.

Number of Respondents: 10,000.

Responses per Respondent: 1.

Annual Responses: 10,000.

Average Burden per Response: 15 Minutes.

Annual Burden Hours: 2,500 hours.

Needs and Uses: The information collection requirement is needed to obtain the necessary data to verify eligibility for a Department of Defense physical access card for personnel who are not entitled to a Common Access Card or other approved DoD identification card. The information is used to establish eligibility for the physical access and population demographics reports, provide law enforcement data, and in some cases provide antiterrorism screening.

Affected Public: Individuals and households.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefit.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet 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 this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: 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, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: February 26, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–04666 Filed 3–3–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2013–OS–0191]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by April 3, 2014.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Physical Access Control System—Diamond II for DLA Headquarters; OMB Control Number 0704–XXXX.

Type of Request: New Collection.

Number of Respondents: 15,000.

Responses per Respondent: 1.

Annual Responses: 15,000.

Average Burden per Response: 15 Minutes.

Annual Burden Hours: 3,750 hours.

Needs and Uses: The information collection requirement ensures that only those Department of Defense employees assigned or need unescorted access to the Defense Logistics Agency (DLA), (Military, Civilian, Contractors, and other DoD affiliates) are granted unescorted access to the DLA Headquarters McNamara Complex.

Affected Public: Individuals and Households

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefit

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet 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 this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: 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, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: February 26, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–04667 Filed 3–3–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2013–0035]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by [insert date 30 days from date of publication of this notice in the **Federal Register**].

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form And OMB Number: Army Public Health Data Repository (APHDR); OMB Control Number 0702–XXXX.

Type Of Request: New Collection.

Number Of Respondents: 36.

Responses Per Respondent: 8.

Annual Responses: 288.

Average Burden Per Response: 3 hours.

Annual Burden Hours: 864 hours.

Needs and Uses: The Army Public Health Data Repository (APHDR) provides a system of records that will integrate medical information from non-related and dispersed databases into a comprehensive health surveillance database. It will support operational public health practices and maintain a record of work places, training, exposures (occupational and environmental), medical surveillance, ergonomic recommendations, corrections and any medical care provided for eligible individuals.

Affected Public: Individuals and Households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet 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 this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: 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, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: February 27, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–04732 Filed 3–3–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; National Institute on Disability and Rehabilitation Research—Advanced Rehabilitation Research Training Program

Correction

In notice document 2014–03209 appearing on pages 8693–8698 in the issue of February 13, 2014, make the following corrections:

(1) On page 8694, in the table, in the third column, in the second row, ''February 13, 2014'' should read ''April 14, 2014''.

(2) On the same page, in the same table, in the same column, in the third row, ''February 13, 2014'' should read ''April 14, 2014''.

[FR Doc. C1–2014–03209 Filed 3–3–14; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Docket No. EERE–2013–BT–DET–0053]

Energy Efficiency Program for Industrial Equipment: Interim Determination Classifying CSA Group as a Nationally Recognized Certification Program for Small Electric Motors

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of interim determination and request for public comments.

SUMMARY: This notice announces an interim determination by the U.S. Department of Energy (DOE) classifying CSA Group (CSA) as a nationally recognized certification program under 10 CFR 431.447 and 431.448.

DATES: DOE will accept comments, data, and information with respect to the CSA interim determination until April 3, 2014.

ADDRESSES: You may submit comments, identified by docket number ''EERE–2013–BT–DET–0053,'' by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.

• *Email: CSACertPrgSmElecMotors2013DET0053@ee.doe.gov* Include the docket number EERE–2013–BT–DET–0053 in the subject line of the message.

• *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B/1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. Please submit one signed original paper copy.

• *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Please submit one signed original paper copy.

Docket: For access to the docket to read background documents, or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov/#!docketDetail;D=EERE–2013-BT-DET-0053.*

FOR FURTHER INFORMATION CONTACT:

Mr. Lucas Adin, U.S. Department of Energy, Building Technologies Office, Mail Stop EE–5B, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1317. Email: *Lucas.Adin@ee.doe.gov*.

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–71, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0103. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Background and Authority

Part C of Title III of the Energy Policy and Conservation Act contains energy conservation requirements for, among other things, electric motors and small electric motors, including test procedures, energy efficiency standards, and compliance certification requirements. 42 U.S.C. 6311–6316.[1] Section 345(c) of EPCA directs the Secretary of Energy to require manufacturers of electric motors ''to certify through an independent testing or certification program nationally recognized in the United States, that [each electric motor subject to EPCA efficiency standards] meets the applicable standard.'' 42 U.S.C. 6316(c).

Regulations to implement this statutory directive are codified in Title 10 of the Code of Federal Regulations Part 431 (10 CFR Part 431) at sections 431.36 (Compliance Certification), 431.20 (Department of Energy recognition of nationally recognized certification programs), and 431.21 (Procedures for recognition and withdrawal of recognition of accreditation bodies and certification programs). Sections 431.20 and 431.21 set forth the criteria and procedures for national recognition of an energy efficiency certification program for electric motors by DOE. With the support of a variety of interests, including industry and energy efficiency advocacy groups, DOE published a final rule on May 4, 2012, that established requirements for small electric motors that are essentially identical to the criteria and procedures for national recognition of an energy efficiency certification program for electric motors. See 77 FR 26608, 26629 (codifying parallel provisions for small electric motors at 10 CFR 431.447 and 431.448).

For a certification program to be classified by the DOE as being nationally recognized in the United States for the testing and certification of small electric motors, the organization operating the program must submit a petition to the Department requesting such classification, in accordance with sections 431.447 and 431.448. In sum, for the Department to grant such a petition, the certification program must: (1) Have satisfactory standards and procedures for conducting and administering a certification system, and for granting a certificate of conformity; (2) be independent of small electric motor manufacturers, importers, distributors, private labelers or vendors; (3) be qualified to operate a certification system in a highly competent manner; and (4) be expert in the test procedures and methodologies in IEEE Standard 112–2004 Test Methods A and B, IEEE Standard 114–2010, CSA Standard C390–10, and CSA C747 or similar procedures and methodologies for determining the energy efficiency of small electric motors, and have satisfactory criteria and procedures for selecting and sampling small electric motors for energy efficiency testing. 10 CFR 431.447(b).

Each petition requesting classification as a nationally recognized certification program must contain a narrative statement as to why the organization meets the above criteria, be accompanied by documentation that supports the narrative statement, and be signed by an authorized representative. 10 CFR 431.447(c).

II. Discussion

Pursuant to sections 431.447 and 431.448, on November 1, 2013, CSA submitted a ''Petition for Recognition as a *Nationally Recognized Certification Program* for small electric motors'' (''Petition'' or ''CSA Petition''). The Petition was accompanied by a cover letter from CSA to the Department, and the petition itself contained five separate sections—(1) Scope and Application, (2) Overview of CSA Group, (3) Certification and Testing—Quality Management System, (4) CSA Group's Motor Efficiency Verification Program—Product Directory, and (5) Examples of Other CSA Group Accreditations. In accordance with the requirements of section 431.448(b), DOE published CSA's petition in the **Federal Register** on December 30, 2013 and requested public comments. 78 FR 79423.

In response to the notice of petition, the National Electrical Manufacturers Association (NEMA), a trade association representing manufacturers of electrical products and equipment, including small electric motors, submitted comments to DOE in a letter dated January 24, 2013 (Comment response to the published Notice of Petition, No. 3). In these comments, NEMA generally stated its support for CSA's petition and recommended that DOE grant recognition to CSA. The comments also specifically explained that, in NEMA's view, (1) CSA has satisfactory standards and procedures for conducting and administering a certification system, including periodic follow-up to ensure basic model compliance; (2) CSA is independent of small motor manufacturers, importers, distributors, private labelers, or vendors; and (3) CSA is expert in the content and application of the test procedures and methodologies in IEEE Std 112–2004 Test Methods A and B, IEEE Std 114–2010, CSA 390–10, and CSA C747 or similar procedures and methodologies for determining the energy efficiency of small electric motors. NEMA added that CSA uses technically appropriate and statistically rigorous criteria and procedures for selecting and sampling small electric motors for energy efficiency testing.

Having received no other comments regarding CSA's petition, DOE finds no specific cause to reject CSA's request for recognition as a nationally recognized certification program for small electric motors. This determination is based primarily on DOE's previous recognition of CSA as a nationally recognized certification program for electric motors (the sampling and testing requirements

[1] For editorial reasons, upon codification in the U.S. Code, Part C was re-designated Part A–1.

for which are substantially the same), as well as the support of the motors industry as expressed by NEMA.

The Department hereby announces its interim determination pursuant to 10 CFR 431.448(d) that CSA is classified as a nationally recognized certification program for small electric motors, and will accept comments on this interim determination until April 3, 2014. Any person submitting written comments to DOE with respect to this interim determination must also, at the same time, send a copy of such comments to CSA. As provided under § 431.448(c), CSA may submit to the Department a written response to any such comments. After receiving any such comments and responses, the Department will issue a final determination on the CSA Petition, in accordance with § 431.448(e) of 10 CFR part 431.

Issued in Washington, DC, on February 26, 2014.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2014–04718 Filed 3–3–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC14–9–000]

Commission Information Collection Activities (FERC–520, FERC–561, FERC–566); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collections FERC–520 (Application for Authority to Hold Interlocking Directorate Positions), FERC–561 (Annual Report of Interlocking Positions), and FERC–566 (Annual Report of a Utility's 20 Largest Purchasers).

DATES: Comments on the collection of information are due May 5, 2014.

ADDRESSES: You may submit comments (identified by Docket No. IC14–9–000) 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 CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov*, telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Titles: FERC–520 (Application for Authority to Hold Interlocking Directorate Positions), FERC Form 561 (Annual Report of Interlocking Positions), and FERC–566 (Annual Report of a Utility's 20 Largest Purchasers).

OMB Control Nos.: FERC–521 (1902–0083); FERC–561 (1902–0099); FERC–566 (1902–0114).

Type of Request: Three-year extension of the FERC–521, FERC Form 561, and FERC–566 information collection requirements with no changes to the current reporting requirements.

Abstract: The Federal Power Act (FPA), as amended by the Public Utility Regulatory Policies Act of 1978 (PURPA), mandates federal oversight and approval of certain electric corporate activities to ensure that neither public nor private interests are adversely affected. Accordingly, the FPA proscribes related information filing requirements to achieve this goal. Such filing requirements are found in the Code of Federal Regulations (CFR), specifically in 18 CFR Parts 45, 46, and Section 131.31 and serve the basis for FERC–520, Form 561, and FERC–566.

Overview of the Three Data Collections. FERC–520, Form 561 and FERC–566 provide views into complex electric corporate activities and serve to safeguard public and private interests, as the FPA requires. The Commission can use its enforcement authority when violations and omissions of FPA requirements occur.

FERC–520: FERC–520 is divided into two types of applications: Full and informational. The full application, as specified in 18 CFR 45.8, implements the FPA requirement under Section 305(b) that it is unlawful for any person to concurrently hold the positions of officer or director of more than one public utility; or a public utility and a bank or financial institution that underwrites or markets public utility securities; or a public utility and an electrical equipment supplier to that public utility unless authorized by order of the Commission. In order to obtain authorization, an applicant must demonstrate that neither public nor private interests will be adversely affected by the holding of the position. The full application provides Commission staff with a list of certain information about any interlocking position for which he/she seeks authorization including, but not limited to, a description of duties, estimated time devoted to the position, and any indebtedness to the public utility. The informational application, as specified in 18 CFR 45.9, allows an applicant to receive automatic authorization for an interlocked position upon receipt of filing with the FERC. The informational application applies only to those individuals who seek authorization as (1) an officer or director of two or more public utilities where the same holding company owns, directly or indirectly, that percentage of each utility's stock (of whatever class or classes) which is required by each utility's by-laws to elect directors; (2) an officer or director of two public utilities, if one utility is owned, wholly or in part, by the other and, as its primary business, owns and operates transmission or generation facilities to provide transmission service or electric power for sale to its owners; or (3) an officer or director of more than one public utility, if such person is already authorized under Part 45 to hold different positions as officer or director of those utilities where the interlock involves affiliated public utilities.

Pursuant to 18 CFR 45.5, in the event that an applicant resigns or withdraws from all Commission-authorized interlocked positions within a corporate structure or is not re-elected or re-appointed to any interlocked position within that corporate structure, FERC requires that the applicant submit a notice of change within 30 days from the date of the change.

FERC Form 561: The Commission uses FERC Form 561 to implement the FPA requirement that those who are authorized to hold interlocked directorates annually disclose all the interlocked positions they held the prior year. The positions that must be disclosed in the Form 561 are those

public utility officers and directors that hold positions with financial institutions, insurance companies, utility equipment and fuel providers, and with any of an electric utility's twenty largest purchasers of electric energy. The FPA specifically defines most of the information elements in the Form 561, including the information that must be filed, the required filers, the directive to make the information available to the public, and the filing deadline. The Commission determined administrative aspects of the Form 561 such as the filing format and instructions for filling out the form.

FERC–566: FERC–566 implements FPA requirements that each public utility annually publish a list of the purchasers of the 20 largest annual amounts of electric energy sold by such public utility during any one of 3 previous calendar years pursuant to rules prescribed by the Commission. The public disclosure of this information provides officers and directors with the information necessary to determine whether any of the entities with whom they are related are any of the largest 20 purchasers of the public utility with which they are affiliated. Similar to the statutory detail in the FPA for Form 561, the FPA identifies who must file the FERC–566 report and sets the filing deadline. Additionally, the FPA specifies that those entities required to report who have a holding company system can calculate their total volumes of energy sold by including the amounts sold by utilities within their holding company system. The FERC details in its regulations special rules about the information to be provided in the FERC–566 report. For example, FERC allows required filers to file estimates of volumes based on actual information available to them if actual volumes are not available by the statutory due date. However, the FERC also requires revisions of those filed estimates with final numbers by March 1st.

Type of Respondents: Individuals who plan to concurrently become board members of regulated electric utilities and of related or similar businesses must request authorization by submitting a FERC–520. Those who are authorized to hold interlocked directorates must annually disclose all the interlocked positions that they held in the prior calendar year by submitting a Form 561. Lastly, each public utility must annually publish the FERC–566 to list the purchasers of the 20 largest annual amounts of electric energy sold by such public utility during any one of 3 previous calendar years pursuant to rules prescribed by the Commission.

Estimate of Annual Burden: [1] The Commission estimates the total Public Reporting Burden for this information collection as:

FERC–521 (APPLICATION FOR AUTHORITY TO HOLD INTERLOCKING DIRECTORATE POSITIONS)

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden/cost per response[2]	Total annual burden hours (total annual cost)	Cost per respondent ($)
	(1)	(2)	(1)*(2)=(3)	(4)	(3)*(4)=(5)	(5)÷(1)
Full	10	1	10	51.8 $3,651.9	518 $36,519	$3,652
Informational	454	1	454	16 $1,128	7,264 $512,112	1,128
Notice of Change	254	1	254	0.25 $17.63	63.5 $4,477	$17.63
Total			718		7,845.5 $553,108	4,797.63

FERC FORM 561 (ANNUAL REPORT OF INTERLOCKING POSITIONS)

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden/cost per response [4]	Total annual burden hours (total annual cost) [5]	Cost per respondent ($)
	(1)	(2)	(1)*(2)=(3)	(4)	(3)*(4)=(5)	(5)÷(1)
FERC Form 561	2,675	1	2,675	0.25 $17.63	668.75 $47,147	$17.63

[1] 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.

[2] The estimates for cost per response are derived using the following formula: Total Annual Cost (Column 5) ÷ Total Number of Responses (Column 3) = Average Cost per Response

[3] Total Annual Burden Hours * $70.50.

[4] The estimates for cost per response are derived using the following formula: Total Annual Cost (Column 5) ÷ Total Number of Responses (Column 3) = Average Cost per Response.

[5] Total Annual Burden Hours * $70.50.

FERC–566 (ANNUAL REPORT OF A UTILITY'S 20 LARGEST PURCHASERS)

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1)*(2)=(3)	Average burden/cost per response [6] (4)	Total annual burden hours (total annual cost) [7] (3)*(4)=(5)	Cost per respondent ($) (5)÷(1)
FERC–566	1,082	1	1,082	6 $423	6,492 $457,686	$423

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: February 26, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–04740 Filed 3–3–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–2815–007.

Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.

Description: ATSI submits ministerial revisions to OATT Att H–21B re formatting in ER11–2815 to be effective 6/1/2011.

Filed Date: 2/21/14.

Accession Number: 20140221–5165.

Comments Due: 5 p.m. ET 3/14/14.

Docket Numbers: ER12–1179–017.

Applicants: Southwest Power Pool, Inc.

Description: Errata Filing and Request for Shortened Comment Period to FCA Compliance to be effective 3/1/2014.

Filed Date: 2/21/14.

Accession Number: 20140221–5181.

Comments Due: 5 p.m. ET 2/27/14.

Docket Numbers: ER13–684–000.

Applicants: NV Energy, Inc.

Description: OATT Revisions Schedule 4—Refund Report (Schedules 4, 9 & 10) to be effective N/A.

Filed Date: 2/24/14.

Accession Number: 20140224–5084.

Comments Due: 5 p.m. ET 3/17/14.

Docket Numbers: ER14–81–002.

Applicants: Pacific Gas and Electric Company.

Description: Updated Effective Date for Balancing Account Revisions 2014 to be effective 5/1/2014.

Filed Date: 2/21/14.

Accession Number: 20140221–5166.

Comments Due: 5 p.m. ET 3/14/14.

Docket Numbers: ER14–424–001.

Applicants: Pennsylvania Electric Company, PJM Interconnection, L.L.C.

Description: PJM, Penelec & West Penn submit Compliance per 12/4/2013 Order in ER14–424 to be effective 2/12/2014.

Filed Date: 2/21/14.

Accession Number: 20140221–5180.

Comments Due: 5 p.m. ET 3/14/14.

Docket Numbers: ER14–455–001.

Applicants: Green Valley Hydro, LLC, PJM Interconnection, L.L.C.

Description: PJM & Green Valley Hydro submit Compliance per 12/6/2013 Order in ER14–455 to be effective 2/12/2014.

Filed Date: 2/21/14.

Accession Number: 20140221–5178.

Comments Due: 5 p.m. ET 3/14/14.

Docket Numbers: ER14–1353–000.

Applicants: Puget Sound Energy, Inc.

Description: Order No 792 Compliance Filing to be effective 2/21/2014.

Filed Date: 2/21/14.

Accession Number: 20140221–5167.

Comments Due: 5 p.m. ET 3/14/14.

Docket Numbers: ER14–1354–000.

Applicants: PJM Interconnection, L.L.C.

Description: Original Service Agreement No. 3739 and Cancellation of SA No. 3332 to be effective 1/13/2014.

Filed Date: 2/24/14.

Accession Number: 20140224–5100.

Comments Due: 5 p.m. ET 3/17/14.

Docket Numbers: ER14–1355–000.

Applicants: Lakeswind Power Partners, LLC.

Description: Change in Category Status to be effective 2/25/2014.

Filed Date: 2/24/14.

Accession Number: 20140224–5112.

Comments Due: 5 p.m. ET 3/17/14.

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: February 24, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–04679 Filed 3–3–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1317–000]

Sunshine Gas Producers, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Sunshine Gas Producers, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application

[6] The estimates for cost per response are derived using the following formula: Total Annual Cost (Column 5) ÷ Total Number of Responses (Column 3) = Average Cost per Response.

[7] Total Annual Burden Hours * $70.50.

includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is March 12, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 20, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–04680 Filed 3–3–14; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

AGENCY: Federal Election Commission.

TIME AND DATE: *Thursday, March 6, 2014, at 10 a.m.*

PLACE: 999 E Street NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Correction and Approval of Minutes for February 27, 2014

Draft Advisory Opinion 2014–01: Solano County United Democratic Central Committee

Technical Corrections to the 2013 Code of Federal Regulations

Proposed Final Audit Report on Dallas County Republican Party (A11–14)

Proposed Final Audit Report on Republican Party of Iowa (A11–24)

Proposed Final Audit Report on the Vermont Democratic Party (A11–12)

Proposed Final Audit Report on the Democratic Party of South Carolina (A11–19)

Management and Administrative Matters

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Shawn Woodhead Werth, Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the meeting date.

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shawn Woodhead Werth,

Secretary and Clerk of the Commission.

[FR Doc. 2014–04780 Filed 2–28–14; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012084–004.

Title: HLAG/Maersk Line Gulf-South America Slot Charter Agreement.

Parties: A.P. Moller-Maersk A/S and Hapag-Lloyd AG.

Filing Party: Joshua P. Stein; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006–4007.

Synopsis: The amendment deletes references to authority relating to the chartering of space between the parties in the Gulf-Central America trade, as such authority is now set forth in another slot charter agreement.

Agreement No.: 012248.

Title: MOL/NMCC/WLS Joint Operating Agreement.

Parties: Mitsui O.S.K. Lines, Ltd.; Nissan Motor Car Carrier Co., Ltd.; and World Logistics Service (U.S.A.), Inc.

Filing Party: Eric. C. Jeffrey, Esq.; Nixon Peabody LLP; 401 9th Street NW., Suite 900; Washington, DC 20004.

Synopsis: The agreement authorizes the parties to engage in operational and commercial cooperation in the U.S. trades.

Dated: February 21, 2014.

By Order of the Federal Maritime Commission.

Karen V. Gregory,

Secretary.

[FR Doc. 2014–04668 Filed 3–3–14; 8:45 am]

BILLING CODE 6730–01–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 March 28, 2014.

A. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Old National Bancorp,* Evansville, Indiana, to merge with United Bancorp, Inc., Ann Arbor, Michigan, and thereby indirectly acquire United Bank & Trust, Ann Arbor, Michigan.

2. *Peoples Bancorp, Inc.,* Sheridan, Arkansas, to become a bank holding company by acquiring 100 percent of the outstanding stock in Peoples Bank, Sheridan, Arkansas.

Board of Governors of the Federal Reserve System, February 27, 2014.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2014–04721 Filed 3–3–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 131 0162]

Lone Star Fund V (U.S.), L.P., Bi-Lo Holdings, LLC, Etablissements Delhaize Frères et Cie ''Le Lion'' (Group Delhaize) SA/NV, and Delhaize America, LLC; Analysis of Agreement Containing Consent Orders To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis of Agreement Containing Consent Orders to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent orders—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before March 27, 2014.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/biloconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Bi-Lo Holdings, LLC—Consent Agreement; File No. 131–0162'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/biloconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Joshua Smith, Bureau of Competition, (202–326–3018), 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for February 25, 2014), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before March 27, 2014. Write ''Bi-Lo Holdings, LLC—Consent Agreement; File No. 131–0162'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/biloconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home*, you also may file a comment through that Web site.

If you file your comment on paper, write ''Bi-Lo Holdings, LLC—Consent Agreement; File No. 131–0162'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before March 27, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

Analysis of Agreement Containing Consent Orders To Aid Public Comment

I. Introduction and Background

The Federal Trade Commission (''Commission'') has accepted for public comment, subject to final approval, an Agreement Containing Consent Orders (''Consent Order'') from Lone Star Fund V (U.S.), L.P. (''Lone Star''), Bi-Lo Holdings, LLC (''Bi-Lo''), *Etablissements Delhaize Frères et Cie ''Le Lion''* (Group Delhaize) SA/NV (''Delhaize''), and Delhaize America, LLC (''Delhaize America'') (collectively ''Respondents''). The purpose of the proposed Consent Order is to remedy the anticompetitive effects that otherwise would result from Bi-Lo's acquisition of certain supermarkets owned by Delhaize America (the ''Acquisition''). Under the terms of the proposed Consent Order, Bi-Lo is required to divest its supermarkets and related assets in eleven local geographic markets to Commission-approved buyers. The divestitures must be completed no later than 10 days following the Acquisition.

The proposed Consent Order has been placed on the public record for 30 days to solicit comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission again will review the proposed Consent Order and comments received, and decide whether it should withdraw the Consent Order, modify the Consent Order, or make it final.

On May 27, 2013, Bi-Lo and Delhaize America executed an agreement whereby Bi-Lo agreed to acquire from Delhaize America 73 Sweetbay stores (and leases to 10 closed stores), 72 Harveys stores, and 11 Reid's stores for $265 million. Respondents amended their agreement on January 31, 2014 to exclude one Reid's and one Harveys store from the original acquisition agreement, and adjusted the purchase price accordingly.[2] The Commission's Complaint alleges that the Acquisition as amended, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by removing an actual, direct, and substantial supermarket competitor from eleven local geographic markets (''relevant geographic markets''): Arcadia, Dunnellon, Lake Placid, Madison, and Wauchula, Florida; Bainbridge, Statesboro, Sylvania, Vidalia, and Waynesboro, Georgia; and Batesburg, South Carolina. The elimination of this competition would result in significant competitive harm, specifically higher prices and diminished quality and service levels in these markets. The proposed Consent Order would remedy the alleged violations by requiring Respondent Bi-Lo to divest the acquired Delhaize America supermarkets in the relevant geographic markets. The divestitures will establish a new independent competitor to Respondent Bi-Lo in the relevant geographic markets, replacing competition that otherwise would be eliminated as a result of the Acquisition.

II. The Respondents

Bi-Lo is the parent company of the Bi-Lo and Winn-Dixie grocery store chains, which are located in the Southeastern United States. As of July 10, 2013, Bi-Lo operated 685 supermarkets throughout Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee under its Winn-Dixie and BI–LO banners. Lone Star Funds, a private equity firm specializing in distressed assets, through Respondent Lone Star, is the majority owner of Bi-Lo.

Delhaize America is a wholly owned subsidiary of Delhaize. Delhaize owns supermarket chains in North America, Europe, and Indonesia. In the Northeast and Southeast of the United States, Delhaize America operates six supermarket chains: Sweetbay, Harveys, Reid's, Hannaford, Bottom Dollar Food, and Food Lion. Food Lion is Delhaize America's primary banner, and it accounts for 73% (1,127 stores) of its total 1,553 U.S. stores.

III. Supermarket Competition in the Relevant Areas in Florida, Georgia, and South Carolina

Bi-Lo's proposed acquisition of Delhaize's Sweetbay, Harvey's, and Reid's supermarkets poses substantial antitrust concerns in the retail sale of food and other grocery products in supermarkets in the relevant geographic markets.[3] Supermarkets are defined as traditional full-line retail grocery stores that sell, on a large-scale basis, food and non-food products that customers regularly consume at home—including, but not limited to, fresh meat, dairy products, frozen foods, beverages, bakery goods, dry groceries, detergents, and health and beauty products. This broad set of products and services provides a ''one-stop shopping'' experience for consumers by enabling them to shop in a single store for all of their food and non-food grocery needs. The ability to offer consumers one-stop shopping is a critical differentiating factor between supermarkets and other food retailers.

The relevant product market includes supermarkets within ''hypermarkets,'' such as Wal-Mart Supercenters. Hypermarkets also sell an array of products that would not be found in traditional supermarkets. However, hypermarkets, like conventional supermarkets, contain bakeries, delis, dairy, produce, fresh meat, and sufficient product offerings to enable customers to purchase all of their weekly grocery requirements in a single shopping visit.

Other types of retailers—such as convenience stores, specialty food stores, limited assortment stores, hard-discounters, and club stores—also sell certain food and non-food grocery items. However, these types of retailers do not compete in the relevant product market because they do not have a supermarket's full complement of products and services. Shoppers typically do not view these food and other grocery retailers as adequate substitutes for supermarkets.[4] Further, although these other types of retailers offer some competition to supermarkets, supermarkets do not view them as providing as significant or close competition as traditional supermarkets. Thus, consistent with prior Commission precedent, these other types of retailers are not considered as competitors in the relevant product market.[5]

[2] Respondents amended the acquisition agreement to exclude one Harveys in Americus, Georgia and one Reid's in Hampton, South Carolina, from the Acquisition. Accordingly, the proposed Consent Order does not require a divestiture in Americus, Georgia and Hampton, South Carolina. By amending the acquisition agreement so that Delhaize retains these two stores (which will be operated as part of its Food Lion division), the Acquisition does not increase market concentration and the competitive status quo is maintained in Americus and Hampton. Resolving the Commission's concerns through an amendment to the acquisition agreement is suitable under the specific circumstances of this case. In particular, the selling company is selling only a small fraction of its assets, has substantial and similar operations remaining post-transaction that will absorb easily and maintain profitably the retained stores, and where the Commission has concluded that Delhaize will be an effective operator of those stores post-transaction.

[3] The Acquisition raises competitive concern in five markets in Florida, five markets in Georgia, and one market in South Carolina.

[4] Shoppers would be unlikely to switch to one of these retailers in response to a small but significant price increase or ''SSNIP'' by a hypothetical supermarket monopolist. *See* U.S. DOJ and FTC Horizontal Merger Guidelines § 4.1.1 (2010).

[5] *See, e.g.,* AB Acquisition, LLC, Docket C–4424 (Dec. 23, 2013); *Koninklijke Ahold N.V./Safeway Inc.,* Docket C–4367 (Aug. 17, 2012); *Shaw's/Star Markets,* Docket C–3934 (June 28, 1999); *Kroger/Fred Meyer,* Docket C–3917 (Jan. 10, 2000); *Albertson's/American Stores,* Docket C–3986 (June 22, 1999); *Ahold/Giant,* Docket C–3861 (Apr. 5, 1999); *Albertson's/Buttrey,* Docket C–3838 (Dec. 8, 1998); *Jitney-Jungle Stores of America, Inc.,* Docket

The relevant geographic markets in which to analyze the Acquisition's effects are the areas within an approximate three- to ten-mile radius of the parties' supermarkets in each of the following eleven localized areas: Arcadia, Dunnellon, Lake Placid, Madison, and Wauchula, Florida; Bainbridge, Statesboro, Sylvania, Vidalia, and Waynesboro, Georgia; and Batesburg, South Carolina. Where the Respondents' supermarkets are located in rural, isolated areas, the relevant geographic areas are larger than areas where the Respondents' supermarkets are located in more densely populated suburban areas. A hypothetical monopolist of the retail sale of food and non-food grocery products in supermarkets in each relevant geographic market could profitably impose a small but significant non-transitory increase in price.

The evidence gathered during the course of staff's investigation demonstrates that Respondents are close and vigorous competitors in terms of format, service, product offerings, promotional activity, and location in the relevant geographic markets. Bi-Lo and Delhaize America have the only supermarkets in Madison, Florida and Sylvania, Georgia. Additionally, Bi-Lo and Delhaize America have the only traditional supermarkets in eight of the relevant geographic markets; the remaining competitor in each of these eight markets is a hypermarket, Wal-Mart Supercenter. Moreover, the Bi-Lo and Delhaize stores are located near each other—less than 1 mile apart in three markets, 1 to 2 miles apart in six markets, and 2 to 3 miles apart in two markets. Competition in food retailing is primarily a function of similarity of format and proximity between competing stores. Stores with similar formats located nearby each other provide a greater competitive constraint on each other's pricing than do stores of different formats or stores located farther apart from each other. Absent the relief, the Acquisition would eliminate significant head-to-head competition between Respondents and would increase Respondent Bi-Lo's ability and incentive to raise prices unilaterally post-Acquisition. The Acquisition also would decrease incentives to compete on non-price factors, such as service levels, convenience, and quality.

C–3784 (Jan. 30, 1998). *But see Wal-Mart/Supermercados Amigo,* Docket C–4066 (Nov. 21, 2002) (the Commission's complaint alleged that in Puerto Rico, club stores should be included in a product market that included supermarkets because club stores in Puerto Rico enabled consumers to purchase substantially all of their weekly food and grocery requirements in a single shopping visit).

Finally, absent the relief, the Acquisition may also facilitate coordination in markets where only the parties' stores and one other traditional supermarket competitor remains post-Acquisition. Given the transparency of pricing and promotional practices between supermarkets and the fact that supermarkets ''price check'' competitors in the ordinary course of business, reducing the number of nearby competitors from three to two may facilitate collusion between the remaining supermarket competitors by making coordination easier to establish and monitor.

The relevant geographic markets are highly concentrated already, and would become significantly more so post-Acquisition. The Acquisition would result in an effective merger-to-monopoly in two relevant areas, Madison, Florida and Sylvania, Georgia, and an effective merger-to-duopoly in nine relevant areas.[6] The Acquisition would increase the Herfindahl-Hirschman Index (''HHI''), which is the standard measure of market concentration under the 2010 Department of Justice and Federal Trade Commission Horizontal Merger Guidelines (''HMG''), in the relevant geographic markets by a range of 540 to 4,978 points, with post-Acquisition HHI total levels ranging from 5,005 to 10,000 points. These concentration levels far exceed the levels required to trigger the presumption that the Acquisition likely enhances Respondent Bi-Lo's market power in each of the relevant geographic markets.

New entry or expansion in the relevant geographic markets is unlikely to deter or counteract the anticompetitive effects of the Acquisition. Moreover, even if a prospective entrant existed, the entrant must secure a viable location, obtain the necessary permits and governmental approvals, build its retail establishment or renovate an existing building, and open to customers before it could begin operating and serve as a relevant competitive constraint. It is unlikely that entry sufficient to achieve a significant market impact and act as a competitive constraint would occur in a timely manner.

IV. The Proposed Consent Order

The proposed remedy, which requires divestiture of the Delhaize America stores in the relevant geographic markets to a Commission-approved purchaser, will restore the competition that otherwise would be eliminated in these markets as a result of the Acquisition.

Respondents Lone Star and Bi-Lo have agreed to divest the Delhaize America stores to four separate buyers. These purchasers are well suited and well positioned to enter the relevant geographic markets and prevent the increase in market concentration and likely competitive harm that otherwise would result from the Acquisition. The supermarkets currently owned by the purchasers are all located outside the relevant geographic markets.

Respondents have agreed to divest the Sweetbays located in Arcadia (#1883), Dunnellon (#1795), Lake Placid (#1879), and Wauchula (#1791), Florida to Rowe's IGA Supermarkets (''Rowe's''). Rowe's currently operates five supermarkets in the greater Jacksonville, Florida area under the ''Rowe's IGA'' banner.

Respondents have agreed to divest Harveys #2336 in Vidalia, Georgia, and Harveys #2374 and #2375 in Statesboro, Georgia, to HAC Inc. (''HAC''). HAC is an employee-owned supermarket company based in Oklahoma City, Oklahoma. HAC operates approximately 80 stores consisting of Homeland and United Supermarkets in Oklahoma, Country Mart Stores in Lawton, Kansas, Super Save Stores in North Central Texas, and Piggly Wiggly and Food World stores in Georgia. HAC will operate the stores in Statesboro under the Food World banner and the store in Vidalia under the Piggly Wiggly banner.

Respondents have agreed to divest Reid's #442 in Batesburg, South Carolina, Harveys #2349 in Waynesboro, Georgia, and Harveys #2370 in Sylvania, Georgia, to W. Lee Flowers & Co., Inc. (''Flowers''). Currently, Flowers operates 35 supermarkets under its Floco Foods subsidiary in South Carolina and Georgia. Flowers is also a wholesale grocery distributer, and the company supplies many IGA supermarkets in South Carolina.

Finally, Respondents have agreed to divest Harveys #2379 in Madison, Florida, and Harveys #2378 in Bainbridge, Georgia, to Food Giant. Food Giant operates 108 stores under several different banner names, including Food Giant and Piggly Wiggly, throughout eight states, including Tennessee, Kentucky, Arkansas, Mississippi, Alabama, and Missouri. Food Giant will re-banner both stores to the Food Giant name. Food Giant already operates four stores in Florida and two in Georgia.

The proposed Order requires Respondents Lone Star and Bi-Lo to divest the Delhaize America supermarkets and related assets in the

[6] *See* Appendix A.

eleven relevant geographic markets to the four buyers no later than 10 days following the respective closing date under the Respondents' agreement. Pursuant to the Respondents' acquisition agreement, the Acquisition will be effectuated through eight separate closings over a period of approximately 10 weeks. This staged closing will allow both Bi-Lo and the buyers of the divested stores to re-banner the acquired stores in a timely and orderly manner. The divestitures will take place no later than 10 days after the closing involving the relevant divestiture store. If any of the buyers are not approved by the Commission to purchase the assets, Lone Star and Bi-Lo must immediately rescind the divestiture agreement and divest the Delhaize America store and related assets to a buyer that receives the Commission's prior approval. Further, for a period of one year, the Order prohibits Respondents from interfering with the hiring of or employment of any employees currently working at the Delhaize America stores in the divestiture markets. Additionally, for a period of 10 years, Lone Star and Bi-Lo are required to provide the Commission with prior notice of plans to acquire a supermarket, or an interest in a supermarket, that has operated or is operating in the counties that include the relevant geographic markets.

* * *

The sole purpose of this Analysis is to facilitate public comment on the proposed Consent Order. This Analysis does not constitute an official interpretation of the proposed Consent Order, nor does it modify its terms in any way.

EXHIBIT A

City	State	Merger result	HHI (pre)	HHI (post)	Delta
Arcadia	FL	3 to 2	4645	5331	686
Bainbridge	GA	3 to 2	5016	5556	540
Batesburg	SC	3 to 2	4074	5062	988
Dunnellon	FL	3 to 2	4294	5081	787
Lake Placid	FL	3 to 2	3881	5005	1124
Madison	FL	2 to 1	5556	10000	4444
Statesboro	GA	3 to 2	4798	5423	625
Sylvania	GA	2 to 1	5022	10000	4978
Vidalia	GA	3 to 2	5002	5556	554
Wauchula	FL	3 to 2	4215	5115	900
Waynesboro	GA	3 to 2	4316	5149	833

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2014–04708 Filed 3–3–14; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS GRANTED JANUARY 1, 2014 THRU JANUARY 31, 2014

01/07/2014		
20140342	G	ArcLight Energy Partners Fund V, L.P.; Penn Virginia Corporation ArcLight Energy Partners Fund V, L.P.
20140347	G	JPMorgan & Chase & Co.; FMC Corporation; JPMorgan & Chase & Co.
20140349	G	Viva Alamo Holdings LLC Centrica plc; Viva Alamo Holdings LLC.
20140354	G	Onex Partners III LP; Providence Equity Partners VI L.P.; Onex Partners III LP.
20140359	G	International Business Machines Corporation; Michelle Munson & Serban Simu; International Business Machines Corporation.
20140365	G	Bain Capital Fund VII, L.P.; SpinCo; Bain Capital Fund VII, L.P.
20140366	G	SpinCo; Bain Capital Fund VII, L.P.; SpinCo.
20140369	G	Eldorado Holdco, LLC; MTR Gaming Group, Inc.; Eldorado Holdco, LLC.
20140370	G	MTR Gaming Group, Inc.; Eldorado Holdco, LLC; MTR Gaming Group, Inc.
20140373	G	ABRY Partners VII, L.P.; New Mountain Partners II, L.P.; ABRY Partners VII, L.P.
20140383	G	Ronald O. Perelman; Valassis Communications, Inc.; Ronald O. Perelman.
01/08/2014		
20140361	G	Permira V L.P. 2; Atrium Innovations Inc.; Permira V L.P. 2.
20140375	G	AstraZeneca PLC; Bristol-Myers Squibb Company; AstraZeneca PLC.

EARLY TERMINATIONS GRANTED JANUARY 1, 2014 THRU JANUARY 31, 2014—Continued

		01/09/2014
20140337	G	Castlerigg International Limited; Bob Evans Farms, Inc.; Castlerigg International Limited.
		01/10/2014
20140368	G	Kinder Morgan Energy Partners, L.P.; Blackstone Capital Partners V USS L.P.; Kinder Morgan Energy Partners, L.P.
20140376	G	Taiyo Nippon Sanso Corporation; Continental Carbonic Products, Inc.; Taiyo Nippon Sanso Corporation.
20140378	G	UnitedHealth Group Incorporated; Audax Health Solutions, Inc.; UnitedHealth Group Incorporated.
20140393	G	Bain Capital Fund X, L.P.; SKM Equity Fund III, L.P.; Bain Capital Fund X, L.P.
20140396	G	Elance, Inc.; oDesk Corporation; Elance, Inc.
20140397	G	Yildiz Holding A.S.; Brynwood Partners V, L.P.; Yildiz Holding A.S.
20140404	G	B/E Aerospace, Inc.; The Michael Bright White's Children's Trust; B/E Aerospace, Inc.
20140410	G	Permira V L.P. 2; LegalZoom.com, Inc.; Permira V L.P. 2.
20140416	G	GRCY Holdings, Inc.; Arden Group, Inc.; GRCY Holdings, Inc.
		01/13/2014
20140384	G	Tribune Company; Sony Corporation; Tribune Company.
20140398	G	Thomas H. Lee Equity Fund VI, L.P.; AEA Investors Small Business Fund II LP; Thomas H. Lee Equity Fund VI, L.P.
20140403	G	TPG Growth II, L.P.; J.A. Cosmetics, Corp.; TPG Growth II, L.P.
		01/14/2014
20140186	G	Open Text Corporation; Francisco Partners, L.P.; Open Text Corporation.
20140400	G	Engility Holdings, Inc.; Dynamics Research Corporation; Engility Holdings, Inc.
20140402	G	TRI Pointe Homes, Inc.; Weyerhaeuser Real Estate Company; TRI Pointe Homes, Inc.
		01/15/2014
20140171	G	The Mosaic Company; CF Industries Holdings, Inc.; The Mosaic Company.
20140409	G	Madison Dearborn Capital Partners VI–A, L.P.; Ikaria, Inc.; Madison Dearborn Capital Partners VI–A, L.P.
20140419	G	Verint Systems Inc. KAY Technology Holdings, Inc.; Verint Systems Inc.
		01/16/2014
20140392	G	Eric Mandelblatt c/o Soroban Capital Partners LLC; The Williams Companies, Inc.; Eric Mandelblatt c/o Soroban Capital Partners LLC.
20140417	G	Norbert W. Bischotberger, Ph.D.; Gilead Sciences, Inc.; Norbert W. Bischotberger, Ph.D.
		01/17/2014
20140408	G	Partners Group Direct Investments 2012 (EUR), L.P.; VAT Holding AG; Partners Group Direct Investments 2012 (EUR), L.P.
20140415	G	Oracle Corporation; Responsys, Inc.; Oracle Corporation.
20140418	G	Berkshire Hathaway Inc.; Phillips 66; Berkshire Hathaway Inc.
20140421	G	Thomas H. Lee Equity Fund VI, L.P.; WellPoint, Inc.; Thomas H. Lee Equity Fund VI, L.P.
20140422	G	Marlin Equity IV, L.P.; Compuware Corporation; Marlin Equity IV, L.P.
20140423	G	Blackstone Capital Partners VI L.P.; Crocs. Inc.; Blackstone Capital Partners VI L.P.
20140429	G	Stefan Kaluzny; The Jones Group Inc.; Stefan Kaluzny.
20140432	G	The Kroger Co.; Harris Teeter Supermarkets, Inc.; The Kroger Co.
		01/22/2014
20131249	G	Community Health Systems, Inc.; Health Management Associates, Inc.; Community Health Systems, Inc.
20140362	G	B/E Aerospace, Inc.; LA-Tex Holdings, LLC; B/E Aerospace, Inc.
20140426	G	Convergys Corporation; Ares Corporate Opportunities Fund II, L.P.; Convergys Corporation.
		01/23/2014
20140372	G	The Methodist Hospital; CHRISTUS Health; The Methodist Hospital.
20140447	G	Forest Laboratories, Inc.; TPG Partners V, L.P.; Forest Laboratories, Inc.
		01/24/2014
20140412	G	Pershing Square, L.P.; Platform Specialty Products Corporation; Pershing Square, L.P.
20140413	G	Pershing Square Holdings, Ltd.; Platform Specialty Products Corporation; Pershing Square Holdings, Ltd.
20140414	G	Pershing Square International, Ltd.; Platform Specialty Products Corporation; Pershing Square International, Ltd.
20140427	G	SLP Wolf Investors, LLC; IMG Worldwide Holdings, Inc.; SLP Wolf Investors, LLC.
20140428	G	Ricoh Company, Ltd.; Best Buy Co., Inc.; Ricoh Company, Ltd.
		01/28/2014
20140430	G	Forward Air Corporation; Bryan F. Grane; Forward Air Corporation.
20140439	G	Mikhail Prokhorov; Mercator Minerals Ltd.; Mikhail Prokhorov.
20140446	G	XPO Logistics, Inc.; Pacer International, Inc.; XPO Logistics, Inc.

EARLY TERMINATIONS GRANTED JANUARY 1, 2014 THRU JANUARY 31, 2014—Continued

20140448	G	NKSJ Holdings, Inc.; Canopius Group Limited; NKSJ Holdings, Inc.
20140451	G	ABRY Partners VI, L.P.; Arrowood Investment Group, LLC; ABRY Partners VI, L.P.
20140452	G	Lindsay Goldberg III CR AIV L.P.; LaFarge S.A.; Lindsay Goldberg III CR AIV L.P.
20140453	G	Compass Investment Partners Fund, L.P.; Riverside Micro-Cap Fund I, L.P.; Compass Investment Partners Fund, L.P.
20140454	G	Oaktree Power Opportunities Fund III, LP; Kirlin Holdings, LLC; Oaktree Power Opportunities Fund III, LP.
20140459	G	Twin River Worldwide Holdings, Inc.; Leucadia National Corporation; Twin River Worldwide Holdings, Inc.
20140471	G	Apollo Investment Fund VIII, L.P.; CEC Entertainment, Inc.; Apollo Investment Fund VIII, L.P.
		01/29/2014
20140291	G	Kuraray Co., Ltd.; E. I. du Pont de Nemours and Company; Kuraray Co., Ltd.
20140380	G	ArcelorMittal SA; ThyssenKrupp AG; ArcelorMittal SA.
20140382	G	Nippon Steel & Sumitomo Metal Corporation ThyssenKrupp AG; Nippon Steel & Sumitomo Metal Corporation.
20140399	G	Dealertrack Technologies, Inc.; Dealer Dot Com, Inc.; Dealertrack Technologies, Inc.
20140425	G	Huntsman Gay Capital Partners Fund, L.P.; Jabil Circuit, Inc.; Huntsman Gay Capital Partners Fund, L.P.
		01/30/2014
20140406	G	Madison Dearborn Capital Partners VI–B, L.P. Alcatel-Lucent; Madison Dearborn Capital Partners VI–B, L.P.
20140407	G	Amadeus IT Group S.A.; Court Square Capital Partners II, L.P.; Amadeus IT Group S.A.
20140462	G	Michael Karfunkel; Tower Group International, Ltd.; Michael Karfunkel.
20140463	G	Roger S. Penske; Kee Wai Investment Co. (BVI) Ltd.; Roger S. Penske.
20140464	G	Roger S. Penske; Stephen Lam; Roger S. Penske.
20140474	G	Bill D. Mills; National Oilwell Varco, Inc.; Bill D. Mills.
		01/31/2014
20130837	S	Thermo Fisher Scientific Corporation; Life Technologies Corporation; Thermo Fisher Scientific Corporation.
20140443	G	Banner Health; Regional Care Services Corporation; Banner Health.
20140476	G	Riverstone Global Energy and Power Fund V (FT), L.P.; SandRidge Energy, Inc; Riverstone Global Energy and Power Fund V (FT), L.P.

FOR FURTHER INFORMATION CONTACT:
Renee Chapman, Contact Representative,
or
Theresa Kingsberry, Legal Assistant, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room H–303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2014–04709 Filed 3–3–14; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–20883–30D]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for a new collection. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

DATES: Comments on the ICR must be received on or before April 3, 2014.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the Information Collection Request Title and document identifier HHS–OS–20883–30D for reference.

Information Collection Request Title: Support and Services at Home (SASH) Participant Survey

Abstract: The Office of the Assistant Secretary for Planning and Evaluation (ASPE) is requesting approval from the Office of Management and Budget (OMB) to conduct a survey of Support And Services at Home (SASH) participants to assess the impact of the SASH program on health outcomes. Information collected includes general health status, functional status, quality of life, medication problems and dietary issues. The SASH program operates in Vermont and links staff based in housing properties with a team of community-based health and supportive services providers to help older adults coordinate and manage their care needs. SASH services include: Assessment by a multidisciplinary team, creation of an individualized care plan, on-site nursing and care coordination with team members and other local partners, and community activities to support health and wellness. SASH is anchored in affordable senior housing properties, serving residents in the property and seniors living in the surrounding community.

The goal of this project is to conduct a comprehensive evaluation of the SASH program. The evaluation will assess whether the SASH model of coordinated health and supportive services in affordable housing improves quality of life, health and functional status of participants. The evaluation has been designed to comprehensively address the research questions while minimizing the burden placed on the SASH program staff, their partners (e.g., service providers), and Medicare and dually eligible Medicare and Medicaid beneficiaries. The mail survey is designed to collect outcomes that

cannot be measured from claims data or other sources. We will use brief, standardized scales with demonstrated reliability and validity in older adults. Information collected in the survey is not of a sensitive nature. Questions in the beneficiary survey are confined to health outcomes. RTI International will conduct and analyze the survey. RTI has experience doing similar work for ASPE and other government clients.

Need and Proposed Use of the Information: To determine the impact of the SASH program on quality of life, health and functional status of participants. Care has been taken to ensure that there is no overlap between other ongoing state evaluations. Through discussions with SASH program staff and other state officials in Vermont, we determined that the information we seek to collect is not already being collected from our proposed sample, nor can it be measured from claims data. As a result of these efforts, the information collected through the survey will not duplicate any other effort and is not obtainable from any other source.

Likely Respondents: The target population for the survey is Medicare beneficiaries participating in the Support and Services at Home (SASH) demonstration. SASH provides integrated, home-based services to beneficiaries in selected housing properties throughout Vermont. At this point, 1,685 intervention beneficiaries have been identified in 37 SASH sites.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
SASH Participant Survey	669	1	20/60	223
Total	669	1	20/60	223

Darius Taylor,

Deputy, Information Collection Clearance Officer.

[FR Doc. 2014–04755 Filed 3–3–14; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0222]

Agency Information Collection Activities: Proposed Collection; Comment Request; User Fee Waivers, Reductions, and Refunds for Drug and Biological Products

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 recommendations to applicants considering whether to request a waiver or reduction in user fees.

DATES: Submit either electronic or written comments on the collection of information by May 5, 2014.

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: FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *PRAStaff@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

User Fee Waivers, Reductions, and Refunds for Drug and Biological Products (OMB Control Number 0910–0693)—Extension

The guidance provides recommendations for applicants planning to request waivers or

reductions in user fees assessed under sections 735 and 736 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379g and 21 U.S.C. 379h) (the FD&C Act). The guidance describes the types of waivers and reductions permitted under the user fee provisions of the FD&C Act, and the procedures for submitting requests for waivers or reductions. It also includes recommendations for submitting information for requests for reconsideration of denials of waiver or reduction requests, and for requests for appeals. The guidance also provides clarification on related issues such as user fee exemptions for orphan drugs.

We estimate that the total annual number of waiver requests submitted for all of these categories will be 120, submitted by 100 different sponsors. We estimate that the average burden hours for preparation of a submission will total 16 hours. Because FDA may request additional information from the applicant during the review period, we have also included in this estimate time to prepare any additional information.

The reconsideration and appeal requests are not addressed in the FD&C Act but are discussed in the guidance. We estimate that we will receive 3 requests for reconsideration annually, and that the total average burden hours for a reconsideration request will be 24 hours. We estimate that we will receive 1 request annually for an appeal of a user fee waiver determination, and that the time needed to prepare an appeal would be approximately 12 hours. We have included in this estimate both the time needed to prepare the request for appeal and the time needed to create and send a copy of the request for an appeal to the Associate Director for Policy at the Center for Drug Evaluation and Research.

The burden for filling out and submitting Form FDA 3397 (Prescription Drug User Fee Coversheet) has not been included in the burden analysis, because that information collection is already approved under OMB control number 0910–0297. The collections of information associated with a new drug application or biologics license application have been approved under OMB control numbers 0910–0001 and 0910–0338, respectively.

We have included in the burden estimate the preparation and submission of application fee waivers for small businesses, because small businesses requesting a waiver must submit documentation to FDA on the number of their employees and must include the information that the application is the first human drug application, within the meaning of the FD&C Act, to be submitted to the Agency for approval. Because the Small Business Administration (SBA) makes the size determinations for FDA, small businesses must also submit information to the SBA. The submission of information to SBA is already approved under OMB control number 3245–0101.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

User fee waivers, reductions, and refunds for drug and biological products	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
FD&C Act sections 735 and 736	100	1.2	120	16	1,920
Reconsideration Requests	3	1	3	24	72
Appeal Requests	1	1	1	12	12
Total					2,004

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: February 26, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–04688 Filed 3–3–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1163]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Institutional Review Boards

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by April 3, 2014.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0130. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Institutional Review Boards—21 CFR 56.115—(OMB Control Number 0910–0130)—Extension

When reviewing clinical research studies regulated by FDA, institutional review boards (IRBs) are required to create and maintain records describing their operations, and make the records available for FDA inspection when requested. These records include: (1) Written procedures describing the structure and membership of the IRB and the methods that the IRB will use in performing its functions; (2) the research protocols, informed consent documents, progress reports, and reports of injuries to subjects submitted by investigators to the IRB; (3) minutes of meetings showing attendance, votes and decisions made by the IRB, the number of votes on each decision for, against, and abstaining, the basis for requiring changes in or disapproving research; (4) records of continuing

review activities; copies of all correspondence between investigators and the IRB; (5) statement of significant new findings provided to subjects of the research; and (6) a list of IRB members by name, showing each member's earned degrees, representative capacity, and experience in sufficient detail to describe each member's contributions to the IRB's deliberations, and any employment relationship between each member and the IRB's institution. This information is used by FDA in conducting audit inspections of IRBs to determine whether IRBs and clinical investigators are providing adequate protections to human subjects participating in clinical research.

The recordkeeping requirement burden is based on the following: The burden for each of the paragraphs under 21 CFR 56.115 has been considered as one estimated burden. FDA estimates that there are approximately 2,500 IRBs. The IRBs meet on an average of 14.6 times annually. The Agency estimates that approximately 100 hours of person-time per meeting are required to meet the requirements of the regulation.

In the **Federal Register** of October 1, 2013 (78 FR 60286), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
56.115	2,500	14.6	36,500	100	3,650,000

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: February 27, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–04707 Filed 3–3–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Assessment of DAIDS Training Resources

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute of Allergy and Infectious Diseases (NIAID), National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance 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.

To Submit Comments and for Further Information: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Jacquelyn Burns, Office for Policy in Clinical Research Operations, DAIDS, NIAID, 6700B Rockledge Drive, Room 4118, Bethesda, MD 20852, or call non-toll-free number 301–402–0143, or Email your request, including your address to: *Jburns@niaid.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: Assessment of DAIDS Training Resources, 0925-New, National Institute of Allergy and Infectious Diseases (NIAID), National Institutes of Health (NIH).

Need and Use of Information Collection: This is a new data collection in order to assess the efficacy of training resources and their impact on NIAID-supported and/or sponsored research operations. The generic OMB clearance will allow collecting information about the knowledge, attitudes, and behaviors from target audiences (e.g., research staff) to help improve and inform these training resources. Information collected will be used to determine the future direction for training resources, including which resources should be continued, enhanced, added, or discontinued in order to utilize resources efficiently.

Findings will provide data to inform and guide the optimal development, dissemination, and revisions to improve NIAID trainings and resources. Various types of data will be collected, including post-assessment tests, questionnaires, interviews, and focus groups. Post-assessment tests will be administered at the time of the trainings to assess trainees' immediate knowledge gained, as well as reactions and satisfaction to the content. Select trainees will be queried at later time points (e.g., three-months, six-months) after they have participated in a training to understand if they have been able to apply their knowledge at the workplace, and identify facilitators or hindrances to implementing this new knowledge. The assessment team will conduct repeated data collections for these select trainees to determine any changes throughout time. In order to obtain information beyond self-reported data, select managers and supervisors will also be queried to assess if they have observed any changes in their staff after attending trainings, and if the work environment is conducive for trainees to implement knowledge from trainings.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 847.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Data collection	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annualized burden (in hours)
Investigator	Survey	120	5	10/60	100
	Interviews	12	1	1	12
	Focus Groups	4	1	90/60	6
Study Coordinator	Survey	120	5	10/60	100
	Interviews	11	1	1	11
	Focus Groups	4	1	90/60	6
Pharmacy Staff	Survey	140	5	10/60	117
	Interviews	9	1	1	9
	Focus Groups	4	1	90/60	6
Laboratory Staff	Survey	170	5	10/60	142
	Interviews	11	1	1	11
	Focus Groups	4	1	90/60	6
Data Management Staff	Survey	30	3	10/60	15
	Interviews	9	1	1	9
	Focus Groups	4	1	90/60	6
Quality Assurance/Quality Control Personnel	Survey	75	5	10/60	63
	Interviews	11	1	1	11
	Focus Groups	4	1	90/60	6
Regulatory Coordinator	Survey	75	5	10/60	63
	Interviews	11	1	1	11
	Focus Groups	4	1	90/60	6
Community Member	Survey	23	3	10/60	12
	Interviews	6	1	1	6
	Focus Groups	4	1	90/60	6
Counselor	Survey	30	3	10/60	15
	Interviews	6	1	1	6
	Focus Groups	4	1	90/60	6
IRB Member	Survey	23	3	10/60	12
	Interviews	6	1	1	6
	Focus Groups	4	1	90/60	6
Clinical Researcher	Survey	45	5	10/60	38
	Interviews	12	1	1	12
	Focus Groups	4	1	90/60	6

Dated: February 20, 2014.

Brandie Taylor,

Project Clearance Liaison, NIAID, NIH.

[FR Doc. 2014–04728 Filed 3–3–14; 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; TME Study Section—Special Review.

Date: March 14, 2014.

Time: 11:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Angela Y, Ng, MBA, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6200, MSC 7804, Bethesda, MD 20892, 301–435–1715, *nga@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Healthcare Delivery and Methodologies.

Date: March 18, 2014.

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.

Contact Person: Ping Wu, Ph.D., Scientific Review Officer, HDM IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, Bethesda, MD 20892, 301–615–7401, *wup4@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Non-HIV Diagnostics, Food Safety, Sterilization/Disinfection and Bioremediation.

Date: March 27–28, 2014.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Gagan Pandya, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, RM 3200, MSC 7808, Bethesda, MD 20892, 301–435–1167, *pandyaga@mai.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Non-HIV Anti-Infective Therapeutics.

Date: March 27–28, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sir Francis Drake Hotel, 450 Powell Street at Sutter, San Francisco, CA 94102.

Contact Person: Kenneth M Izumi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge, Room 3204, MSC 7808, Bethesda, MD 20892, 301–496–6980, *izumikm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR11–222, PAR11–223, PAR11–224: Studies in Neonatal Resuscitation.

Date: March 27, 2014.

Time: 9:00 a.m. to 1:00 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: Reed A Graves, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, MSC 7892, Bethesda, MD 20892, (301) 402–6297, *gravesr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Enhancing Developmental Biology AREA Review.

Date: March 27–28, 2014.

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: Janet M Larkin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1102, MSC 7840, Bethesda, MD 20892, 301–806–2765, *larkinja@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Area Review: Cardiovascular and Respiratory Sciences.

Date: March 27–28, 2014.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Sara Ahlgren, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 4136, Bethesda, MD 20892, 301–435–0904, *sara.ahlgren@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Endocrinology, Metabolism and Reproduction.

Date: March 27, 2014.

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: 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; Program Project: Basic Research in Cellular Motility.

Date: March 27–28, 2014.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Kenneth Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3218, MSC 7717, Bethesda, MD 20892, 301–435–0229, *kenneth.ryan@nih.hhs.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Awards for Research on Imaging and Biomarkers for Early Cancer Detection (R01).

Date: March 27, 2014.

Time: 11:45 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: Mehrdad Mohseni, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5211, MSC 7854, Bethesda, MD 20892, 301–435–0484, *mohsenim@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Genomic Structure and Analysis.

Date: March 27, 2014.

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: Ronald Adkins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2206, MSC 7890, Bethesda, MD 20892, 301–435–4511, *ronald.adkins@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 13–208: CounterACT-Countermeasures Against Chemical Threats.

Date: March 28, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Monaco, 2 North Charles Street, Baltimore, MD 21201.

Contact Person: Geoffrey G Schofield, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040–A, MSC 7850, Bethesda, MD 20892, 301–435–1235, *geoffreys@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: February 26, 2014.

David Clary,

Program Analyst Office of Federal Advisory Committee Policy.

[FR Doc. 2014–04662 Filed 3–3–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Cancellation of Meeting

Notice is hereby given of the cancellation of the Center for Scientific Review Special Emphasis Panel, March 19, 2014, 11:00 a.m. to March 19, 2014, 4:00 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, which was published in the **Federal Register** on February 25, 2014, 79 FR 10543.

The meeting is cancelled due to the reassignment of applications.

Dated: February 26, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–04661 Filed 3–3–14; 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; NIAID Peer Review Meeting.

Date: March 24, 2014.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Room 3201B, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Travis J Taylor, Ph.D., Scientific Review Program, DEA/NIAID/NIH/DHHS, 6700–B Rockledge Dr. MSC–7616, Bethesda, MD 20892–7616, 301–496–2550, *Travis.Taylor@nih.gov*.

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group; Acquired Immunodeficiency Syndrome Research Review Committee.

Date: March 27–28, 2014.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street NW., Washington, DC 20037.

Contact Person: Vasundhara Varthakavi, Ph.D., Scientific Review Officer, Scientific Review Program, NIH/NIAID/DEA/ARRB, 6700 B Rockledge Drive, Room 3256, Bethesda, MD 20892, 301–451–1740, *varthakaviv@niaid.nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 26, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–04663 Filed 3–3–14; 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: Participant Feedback on Training Under the Cooperative Agreement for Mental Health Care Provider Education in HIV/AIDS Program (OMB No. 0930–0195)—Revision

The Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Mental Health Services (CMHS) intends to continue to conduct a multi-site assessment for the Mental Health Care Provider Education in HIV/AIDS Program. The education programs funded under this cooperative agreement are designed to disseminate knowledge of the psychological and neuropsychiatric sequelae of HIV/AIDS to both traditional (e.g., psychiatrists, psychologists, nurses, primary care physicians, medical students, and social workers) and non-traditional (e.g., clergy, and alternative health care workers) first-line providers of mental health services, in particular to providers in minority communities.

The multi-site assessment is designed to assess the effectiveness of particular training curricula, document the integrity of training delivery formats, and assess the effectiveness of the various training delivery formats. Analyses will assist CMHS in documenting the numbers and types of traditional and non-traditional mental health providers accessing training; the content, nature and types of training participants receive; and the extent to which trainees experience knowledge, skill and attitude gains/changes as a result of training attendance. The multi-site data collection design uses a two-tiered data collection and analytic strategy to collect information on (1) the organization and delivery of training, and (2) the impact of training on participants' knowledge, skills and abilities.

Minor changes to the feedback form instruments are requested based on based on a review and assessment of participant feedback form data collected over the past two years of the contract. CMHS identified some outdated and rarely-used response options for all participant response forms and the session reporting form and removed these items from the individual data collection tools. Table 1 shows the response options removed from the previous iterations of the MHCPE participant feedback forms and session reporting form.

TABLE 1—CHANGES TO PARTICIPANT FEEDBACK FORMS

Type of feedback form	Question no.	Change(s)	Reason for change
All Participant Feedback Forms (*General Education, Neuropsychiatric, Adherence, Ethics).*	Q7	▪ Removal of response option "other"	Rarely/never used response option(s).
	Q8, Q9A	▪ Removal of response option "Dentist/Dental Assistant"	Rarely/never used response option(s).
Session Reporting Form	Q6	▪ Removal of the following response options: —State/Local Department of Public Welfare —HMO/Managed Care Organization. —Migrant Health Center —Other MHCPE Program —State/Local Department of Corrections	Rarely/never used response option(s).
	Q11	▪ Removal of response option "Audio tapes"	Outdated response option.

Information about the organization and delivery of training will be collected from trainers and staff who are funded by these cooperative agreements/contracts, hence there is no respondent burden. All training participants will be asked to complete a brief feedback form at the end of the training session. CMHS anticipates funding up to 10 education sites for the Mental Health Care Provider Education in HIV/AIDS Program. The annual burden estimates for this activity are shown below in Table 2.

TABLE 2—ANNUAL BURDEN ESTIMATE

[Annualized burden estimates and costs—Mental Health Care Provider Education in HIV/AIDS Program (10 sites)]

Form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden
All Sessions One form per session completed by program staff/trainer					
Session Report Form	600	1	600	0.08	48
Participant Feedback Form (General Education)	5,000	1	5,000	0.167	835
Neuropsychiatric Participant Feedback Form	4,000	1	4,000	0.167	668
Adherence Participant Feedback Form	1,000	1	1,000	0.167	167
Ethics Participant Feedback Form	2,000	1	2,000	0.167	125
Total	12,600		12,600		1,843

Written comments and recommendations concerning the proposed information collection should be sent by April 3, 2014 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. 2014–04745 Filed 3–3–14; 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: 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: SAMHSA Recovery Measurement Pilot Study—NEW

The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Behavioral Health Statistics and Quality (CBHSQ) is proposing a pilot test of its Recovery Measure. As part of its strategic initiative to support recovery from mental health and substance use disorders, SAMHSA has been working to develop a standard measure of recovery that can be used as part of its grantee performance reporting activities.

This project will assess the usability and psychometric properties of the proposed tool among a voluntary group of 2–3 SAMHSA grantees. SAMHSA has developed a short 20-item instrument that has been designed to capture all four of SAMHSA's proposed dimensions of recovery—health, home, purpose, and community. This measure is comprised of questions from the World Health Organization's Quality of Life tool (WHO QOL 8) and SAMHSA's existing set of Government Performance and Results Act (GPRA) measures. Data will be collected at two time points—at client intake and at six-months post-intake. These are two points in time during which SAMHSA grantees routinely collect data on the individuals participating in their programs.

Approval of these items by the Office of Management and Budget (OMB) will allow SAMHSA to further refine the Recovery Measure developed for this project. It will also help determine whether the Recovery Measure is added to SAMHSA's set of required performance measurement tools designed to aid in tracking recovery among clients receiving services from the Agency's funded programs.

Based on current funding and planned fiscal year 2014 notice of funding announcements the following SAMHSA grantee programs will be selected to participate in this pilot study: Behavioral Health Treatment Court Collaborative (BHTCC); Cooperative Agreements to Benefit Homeless Individuals (CABHI); and the Primary and Behavioral Health Care Integration (PBHCI). Data collected will be used by individuals at three different levels: The SAMHSA administrator and staff, the Center administrators and government project officers, and grantees.

The total estimated respondent burden is 60 hours for the period from September 2014 through March 2015. Table 1 below indicates the annualized respondent burden estimate.

TABLE 1—ANNUALIZED RESPONDENT BURDEN HOURS, 2014–2015

[Estimated annual response burden]

Type of grantees	Number of respondents	Responses per respondent	Average hours per response	Total burden hours
Intake:				
Behavioral Health Treatment Court Collaborative (BHTCC)	100	1	0.10	10
Cooperative Agreements to Benefit Homeless Individuals (CABHI)	50	1	0.10	5

TABLE 1—ANNUALIZED RESPONDENT BURDEN HOURS, 2014–2015—Continued

[Estimated annual response burden]

Type of grantees	Number of respondents	Responses per respondent	Average hours per response	Total burden hours
Primary and Behavioral Health Care Integration (PBHCI)	150	1	0.10	15
6-Month Follow-up:				
Behavioral Health Treatment Court Collaborative (BHTCC)	100	1	0.10	10
Cooperative Agreements to Benefit Homeless Individuals (CABHI)	50	1	0.10	5
Primary and Behavioral Health Care Integration (PBHCI)	150	1	0.10	15
Total	300			60

Written comments and recommendations concerning the proposed information collection should be sent by April 3, 2014 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. 2014–04741 Filed 3–3–14; 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: 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: 2014–2017 National Survey on Drug Use and Health: Methodological Field Tests (OMB No. 0930–0110)—Extension

The National Survey on Drug Use and Health (NSDUH) is a survey of the U.S. civilian, non-institutionalized population aged 12 years old or older. The data are used to determine the prevalence of use of tobacco products, alcohol, illicit substances, and illicit use of prescription drugs. The results are used by SAMHSA, the Office of National Drug Control Policy (ONDCP), Federal government agencies, and other organizations and researchers to establish policy, direct program activities, and better allocate resources.

Methodological tests will continue to be designed to examine the feasibility, quality, and efficiency of new procedures or revisions to existing survey protocol. Specifically, the tests will measure the reliability and validity of certain questionnaire sections and items through multiple measurements on a set of respondents; assess new methods for gaining cooperation and participation of respondents with the goal of increasing response and decreasing potential bias in the survey estimates; and assess the impact of new sampling techniques and technologies on respondent behavior and reporting. Research will involve focus groups, cognitive laboratory testing, customer satisfaction surveys, and field tests.

These methodological tests will continue to examine ways to increase data quality, lower operating costs, and gain a better understanding of sources and effects of nonsampling error on the NSDUH estimates. Particular attention will be given to minimizing the impact of design changes so that survey data continue to remain comparable over time. If these tests provide successful results, current procedures or data collection instruments may be revised.

The number of respondents to be included in each field test will vary, depending on the nature of the subject being tested and the target population. However, the total estimated response burden is 8,225 hours. The exact number of subjects and burden hours for each test are unknown at this time, but will be clearly outlined in each individual submission. These estimated burden hours are distributed over three years as follows:

TABLE 1—ESTIMATED BURDEN FOR NSDUH METHODOLOGICAL FIELD TESTS

Time period	Respondent burden hours
May 2014 to May 2015	2,742
May 2015 to May 2016	2,742
May 2016 to May 2017	2,741
Total	8,225

Written comments and recommendations concerning the proposed information collection should be sent by April 3, 2014 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. 2014–04744 Filed 3–3–14; 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: 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: An Exploration of Peer Recovery Support Services Across State Behavioral Health Systems—NEW

The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Behavioral Health Statistics and Quality (CBHSQ) is proposing a pilot study to obtain an overview of peer recovery services across state behavioral health systems. In an effort to support behavioral health systems' adoption and management of recovery oriented services, SAMHSA created the Bringing Recovery Supports to Scale Technical Assistance Center Strategy (BRSS TACS). BRSS TACS is a mechanism for implementing SAMHSA's Recovery Support Strategic Initiative. A goal of this initiative is to understand the finance and quality assurance issues that impact the development of peer recovery personnel in the workforce and the services they deliver. A grasp of these complex issues can enable BRSS TACS to advance its work of supporting states by creating policy guidance on best practices for effectively deploying peer recovery support services in integrated healthcare delivery systems as mandated by the Affordable Care Act.

The proposed pilot study will utilize a semi-structured interview questionnaire with state and organizational representatives from mental health and substance abuse agencies. Questions of interest include (1) an examination of how reimbursement of peer support services is linked to peer roles, delivery settings, and funding streams; (2) quality assurance issues such as credentialing and supervision of peer support personnel; (3) procedures for monitoring, evaluating, and sustaining peer support services; and (4) challenges of delivering peer recovery services in the era of Affordable Care Act.

The representatives (n=40) from state and organizational agencies of mental health and substance abuse will represent a state from the 10 public health regions. States are identified by SAMHSA subject matter experts and stakeholders who are familiar with the structure and function of peer recovery support services. The sampling recommended by SAMHSA experts and stakeholders is a selection of states that have a strong history of providing peer led services and have an active peer-based organization.

The total estimated respondent burden is 20 hours for the period from April 2014 through September 2014. Table 1 below indicates the annualized respondent burden estimate.

TABLE 1—ANNUALIZED RESPONDENT BURDEN HOURS, 2014

Form name	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden
Structured Interview Questionnaire	40	1	40	.50	20

Written comments and recommendations concerning the proposed information collection should be sent by April 3, 2014 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. 2014–04743 Filed 3–3–14; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

[DHS–2013–0037]

Committee Name: Homeland Security Information Network Advisory Committee (HSINAC)

AGENCY: Office of Operations Coordination and Planning/Office of Chief Information Officer (OPS/OCIO), HSD.

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The Homeland Security Information Network Advisory Committee (HSINAC) calls a full body, in-person meeting of its membership to receive all relevant information and facilitate development of recommendations to the HSIN Program Management Office (PMO) on three major issue areas including: (1) Progress in optimizing the HSIN R3 platform and potentially necessary reforms to the design of HSIN Central and prioritization of future HSIN development requirements to ensure optimal performance; (2) defining the strategic positioning of the HSIN R3 platform and resulting messaging and communications planning; and (3) at the direction and guidance of the HSIN PMO, developing recommendations for membership, agendas and operations plans for a series of newly established sub-committees.

DATES: The HSINAC will meet April 10–11, 2014 from 9–5 p.m. EST in Washington, DC.

ADDRESSES: The meeting will be held in Washington, DC at 131 M St. NE., 6th Floor Conference Room and virtually through HSIN Connect, an online Web-conferencing tool and via teleconference at 1–866–709–3157. The meeting will be open to the public. The meeting may conclude early on Friday, April 11, 2014 if the committee concludes its business. A conference call and HSIN Connect, an online Web-conferencing tool, session will be made available to all audiences including members of the general public. To access the meeting virtually visit *https://share.dhs.gov/hsinac*, and dial-in via teleconference at 1–866–709–3157 Conference Pin: 5713574. To enter the meeting virtually and follow the brief online, from *https://share.dhs.gov/*

hsinac, click on ''enter as a guest,'' type in your name as a guest and click ''submit.'' The teleconference lines will be open for the public and the meeting brief will be posted beforehand on the **Federal Register** site *https://www.federalregister.gov/*. If the federal government is closed, the meeting will be rescheduled.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Michael Brody, *michael.brody@hq.dhs.gov*, 202–343–4211, as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee. Comments must be submitted in writing no later than April 1, 2014, and must be identified by the docket number—DHS–2013–0037—and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Email:* Michael Brody, *michael.brody@hq.dhs.gov*. Please also include the docket number in the subject line of the message.
- *Fax:* 202–343–4294
- *Mail:* Michael Brody, Department of Homeland Security, OPS CIO–D Stop 0426, 245 Murray Lane SW., BLDG 410, Washington, DC 20528–0426.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number (DHS–2013–0037) for this action. Comments received will be posted without alteration at *http://www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the HSINAC go to *http://www.regulations.gov* and type the docket number of DHS–2013–0037 into the ''search'' field at the top right of the Web site.

A public comment period will be held during the meeting on Friday, April 11, 2014, from 3 p.m. to 3:15 p.m., and speakers are requested to limit their comments to 3 minutes. Please note that the public comment period may begin or end before the time indicated, following the last call for comments. Contact one of the individuals listed below to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Designated Federal Officer, Michael Brody, *michael.brody@hq.dhs.gov*, Phone: 202–343–4211, Fax: 202–343–4294.

SUPPLEMENTARY INFORMATION: The Homeland Security Information Network Advisory Committee (HSINAC) is an advisory body to the Homeland Security Information Network (HSIN) Program Management Office. This committee provides advice and recommendations to the U.S. Department of Homeland Security (DHS) on matters relating to HSIN. These matters include system requirements, operating policies, community organization, knowledge management, interoperability and federation with other systems, and any other aspect of HSIN that supports the operations of DHS and its federal, state, territorial, local, tribal, international, and private sector mission partners. Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. Appendix. The HSINAC provides advice and recommendations to DHS on matters relating to HSIN.

Agenda

The Agenda will have two major components. The first, Program Updates, will provide the HSINAC with information necessary to discuss and develop recommendations on the specified issue areas. The second, Recommendations Development, will involve deliberations by the HSINAC on three major issues areas, including: (1) HSIN R3 platform optimization; (2) HSIN R3 Strategic Positioning and Messaging Strategy; and (3) Membership, Agendas and Operations Planning for a New Sub-Committees.

1. HSIN Program Update

a. HSINAC Members receive HSIN Program Management Office (PMO) updates on the following key issues, and offer critical feedback, guidance and initial formulation of recommendations for future program enhancements:

i. The State of HSIN—Members are provided a strategic update on HSIN's progress, challenges and future plans by the HSIN Program Manager, and use this strategic outlook to guide the balance of the updates they will receive.

ii. Optimization of the HSIN platform—Members gain an understanding of what the PMO is doing to ensure peak efficiency for HSIN and offer guidance on measures the PMO must take to finalize this task;

iii. Development Priorities for FY14 Q3 and Q4—Members are provided detailed information on the PMO's development priorities for the balance of FY14 and will validate these plans;

iv. Portal Consolidation Accomplishments and Priorities, and LMS Service Offerings—Members are presented the latest on consolidation efforts with FLETC, elements of NPPD, and the United States Coast Guard, along with new Learning Management System updates, and then consider the program's future portal consolidation priorities;

v. Messaging Strategy—Members are given an overview of a new effort to define and deliver HSIN's messaging strategy with respect to a series of its service offerings and then partake in a short focus group session answering essential questions on HSIN's position in the information sharing market.

2. Recommendations Development

a. HSIN R3 Platform Optimization—The HSINAC will determine the substance of any and all recommendations necessary to ensure the HSIN R3 platform meets its performance requirements for users and the priority of future HSIN development planning;

b. HSIN R3 Strategic Positioning and Messaging Strategy—The HSINAC will develop recommendations to the HSIN PMO on how to properly position itself in the homeland security information sharing market and effectively communicate such positioning to HSIN users and stakeholders; and

c. Membership, Agendas and Operations Planning—the HSINAC will develop recommendations to the PMO on the membership, agendas and operations of a series of new sub-committees developed by the PMO in coordination with the HSINAC Chair.

- Public comment period
- Closing remarks
- Adjournment of the meeting

James Lanoue,

HSIN Acting Program Manager.

[FR Doc. 2014–04722 Filed 3–3–14; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5756–N–08]

60-Day Notice of Proposed Information Collection: Policies and Procedures for the Conversion of Efficiencies Units to One Bedroom Units

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice

is to allow for 60 days of public comment.

DATES: *Comments Due Date:* May 5, 2014.

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: Harry Messner, Housing Project Manager, OAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Harry Messner at *harry.messner@hud.gov* or telephone 202–402–2626. 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 Mr. Messner.

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

Policies and Procedures for the Conversion of Efficiencies Units to One Bedroom Units:

OMB Approval Number: 2502–0592.

Type of Request: Extension of currently approved collection.

Form Number: None.

Description of the need for the information and proposed use: The information is to be used by HUD staff in evaluating and processing applications requesting approval of multifamily project efficiency unit conversions into one-bedroom units.

Respondents (i.e. affected public): This is a voluntary program, for which owners under the following programs may participate:

Section 202 Direct Loan with or without Rental Assistance
Section 202 Capital Advance with Project Rental Assistance Contracts or Project Assistance Contracts (PRAC and PAC)
Section 811 Capital Advance with Project Rental Assistance Contracts (PRAC)
Section 236 insured and non-insured with or without Rental Assistance Section 221(d)(3) Below Market Interest Rate (BMIR) with or without Rental Assistance
Section 8 Project-Based Rental Assistance with or without FHA insurance Rental Assistance Payment (RAP) Rent Supplement Assistance Contract Properties subject to a HUD Use Agreement or Deed Restriction

Estimated Number of Respondents: 10.

Estimated Number of Responses: 10.

Frequency of Response: 1.

Average Hours per Response: 8.

Total Estimated Burdens: 80.

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: February 27, 2014.

Laura M. Marin,

Associate General Deputy Assistant Secretary for Housing—Associate Deputy Federal Housing Commissioner.

[FR Doc. 2014–04769 Filed 3–3–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2014–N028; FXES11130800000–134–FF08E00000]

Endangered and Threatened Species; Permits Issued

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits.

DATES: The permit issuance dates are under **SUPPLEMENTARY INFORMATION**.

SUMMARY: We, the U.S. Fish and Wildlife Service, have issued the following permits to conduct certain activities with endangered species under the authority of the Endangered Species Act, as amended (Act). With some exceptions, the Act prohibits activities with listed species unless a Federal permit is issued that allows such activity.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Marquez, U.S. Fish and Wildlife Service, Region 8, 2800 Cottage Way, Room W–2606, Sacramento, CA 95825; 760–431–9440 (telephone); or *daniel_marquez@fws.gov (email).*

SUPPLEMENTARY INFORMATION: We have issued the following permits in response to recovery permit applications we received under the authority of section 10 of the Act, as amended (16 U.S.C. 1531 et seq.). We provide this notice under section 10(d) of the Act. Each permit listed below was issued only after we determined that it was applied for in good faith, that granting the permit would not be to the disadvantage of the listed species, and that the terms and conditions of the permit were consistent with purposes and policy set forth in the Act.

Applicant name	Permit No.	Date issued	Expiration date
WALLACE, BENJAMIN SCOTT	99477A	9/27/13	9/26/17
NAVAL FACILITIES ENGINEERING COMMAND, SOUTHWEST	034101	12/20/13	3/14/14
VANDENBERG AIR FORCE BASE	174305	12/20/13	5/24/16
KARPMAN, BRIAN E	01768B	8/23/13	8/22/16
STOUT, JULIE ANN	157199	8/30/13	8/29/16
CALIFORNIA STATE PARKS	31406A	11/1/13	10/31/16
WILDWING	823990	11/1/13	10/31/16

Applicant name	Permit No.	Date issued	Expiration date
CALIFORNIA DEPARTMENT OF PARKS AND RECREATION	814222	11/8/13	11/7/16
TENNANT, STACIE A.	834489	12/20/13	12/19/16
NORTH STATE RESOURCES, INC.	798003	7/12/13	7/11/17
RAMIREZ, RUBEN S.	780566	8/30/13	8/29/17
THOMPSON, CAROL A.	207873	8/30/13	8/29/17
KONECNY, JOHN K.	837308	11/15/13	11/14/17
MYERS, STEPHEN J.	804203	11/22/13	11/21/17
ALLEN, LISA D.	050450	11/29/13	11/28/17
GOLD, JENNIFER D	05661B	12/13/13	12/12/17
CLARK, KEVIN B.	117947	12/20/13	12/19/17
HILL, ALICIA TERESA ORNELAS	06145B	12/20/13	12/19/17
CALIFORNIA LIVING MUSEUM	13703B	1/29/14	1/28/18
RILEY, KATHRYN L.	97709A	8/30/13	8/29/16
SAN FRANCISCO ESTUARY INSTITUTE	043630	11/8/13	11/7/16
OLOFSON ENVIRONMENTAL, INC.	118356	11/15/13	11/14/16
ALLING, GARTH P	05613B	12/13/13	12/12/16
SAN BERNARDINO COUNTY, DEPT OF PUBLIC WORKS	083348	11/1/13	10/31/17
KELSO, MEGAN A	06164B	12/20/13	12/19/17
ROMICH, KIMBERLY S	06131B	12/20/13	12/19/17
HORD, PATRICK L	98905A	7/26/13	7/25/16
AGUAYO, JONATHAN	96514A	8/23/13	8/22/16
CADDY, TRACI A	211097	8/23/13	8/22/16
CAMPBELL TIMBERLAND MANAGEMENT, LLC.	022765	9/27/13	9/26/16
LINCER, JEFFREY L.	837301	11/8/13	11/7/16
MOORE, KARLY J	02484A	11/8/13	11/7/16
O'BRIEN, GRETCHEN A.	128389	11/8/13	11/7/16
DR. RICHARD T. GOLIGHTLY	040193	12/19/13	12/19/16
FLISIK, TYLER J	15265B	1/31/14	1/30/17
SCHOENWETTER, TARA	76005A	12/20/13	3/7/17
ZITT, BRIAN ALLEN	27460A	12/20/13	3/9/15
CHANNEL ISLANDS NATIONAL PARK, NATIONAL PARK SERVICE	086267	11/22/13	11/21/15
JOHNSON, PIETER TJ	181714	11/1/13	3/29/16
ECORP CONSULTING, INC.	012973	8/23/13	8/2/16
WILCOX, JEFFERY T.	068745	8/30/13	9/20/16
HOLMES, MASON D.N.	96471A	7/12/13	7/11/17
MULDER, JOEL J.	93072A	7/12/13	7/11/17
SHAW, DANIEL W.H.	190303	7/12/13	7/11/17
SIERRA VIEW LANDSCAPE, INC.	195306	7/12/13	7/11/17
TISCHER, CHRISTINE	053379	7/12/13	7/11/17
WINKLEMAN, RYAN S	88331A	7/12/13	7/11/17
ROBERTSON, THEODORE D	94977A	7/26/13	7/25/17
SIEMENS, MITCH C.	190302	7/26/13	7/25/17
CURIODYSSEY CORPORATION	185611	8/30/13	8/19/17
AGUILAR, ANDRES	195305	8/23/13	8/22/17
CALIFORNIA NATIVE PLANT SOCIETY	021929	8/23/13	8/22/17
JOSHI, VIPUL RAMESH	019949	8/23/13	8/22/17
JUHASZ, THOMAS	208907	8/23/13	8/22/17
SWEET, SAMUEL SPENDER	025732	8/23/13	8/22/17
TOWNSEND, SUSAN E	94965A	8/23/13	8/22/17
SIMOVICH, MARIE A.	787037	8/26/13	8/25/17
SCATOLINI, SUSAN R.	074955	8/30/13	8/29/17
BLAND, DANA C	798017	9/27/13	9/26/17
MILLER, GREGG BRIAN	834488	9/27/13	9/26/17
KEMPTON, ELIZABETH A	96483A	10/4/13	10/3/17
FOSTER, SARAH M.	200339	11/1/13	10/31/17
HATCH, ANDREW R.	200340	11/1/13	10/31/17
LABONTE, JOHN PAUL	203081	11/1/13	10/31/17
MUTH, DAVID P.	839213	11/1/13	10/31/17
CAMERON, SCOTT D.	808242	11/8/13	11/7/17
DAVIS, CHERYL LYNNE	02785B	11/29/13	11/28/17
DEWAR, SUSAN BETH	02737B	11/29/13	11/28/17
KISNER, JOHANNA M.	204436	11/29/13	11/28/17
RICHARDS, PHILLIP CHARLES	095896	11/29/13	11/28/17
SCHELL, ROBERT ANTHONY	212445	11/29/13	11/28/17
GOBLE, MOLLY E.	091012	12/13/13	12/12/17
HERON PACIFIC, LLC	11271B	12/13/13	12/12/17
BAYNE, KELLY E	185595	12/20/13	12/18/17
GLASS, KENNETH A	211099	12/20/13	12/19/17
SWAIM, KAREN E.	815537	1/16/14	1/15/18
BETTELHEIM, MATTHEW P.	094845	1/31/14	1/30/18
PRATT, GORDON F	004939	11/22/13	1/2/15
STECKLER, SONYA E.	61783A	7/12/13	5/24/15
BEAN, WILLIAM T	37418A	11/15/13	6/20/15

Applicant name	Permit No.	Date issued	Expiration date
LEMM, JEFFREY M	38475A	11/22/13	7/26/15
PERNICANO, MARTINA	72047A	1/24/14	10/4/15
UNIVERSITY OF ARIZONA	086593	12/13/13	1/24/17
COLE, ESTHER M.	93066A	7/12/13	7/11/17
MARSCHALEK, DANIEL A	040553	7/12/13	7/11/17
FLIETNER, DAVID W	008031	7/26/13	7/25/17
MENDOZA, ANGELICA	221295	8/23/13	8/22/17
ARSENIJEVIC, JELICA	197602	11/1/13	10/31/17
SWCA ENVIRONMENTAL CONSULTANTS	824123	11/1/13	10/31/17
MORRO COAST AUDUBON SOCIETY	213314	11/29/13	11/28/17
POWERS, MICHAEL S	036120	11/29/13	11/28/17
SARAFIAN, PETER G.	101462	11/29/13	11/28/17
CAIN, IAN C	06197B	12/20/13	12/19/17
RENFRO, ERIC STEVEN	142436	12/20/13	12/19/17
SCHAFHAUSER, ELLEN K	084254	12/20/13	12/19/17
DRAKE, MICHAEL B	006328	1/24/14	1/23/18
NATURAL RESOURCES ASSESSMENT, INC.	831207	1/24/14	1/23/18
MESSIN, JOSEPH E.	022649	1/31/14	1/30/18
SAN FRANCISCO BAY NATIONAL WILDLIFE REFUGE COMPLEX	053372	11/22/13	12/31/14
CARLSBAD FISH AND WILDLIFE OFFICE	034097	8/7/13	12/31/14
ZOOLOGICAL SOCIETY OF SAN DIEGO	08592A	11/1/13	7/20/14
US GEOLOGICAL SURVEY	030659	9/27/13	10/6/15
STAUFFER, JESSICA R.	94979A	7/25/13	7/25/16
FRANKLIN, ALAN B	99374A	7/26/13	7/25/16
RIPMA, LEE	221290	10/4/13	4/11/17
SCHAAP, MATTHEW ALAN	203074	7/26/13	7/25/17
SUMMIT LAKE PAIUTE TRIBE	17827A	7/26/13	7/25/17
BRINKERHOFF, AARON	96526A	8/23/13	8/22/17
NAGY, KENNETH A.	085050	11/1/13	10/31/17
STITT, ERIC W.	022225	11/1/13	10/31/17
ACHTER, LISA R	05665B	12/13/13	12/12/17
DELANEY, KATHLEEN SEMPLE	02869B	12/13/13	12/12/17
OLSON, THOMAS E.	039460	12/13/13	12/12/17
KOENIG, LESLIE L	210233	12/20/13	12/19/17
FREMONT—WINEMA NATIONAL FOREST, U.S. FOREST SERVICE	001618	12/20/13	12/19/17
HINDERLE, DANNA	218901	1/29/14	1/28/18

Availability of Documents

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to Daniel Marquez (see **FOR FURTHER INFORMATION CONTACT**).

Authority: The authority for this notice is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Michael Long,

Acting Regional Director, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2014–04696 Filed 3–3–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–ES–2014–N005; FXES11130600000–145–FF06E00000]

Endangered and Threatened Wildlife and Plants; Final Revised Recovery Plan for the Pallid Sturgeon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability of a final revised recovery plan for the pallid sturgeon. This fish species is federally listed as endangered under the Endangered Species Act of 1973, as amended (Act).

ADDRESSES: Electronic copies of the recovery plan are available online at *http://www.fws.gov/endangered/species/recovery-plans.html*. Paper copies of the final revised recovery plan are available by request from the Northern Rockies Fish and Wildlife Conservation Office, U.S. Fish and Wildlife Service, 2900 4th Avenue North, Room 301, Billings, MT 59101; telephone 406–247–7365.

FOR FURTHER INFORMATION CONTACT: Project Leader, at the above address, or telephone 406–247–7365.

SUPPLEMENTARY INFORMATION: The Service announces the availability of a revised recovery plan for the pallid sturgeon (*Scaphirhynchus albus*).

Background

Recovering an endangered or threatened animal or plant to the point where it is again a secure, sustainable member of its ecosystem is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service prepares recovery plans for the federally listed species native to the United States where a plan will promote the conservation of the species. Recovery plans describe site-specific actions necessary for the conservation of the species; establish objective, measurable criteria which, when met, would result in a determination that the species no longer needs the protection of the Act (16 U.S.C. 1531 *et seq.*); and provide estimates of the time and cost for

implementing the needed recovery measures.

The pallid sturgeon (*Scaphirhynchus albus*), found in the Missouri and Mississippi River basins of the United States, was listed as an endangered species on September 6, 1990 (55 FR 36641). The original pallid sturgeon recovery plan was approved in 1993. The revised recovery plan documents the current understanding of the species life history requirements, identifies threats to the species, includes revised recovery criteria, and describes those actions believed necessary to eventually delist the species.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: January 29, 2014.

Matt Hogan,

Regional Director, Mountain-Prairie Region, Denver, CO.

[FR Doc. 2014–04698 Filed 3–3–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2014–N039; FXIA16710900000–145–FF09A30000]

Endangered Species; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before April 3, 2014.

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. 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.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken.

III. Permit Applications

A. Endangered Species

Applicant: San Francisco Zoological Society, San Francisco, CA; PRT–675220

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families and species, to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Family:
Canidae
Cercopithecidae
Felidae
Hylobatidae
Lemuridae
Rhinocerotidae
Tapiridae

Applicant: Triple D Game Farm, Kalispell, MT; PRT–812816

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the snow leopard (*Panthera uncia*), and Amur leopard (*Panthera pardus orientalis*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Sacramento Zoo, Sacramento, CA; PRT–677611

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families, genera and species, to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Family:
Anatidae
Bovidae
Cercopithecidae
Cervidae
Equidae
Felidae (does not include jaguar,

margay or ocelot)
Hominidae
Hylobatidae
Lemuridae
Bucerotidae
Cracidae
Psittacidae (does not include thick-billed parrot)
Sturnidae (does not include *Aplonis pelzelni*)
Boidae (does not include Puerto Rico or Mona boa)
Testudinidae
Genus:
Tragopan
Species:
Asian Elephant (*Elephas maximus*)

Applicant: Fort Worth Zoo, Fort Worth, TX; PRT–677952

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families, and species, to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Family:
Cebidae
Cercopithecidae
Elephantidae
Felidae (does not include jaguar, margay or ocelot)
Hominidae
Hylobatidae
Lemuridae
Macropodidae
Rhinocerotidae
Gruidae
Psittacidae (does not include thick-billed parrots)
Rheidae
Sturnidae (does not include *Aplonis pelzelni*)
Crocodylidae (does not include American crocodile)
Iguanidae
Varanidae
Osteoglossidae
Species:
Koala (*Phascolarctos cinereus*)
Lowland anoa (*Bubalus depressicornis*)

Applicant: Southwick Wild Animal Farm, Inc. dba Southwick's Zoo, Mendon, MA; PRT–26116B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) to include the following species, to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Species:
Galapagos tortoise (*Chelonoidis nigra*)
Radiated tortoise (*Astrochelys radiata*)
Spotted pond turtle (*Geoclemys hamiltonii*)
Blyth's tragopan (*Tragopan blythii*)
Cabot's tragopan (*Tragopan caboti*)
Golden parakeet (*Guarouba guarouba*)
Salmon-crested cockatoo (*Cacatua moluccensis*)
Cuban parrot (*Amazon leucocephala*)
Bali starling (*Leucopsar rothschildi*)
Ring-tailed lemur (*Lemur catta*)
Black and white ruffed lemur (*Varecia variegata*)
Red ruffed lemur (*Varecia rubra*)
Brown lemur (*Eulemur fulvus*)
Cotton-top tamarin (*Saguinus oedipus*)
Diana monkey (*Cercopithecus diana*)
Mandrill (*Mandrillus sphinx*)
Lar gibbon (*Hylobates lar*)
Leopard (*Panthera pardus*)
Cheetah (*Acinonyx jubatus*)
Addax (*Addax nasomaculatus*)
Red lechwe (*Kobus leche*)

Applicant: Martin Dieck, Palo Alto, CA; PRT–25039B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) to include the Galapagos tortoise (*Chelonoidis nigra*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Western Foundation of Vertebrate Zoology, Camarillo, CA; PRT–695190

The applicant requests renewal of their permit to export and re-import non-living museum specimens of endangered and threatened species (excluding bald eagles) previously legally accessioned into the permittee's collection for the purpose of scientific research. This notification covers activities conducted by the applicant for a 5-year period.

Multiple Applicants

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Jackson Cox, Ruston, LA; PRT–26782B

Applicant: Thomas Roles, Prior Lake, MN; PRT–21783B

Applicant: Mike Williams; Boerne, TX; PRT–19248B

Applicant: Steven Faler, Fort Collins, CO; PRT–21483B

Applicant: Doyle Graham, Houston, TX; PRT–28148B

Applicant: Jeffrey Powell, Salt Lake City, UT; PRT–28634B

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2014–04650 Filed 3–3–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2014–N035; FXES11130100000–145–FF01E00000]

Endangered Wildlife and Plants; Interstate Commerce and Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications for interstate commerce permits and recovery permits to conduct activities with the purpose of enhancing the survival of endangered species. The Endangered Species Act of 1973, as amended (Act), prohibits certain activities with endangered species unless a Federal permit allows such activity. The Act also requires that we invite public comment before issuing such permits.

DATES: To ensure consideration, please send your written comments by April 3, 2014.

ADDRESSES: Program Manager for Restoration and Endangered Species Classification, Ecological Services, U.S. Fish and Wildlife Service, Pacific Regional Office, 911 NE. 11th Avenue, Portland, OR 97232–4181. Please refer to the permit number for the application when submitting comments.

FOR FURTHER INFORMATION CONTACT: Colleen Henson, Fish and Wildlife Biologist, at the above address or by telephone (503–231–6131) or fax (503–231–6243).

SUPPLEMENTARY INFORMATION:

Background

The Act (16 U.S.C. 1531 et seq.) prohibits certain activities with respect to endangered and threatened species unless a Federal permit allows such activity. Along with our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR 17, the Act provides for certain permits, and requires that we invite public comment before issuing these permits for endangered species.

A permit granted by us under section 10(a)(1)(A) of the Act authorizes the permittee to conduct activities (including take or interstate commerce) with respect to U.S. endangered or threatened species for scientific purposes or enhancement of propagation or survival. Our regulations implementing section 10(a)(1)(A) of the Act for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Applications Available for Review and Comment

We invite local, State, and Federal agencies, and the public to comment on the following applications. Please refer to the appropriate permit number for the application when submitting comments.

Documents and other information submitted with these applications are available for review by request from the Program Manager for Restoration and Endangered Species Classification at the address listed in the **ADDRESSES** section of this notice, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552).

Permit Number: TE–28628B

Applicant: Eric Westergard, Jupiter, Florida

The applicant requests an interstate commerce permit to purchase nene geese (*Branta sandvicensis*) in conjunction with captive propagation for the purpose of enhancing their survival. This notification covers activities conducted by the applicant over the next 5 years.

Permit Number: TE–048385

Applicant: The Nature Conservancy, Eugene, Oregon

The applicant requests a renewal of a recovery permit to take (harass by survey, capture, handle, release, and sacrifice) the Fender's blue butterfly (*Icaricia icarioides fenderi*) in association with population monitoring and habitat restoration and enhancement activities in Oregon for the purpose of enhancing the species' survival.

Permit Number: TE–826600

Applicant: Michael G. Hadfield, Honolulu, Hawaii

The applicant requests a renewal of a recovery permit to take (capture, measure, mark, attach radio transmitters, collect tissue samples, release, remove from the wild, transport, and captive breed) Oahu tree snails (*Achatinella* spp.) in conjunction with gathering ecological and life history date, and re-establishing wild populations in Hawaii for the purpose of enhancing the species' survival.

Permit Number: TE–27877B

Applicant: Nathan L. Haan, Seattle, Washington

The applicant requests a new recovery permit to take (survey, monitor, measure, captive rear, conduct experimental release of larvae onto host plants, and conduct laboratory studies) Taylor's checkerspot butterflies (*Euphydryas editha taylori*) in conjunction with studies to evaluate the relative suitability of various food plants for scientific purposes and for enhancing the species' survival.

Permit Number: TE–28360B

Applicant: Institute of Pacific Islands Forestry, U.S. Forest Service, Hilo, Hawaii

The applicant requests a new recovery permit to remove and reduce to possession (collection of pollen, fruits, seeds, and/or cuttings; conduct pollination trials; and plant propagation) *Haplostachys haplostachya* (honohono), *Portulaca sclerocarpa* (po'e), *Silene lanceolata* (lance-leaf catchfly), *Spermolepis hawaiiensis* (Hawaiian parsley), *Stenogyne angustifolia* (creeping mint), and *Tetramolopium arenarium* ssp. *arenarium* (Maui tetramolopium) for the purpose of enhancing the species' survival.

Permit Number: TE–09155B

Applicant: Renee Robinette Ha, University of Washington, Seattle, Washington

The applicant requests a permit amendment to take (use captive birds to ''lure'' wild birds into mist nets) Mariana crow (*Corvus kubaryi*) in conjunction with survey and population monitoring activities on the island of Rota, Commonwealth of the Northern Mariana Islands, for the purpose of enhancing the species' survival.

Public Availability of Comments

All comments and materials we receive in response to this request will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*).

Dated: February 25, 2014.

Richard R. Hannan,

Acting Regional Director, Pacific Region, U.S. Fish and Wildlife Service.

[FR Doc. 2014–04694 Filed 3–3–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–EA–2014–N026; FF09D00000–FXGO1664091HCC05D–145]

Wildlife and Hunting Heritage Conservation Council

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of teleconference.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce a public teleconference of the Wildlife and Hunting Heritage Conservation Council (Council).

DATES: *Teleconference:* Friday March 14, 2014, from 8 a.m. to 10 a.m. (Mountain Daylight Time). For deadlines and directions on registering to listen to the teleconference, submitting written material, and giving an oral presentation, please see ''Public Input'' under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Joshua Winchell, Council Coordinator, 4401 North Fairfax Drive, Mailstop 3103–AEA, Arlington, VA 22203; telephone (703) 358–2639; fax (703) 358–2548; or email *joshua_winchell@fws.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the

Federal Advisory Committee Act, 5 U.S.C. App., we announce that Wildlife and Hunting Heritage Conservation Council will hold a teleconference.

Background

Formed in February 2010, the Council provides advice about wildlife and habitat conservation endeavors that:

1. Benefit wildlife resources;
2. Encourage partnership among the public, the sporting conservation organizations, the states, Native American tribes, and the Federal Government; and
3. Benefit recreational hunting.

The Council advises the Secretary of the Interior and the Secretary of Agriculture, reporting through the Director, U.S. Fish and Wildlife Service (Service), in consultation with the Director, Bureau of Land Management (BLM); Director, National Park Service (NPS); Chief, Forest Service (USFS); Chief, Natural Resources Service (NRCS); and Administrator, Farm Services Agency (FSA). The Council's duties are strictly advisory and consist of, but are not limited to, providing recommendations for:

1. Implementing the Recreational Hunting and Wildlife Resource Conservation Plan—A Ten-Year Plan for Implementation;
2. Increasing public awareness of and support for the Wildlife Restoration Program;
3. Fostering wildlife and habitat conservation and ethics in hunting and shooting sports recreation;
4. Stimulating sportsmen and women's participation in conservation and management of wildlife and habitat resources through outreach and education;
5. Fostering communication and coordination among State, tribal, and Federal governments; industry; hunting and shooting sportsmen and women; wildlife and habitat conservation and management organizations; and the public;
6. Providing appropriate access to Federal lands for recreational shooting and hunting;
7. Providing recommendations to improve implementation of Federal conservation programs that benefit wildlife, hunting, and outdoor recreation on private lands; and
8. When requested by the Designated Federal Officer in consultation with the Council Chairperson, performing a variety of assessments or reviews of policies, programs, and efforts through the Council's designated subcommittees or workgroups.

Background information on the Council is available at *http://www.fws.gov/whhcc.*

Meeting Agenda

The Wildlife and Hunting Heritage Conservation Council will discuss Chronic Wasting Disease national standards, sequestration impacts on the Wildlife and Sport Fish Restoration Trust Funds, illegal wildlife trafficking, and other Council business.

The final agenda will be posted on the Internet at *http://www.fws.gov/whhcc.*

PUBLIC INPUT

If you wish to	You must contact the Council Coordinator (see **FOR FURTHER INFORMATION CONTACT**) no later than
Listen to the teleconference	Thursday March 6, 2014.
Submit written information or questions before the teleconference for the council to consider during the teleconference.	Thursday March 6, 2014.
Give an oral presentation during the teleconference	Thursday March 6, 2014.

Submitting Written Information or Questions

Interested members of the public may submit relevant information or questions for the Council to consider during the teleconference. Written statements must be received by the date listed in ''Public Input'' under **SUPPLEMENTARY INFORMATION**, so that the information may be made available to the Council for their consideration prior to this teleconference. Written statements must be supplied to the Council Coordinator in one of the following formats: One hard copy with original signature, and one electronic copy via email (acceptable file formats are Adobe Acrobat PDF, MS Word, MS PowerPoint, or rich text file).

Giving an Oral Presentation

Individuals or groups requesting to make an oral presentation during the teleconference will be limited to 3 minutes per speaker, with no more than a total of 30 minutes for all speakers. Interested parties should contact the Council Coordinator, in writing (preferably via email; see **FOR FURTHER INFORMATION CONTACT**), to be placed on the public speaker list for this teleconference. To ensure an opportunity to speak during the public comment period of the teleconference, members of the public must register with the Council Coordinator. Registered speakers who wish to expand upon their oral statements, or those who had wished to speak but could not be accommodated on the agenda, may submit written statements to the Council Coordinator up to 30 days subsequent to the teleconference.

Meeting Minutes

Summary minutes of the teleconference will be maintained by the Council Coordinator (see **FOR FURTHER INFORMATION CONTACT**) and will be available for public inspection within 90 days of the meeting and will be posted on the Council's Web site at *http://www.fws.gov/whhcc.*

Stephen Guertin,

Acting Director.

[FR Doc. 2014–04656 Filed 3–3–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2014–N001]; [FXIA16710900000–134–FF09A30000]

Advisory Council on Wildlife Trafficking; Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a public meeting of the Advisory Council on Wildlife Trafficking (Council). The Council's purpose is to provide

expertise and support to the Presidential Task Force on Wildlife Trafficking.

DATES: The meeting will be held on March 20, 2014, from 11 a.m. to 5 p.m. Eastern Standard Time (EST). For information and deadlines for registering to attend or participate, see Procedures for Public Input and Attending the Meeting.

ADDRESSES: The meeting will be held in the Potomac Room at the Residence Inn Arlington Capital View, 2850 Potomac Ave., Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Mr. Cade London, Special Assistant, USFWS International Affairs, by email at *cade_london@fws.gov* (preferable method of contact); by U.S. mail at 4401 North Fairfax Drive, Room 110, Arlington, VA 22203; by telephone at (703) 358–2584; or by fax at (703) 358–2276.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act (5 U.S.C. App.), we announce that the Advisory Council on Wildlife Trafficking (Council) will hold a meeting to discuss the implementation of the National Strategy for Combating Wildlife Trafficking, and other Council business as appropriate.

Background

Pursuant to Executive Order 13648, the Advisory Council on Wildlife Trafficking was formed on August 30, 2013, to advise the Presidential Task Force on Wildlife Trafficking, through the Secretary of the Interior, on national strategies to combat wildlife trafficking, including but not limited to: (a) Effective support for anti-poaching activities; (b) coordinating regional law enforcement efforts; (c) developing and supporting effective legal enforcement mechanisms; and (d) developing strategies to reduce illicit trade and consumer demand for illegally traded wildlife, including protected species.

The eight-member Council, appointed by the Secretary of the Interior, includes former senior leadership within the U.S. Government, as well as chief executive officers and board members from conservation organizations and the private sector. For more information on the Council and its members, visit *http://www.fws.gov/international/advisory-council-wildlife-trafficking/.*

Meeting Agenda

The Council will consider:

1. Implementation topics associated with the National Strategy document, including, but not limited to, legal frameworks, communication, enforcement, and public/private partnerships;
2. Administrative topics; and
3. Public comment and response.

The final agenda will be posted on the Internet at *http://www.fws.gov/international/advisory-council-wildlife-trafficking/.*

Procedures for Public Input

Submitting Written Questions

Members of the public may submit written questions and/or information to Mr. London for the Council to consider during the meeting. Written questions and information must be received by Mr. London by close of business on March 17, 2014 (see **FOR FURTHER INFORMATION CONTACT**).

Making an Oral Presentation

Members of the public who want to make an oral presentation at the meeting will be prompted during the public comment section of the meeting to provide their presentation and/or questions. Such presentations may be limited to a total of 30 minutes, to be distributed among all speakers. However, where time permits and if deemed appropriate by the Council Chair and the Designated Federal Official, additional time for public comment may be allotted.

Registered speakers who wish to expand on their oral statements, or those who wanted to speak but could not be accommodated on the agenda, are invited to submit subsequent written statements to the Council after the meeting. Such written statements must be received by Mr. London, in writing (preferably via email), no later than March 27, 2014.

Attending the Meeting

Registering

In order to attend this meeting, you must register by close of business Monday, March 17, 2014. Please submit your name, email address, and phone number to Mr. London to complete the registration process (see **FOR FURTHER INFORMATION CONTACT**).

Requesting Reasonable Accommodations

Members of the public requesting reasonable accommodations, such as hearing interpreters, must contact Mr. London, in writing (preferably by email), no later than March 10, 2014.

Obtaining Meeting Minutes

Summary minutes of the meeting will be maintained at 4401 N. Fairfax Drive, Room 110, Arlington, VA 22203, available for public inspection during regular business hours, and on the Council Web site at *http://www.fws.gov/international/advisory-council-wildlife-trafficking/.*

Dated: February 26, 2014.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2014–04676 Filed 3–3–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM006200.L99110000.EK0000; OMB Control Number 1004–0179]

Renewal of Approved Information Collection

AGENCY: Bureau of Land Management.

ACTION: 30-day notice and request for comments.

SUMMARY: The Bureau of Land Management (BLM) has submitted a request to the Office of Management and Budget (OMB) to continue the collection of information that is necessary to balance sales of helium to Federal agencies with purchases of helium from the Secretary of the Interior. The OMB has assigned control number 1004–0179 to this collection.

DATES: The OMB is required to respond to this information collection request within 60 days but may respond after 30 days. For maximum consideration written comments should be received on or before April 3, 2014.

ADDRESSES: Submit comments directly to the Desk Officer for the Department of the Interior (OMB #1004–0179), Office of Management and Budget, Office of Information and Regulatory Affairs, fax 202–395–5806, or by electronic mail at *oira_submission@omb.eop.gov*. Please provide a copy of your comments to the BLM.

Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 2134LM, Attention: Jean Sonneman, Washington, DC 20240.

Fax: To Jean Sonneman at 202–245–0050.

Electronic mail: Jean_Sonneman@blm.gov.

Please indicate ''Attn: 1004–0179'' regardless of the form of your comments.

FOR FURTHER INFORMATION CONTACT: You may contact Libby Conner, at 806–356–1027. Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8339, to leave a message for Ms. Conner.

You may also review the information collection request online at *http://www.reginfo.gov/public/do/PRAMain*.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act (44 U.S.C. 3501–3521) and OMB regulations at 5 CFR 1320 provide that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until the OMB approves a collection of information, you are not obligated to respond. In order to obtain and renew an OMB control number, Federal agencies are required to seek public comment on information collection and recordkeeping activities. (see 5 CFR 1320.8 (d) and 1320.12(a)).

As required in 5 CFR 1320.8(d), the BLM published a 60-day notice in the **Federal Register** on November 18, 2013 (78 FR 69125) and the comment period closed on January 17, 2014. The BLM received no comments.

The BLM requests comments on the following subjects:

1. Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practical utility;

2. The accuracy of the BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility, and clarity of the information to be collected; and

4. How to minimize the information collection burden on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Please send comments to the addresses listed under **ADDRESSES**. Please refer to OMB Control Number 1004–0179 in your correspondence. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The following information is provided for the information collection:

Title: Helium Contracts (43 CFR part 3195).

OMB Number: 1004–0179.

Type of Review: Extension of a currently approved information collection.

Summary: This collection of information pertains to the Helium Privatization Act of 1996, which provides that only authorized contractors may sell helium to Federal agencies. The BLM uses this information to verify that authorized contractors are in compliance with the Helium Privatization Act. In order to become an authorized contractor, a helium supplier must enter into an In-Kind Crude Helium Sales Contract to purchase from the Secretary of Interior amounts of crude helium that are equivalent to amounts the supplier sells to agencies of the Federal Government. 50 U.S.C. 167d. The BLM uses the information for reporting and record keeping. Responses are required to obtain a benefit.

Frequency of Collection: Quarterly.

Estimated Annual Burden Hours: 104.

Estimated Annual Responses: 32.

Estimated Annual Non-hour Burden Cost: None.

The itemized burdens of this collection are shown below:

A. Type of response	B. Number of responses	C. Hours per response	D. Total hours (column B × column C)
Sales reports	32	3.25	104

Jean Sonneman,

Information Collection Clearance Officer, Bureau of Land Management.

[FR Doc. 2014–04711 Filed 3–3–14; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLIDC01000.13XL1109AF .L10200000.MK0000.241A;4500054600]

Notice of Temporary Closure on Public Lands in Shoshone County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary closure.

SUMMARY: Notice is hereby given that a closure is in effect on public lands administered by the Coeur d'Alene Field Office, Bureau of Land Management (BLM).

DATES: This Temporary Closure will be in effect for 2 years beginning on April 3, 2014, unless superseded by a travel management decision.

FOR FURTHER INFORMATION CONTACT: Kurt Pavlat, Field Manager, 3815 Schreiber Way, Coeur d'Alene, ID, phone 208–769–5000. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individuals. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This closure affects public lands at the Middle Fork of Pine Creek, in Shoshone County, Idaho. The legal description of the affected public lands is Boise Meridian, T. 47 N., R. 1 E., sec. 13 SE¼ NW¼, NE¼SW¼, W½SW¼; sec. 23 NE¼; sec. 24 NW¼NW¼.

The closure is necessary because of damages occurring to natural resources in the area from motorized vehicle use. Motorized vehicle activities within this boulder and bedrock stream segment pose a risk to fisheries, soils, and water quality from potential oil and fuel releases. Affected areas include habitat for westslope cutthroat trout, which is a BLM sensitive species. A temporary road closure in the Middle Fork of Pine Creek is needed to prevent further resource damage. Two miles of road will be temporarily closed to motorized vehicle use in order to effectively manage and protect habitat in the riparian area.

The BLM will post closure signs at main entry points to this area. This closure or restriction order will be posted in the Coeur d'Alene Field Office. Maps of the affected area and other documents associated with this closure are available at the BLM Coeur d'Alene Field Office, 3815 Schreiber Way, Coeur d'Alene, Idaho. This action has been analyzed in the Categorical Exclusion Documentation for the Middle Fork Pine Creek Temporary Road Closure, NEPA # DOI–BLM–ID–C010–2013–0010–CX. It has also been reviewed for conformance with the Coeur d'Alene Resource Management Plan, approved June 2007.

Under the authority of Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C.

1733(a)), 43 CFR 8360.0–7, and 43 CFR 8364.1, the BLM will enforce the following rule within the Middle Fork of Pine Creek:

This road is closed to motorized vehicle travel.

Exemptions: The following persons are exempt from this order: Federal, State, and local officers and employees in the performance of their official duties; members of organized rescue or fire-fighting forces in the performance of their official duties; and persons with written authorization from the BLM.

Penalties: Any person who violates the above rule(s) and/or restriction(s) may be tried before a United States Magistrate and fined no more than $1,000, imprisoned for no more than 12 months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Authority: 43 CFR 8364.1.

Kurt Pavlat,

Field Manager.

[FR Doc. 2014–04710 Filed 3–3–14; 8:45 am]

BILLING CODE 4310–GG–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Earpiece Devices Having Positioning and Retaining Structure and Components Thereof, DN 3002*; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Acting Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *EDIS*,[1] and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at *USITC*.[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *EDIS*.[3] Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed behalf of Bose Corporation on February 26, 2014. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain earpiece devices having positioning and retaining structure and components thereof. The complaint name as respondents Monster, Inc., Brisbane, CA, Monster, LLC, Las Vegas, NV and Monster Technology International, Ltd., Clare, Ireland. The complainant requests that the Commission issue a permanent limited exclusion order, a permanent cease and desist order, and impose a bond upon Respondents who continue to import infringing articles during the 60-day Presidential Review period.

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3002'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *Electronic Filing Procedures*[4]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on *EDIS*.[5]

This action is taken under the authority of section 337 of the Tariff Act

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: February 27, 2014.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2014–04746 Filed 3–3–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–511 and 731–TA–1246–1247 (Preliminary)]

Certain Crystalline Silicon Photovoltaic Products From China And Taiwan

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (Commission) determines,[2] pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China and Taiwan of certain crystalline silicon photovoltaic products, provided for in subheadings 8541.40.60 (statistical reporting numbers 8541.40.6020 and 8541.40.6030) of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (''LTFV'') and are allegedly subsidized by the Government of China.

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On December 31, 2013, a petition was filed with the Commission and Commerce by SolarWorld Industries America, Hillsboro, Oregon, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV and subsidized imports of certain crystalline silicon photovoltaic products from China and LTFV imports of certain crystalline silicon photovoltaic products from China and Taiwan. Accordingly, effective December 31, 2013, the Commission instituted countervailing duty investigation No. 701–TA–511 and antidumping duty investigation Nos. 731–TA–1246–1247 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of January 8, 2014 (79 FR 1388). The conference was held in Washington, DC, on January 22, 2014, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on February 26, 2014.[3] The views of the Commission are contained in USITC Publication 4454 (February 2014), entitled *Certain Crystalline Silicon Photovoltaic Products from China and Taiwan, Inv. Nos. 701–TA–511 and 731–TA–1246–1247 (Preliminary).*

By order of the Commission.

Issued: February 26, 2014.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2014–04677 Filed 3–3–14; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioners Shara L. Aranoff and F. Scott Kieff are recused from these investigations.

[3] The Commission has the authority to toll statutory deadlines during a period when the government is closed. Because the Commission was closed on January 21, 2014 and February 13, 2014 due to inclement weather in Washington, DC, the statutory deadlines reflect the tolling of deadlines by two days.

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–830 (Enforcement/Modification)]

Certain Dimmable Compact Fluorescent Lamps and Products Containing Same Commission Decision To Review In Part an Enforcement Initial Determination; Schedule for Filing Written Submissions

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part an enforcement initial determination (''EID'') of the presiding administrative law judge (''ALJ'') in the above-captioned proceeding finding a violation of a consent order. The Commission is requesting briefing on the issues under review and on the amount of civil penalties for violation of the order.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2532. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted an investigation on February 27, 2012, based on a complaint filed by Andrzej Bobel and Neptun Light, Inc., both of Lake Forest, Illinois (collectively, ''Neptun''). 77 FR 11587 (Feb. 27, 2012). The complaint

alleged violations of section 337 of the Tariff Act of 1930, as amended 19 U.S.C. 1337. More specifically, the complaint alleged that the importation into the United States, the sale for importation, and the sale within the United States after importation of certain dimmable compact fluorescent lamps (''CFLs'') and products containing the same infringe, *inter alia,* claim 9 of United States Patent No. 5,434,480 (''the '480 patent''). The complaint named numerous respondents, including MaxLite, Inc. of Fairfield, New Jersey (''MaxLite''). On July 25, 2012, the Commission terminated the investigation with respect to MaxLite and entered a consent order preventing MaxLite from importing dimmable CFLs that infringe claim 9 of the '480 patent.

On February 6, 2013, MaxLite petitioned the Commission under Commission Rule 210.76 for modification of the consent order on the basis of certain district court proceedings regarding a covenant not to sue. On February 18, 2013, complainants filed a complaint requesting that the Commission institute a formal enforcement proceeding under Commission Rule 210.75(b) to investigate a violation of the consent order.

On April 12, 2013, the Commission determined to institute consolidated formal enforcement and modification proceedings to determine whether MaxLite is in violation of the July 25, 2012 consent order issued in the investigation; what, if any, enforcement measures are appropriate; and whether to modify the consent order. 78 FR 24233 (Apr. 24, 2013).

On January 10, 2014, the ALJ issued his enforcement ID (''EID'') in the combined enforcement and modification proceeding. Prior to the hearing, MaxLite effectively withdrew its request for modification. EID at 52. The ALJ therefore found MaxLite's modification request to be ''moot'' in view of ''the parties' agreed interpretation of the Consent Order.'' *Id.* The EID in all other respects dealt entirely with Neptun's enforcement complaint. At issue for enforcement of the consent order were two accused types of products: CFL bulbs (''accused CFL bulbs''); and ''dimmable CFL Faux Cans'' (''Faux Cans'').

The ALJ found that the accused CFL bulbs infringe claim 9 of the '480 patent. The ALJ found that Neptun had not demonstrated infringement by the Faux Cans.

On January 23, 2014, Neptun filed a petition for review regarding claim construction and noninfringement by the Faux Cans. On January 30, 2014, MaxLite and the Commission investigative attorney (''IA'') filed oppositions to Neptun's petition. MaxLite subsequently filed a revised opposition that removed certain material that Neptun had contended was beyond the scope of the record of this investigation. The Commission accepts the tendered revised opposition.

Having examined the record of this investigation, including the ALJ's final EID, the petitions for review, and the responses thereto, the Commission has determined to review the ID in part. In particular, the Commission has determined to review the ALJ's construction of the ''resonant boosting circuit'' limitation, and the ALJ's findings that Neptun did not demonstrate infringement by the Faux Cans because Neptun failed adequately to show that (i) there is resonance between the accused boosting capacitor and boosting inductor, EID at 39–43; and (ii) ''the boosting capacitor stores and releases energy to improve the power factor,'' *id.* at 45. The Commission has determined not to review the remainder of the EID.

In connection with the Commission's review, the parties are asked to provide further briefing. The briefing should address the following issues, and should cite the evidence of record in support of the party's arguments:

(1) Discuss whether and why a ''bi-directionality'' requirement for the ''resonant boosting circuit'' limitation is consistent with or inherent in the construction of ''resonant boosting circuit'' agreed to by Dr. Habetler (*See* Tr. 117–18, CX–54C, at Q/A 6) and, if not, whether it is required by the claim term in view of the specification.

(2) Discuss whether and why the passage in the '480 patent specification at column 4 lines 2–6, *see* EID at 31, serves to limit claim scope for claim 9 given that it appears to recite claim language for certain unasserted claims. *Compare* col. 3 line 8 – col. 4 line 20 *with* unasserted claim 1; *see also* unasserted claims 2–3. Also discuss relevant court decisions including *Rambus Inc.* v. *Infineon Techs. AG,* 318 F.3d 1081, 1094–95 (Fed. Cir. 2003) and *Thorner* v. *Sony Computer Entertainment America LLC,* 669 F.3d 1365–67 (Fed. Cir. 2012), regarding the role of the specification in construing patent claims.

(3) Assuming for this question that the specification at column 4 lines 2–6 does limit the scope of claim 9, discuss whether the EID's interpretation of ''interaction'' (*i.e.,* ''mutual or reciprocal action or influence,'' EID at 31), is correct.

(4) In connection with the '480 patent's preferred embodiment of Figure 11's boosting and rectifying bridge substituted into Figure 1, discuss whether C1 and C3 in Figure 11 are boosting capacitors that meet the claim limitations required by the EID, even if C5 does not.

(5) If claim 9 does not impose a ''bi-directionality'' requirement, discuss whether Neptun demonstrated that the Faux Cans infringe claim 9.

(6) Discuss whether and why a requirement for the ''resonant boosting circuit'' limitation that the boosting capacitor ''store and release energy to improve power factor,'' EID at 45, is consistent with or inherent in the construction of ''resonant boosting circuit'' agreed to by Habetler (*See* Tr. 117–18, CX–54C, at Q/A 6) and, if not, whether it is required by the claim term in view of the specification.

(7) Discuss whether the Faux Cans infringe claim 9 if the ''to improve the power factor'' is not a requirement of claim 9.

The Commission may levy civil penalties for violation of the consent order. When calculating a proportionate penalty, the Commission considers, *inter alia,* six factors set forth in *Certain Erasable Programmable Read Only Memories* (''*EPROMs''*), Inv. No. 337–TA–276 (Enforcement), Comm'n Op. at 23–24, 26 (July 19, 1991). *See generally Certain DC–DC Controllers and Products Containing the Same,* Inv. No. 337–TA–698 (Enforcement), Comm'n Op. at 36–37 (Jan. 4, 2013).

Written Submissions: The parties to the investigation are requested to file written submissions on the issues under review as set forth above. In addition, the parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the amount of civil penalties to be imposed for the accused CFL bulbs, the Faux Cans, or both. The parties' submissions should cite all evidence in the record in support of such amounts, and shall address the factors set forth in *EPROMs, supra.* The written submissions should be filed no later than close of business on March 10, 2014, and should not exceed 60 pages. Reply submissions must be filed no later than the close of business on March 17, 2014, and should not exceed 40 pages. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by

noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–830 enforcement/modification'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with the any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210).

By order of the Commission.

Issued: February 26, 2014.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2014–04678 Filed 3–3–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—OpenDaylight Project, Inc.

Notice is hereby given that, on February 5, 2014, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), OpenDaylight Project, Inc. (''OpenDaylight'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ZTE Corporation, Richardson, TX; Coriant GmbH, Munich, Germany; and Contextream Inc., Mountain View, CA, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OpenDaylight intends to file additional written notifications disclosing all changes in membership.

On May 23, 2013, OpenDaylight filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 1, 2013 (78 FR 39326).

The last notification was filed with the Department on November 13, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 30, 2013 (78 FR 79498).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–04672 Filed 3–3–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—AllSeen Alliance, Inc.

Notice is hereby given that, on January 29, 2014, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), AllSeen Alliance, Inc. (''AllSeen Alliance'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the identities of the parties to the venture are: 2lemetry LLC, Denver, CO; Affinegy, Austin, TX; Canary Connect, Inc., New York, NY; Cisco Systems, Inc., Lawrenceville, GA; D-Link Systems, Inc., Fountain Valley, CA; DoubleTwist Corporation, San Francisco, CA; Fon Wireless Limited, London, UNITED KINGDOM; Haier Group, Qingdao, PEOPLE'S REPUBLIC OF CHINA; Harman International, Stamford, CT; HTC Corporation, Taoyuan City, PEOPLE'S REPUBLIC OF CHINA; iControl Networks, Inc., Redwood City, CA; Le Shi Zhi XIn Electronic Technology (Tianjin) Limited, Chaoyang District, Beijing, PEOPLE'S REPUBLIC OF CHINA; LG Electronics, Inc., Youngdungo-gu, Seoul, REPUBLIC OF KOREA; LiFi Labs Inc. (LIFX), San Francisco, CA; LiteOn Technology Corporation, New Taipei City, TAIWAN; Moxtreme Corporaton, Saratoga, CA; Musaic Ltd., London, UNITED KINGDOM; Muzzley, S.A., Lisboa, PORTUGAL; Panasonic Corporation, Kadoma-shi, Osaka, JAPAN; Qualcomm Connected Experiences, Inc., San Diego, CA; Sears Brands Management Corporation, Hoffman Estates, IL; Sharp Corporation, Abeno-ku, Osaka, JAPAN; Silicon Image, Sunnyvale, CA; Sproutling, San Francisco, CA; The Sprosty Network, Fort Lauderdale, FL; TP–LINK Technologies Co., Ltd., Nanshan, Shenzhen, PEOPLE'S REPUBLIC OF CHINA; Tuxera Inc., Helsinki, FINLAND; Weaved, Inc. (formerly Yoics, Inc.), Palo Alto, CA; and Wilocity, Sunnyvale, CA.

The general areas of AllSeen Alliance's planned activity are: (a) To advance the creation, evolution, promotion, and support of an open-source software platform for device intercommunication and associated device-based services, (b) to promote such platform and services worldwide, and (c) to undertake such other activities as may from time to time be appropriate to further the purposes and achieve the goals set forth above. Membership in AllSeen Alliance remains open and AllSeen Alliance intends to file additional written notifications disclosing all changes in membership.

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–04670 Filed 3–3–14; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—IMS Global Learning Consortium, Inc.

Notice is hereby given that, on January 31, 2014, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), IMS Global Learning Consortium, Inc. (''IMS Global'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Smarter Balanced Assessment Consortium, State of WA, fiscal agent, Olympia, WA; and University of Maryland University College, Adelphi, MD, have been added as parties to this venture.

Also, Pearson Embanet (individual member), Orlando, FL; State of NH, Office of Curriculum & Assessment, Concord, NH; and VSCHOOLZ, Inc., Coral Springs, FL, have withdrawn as parties to this venture.

In addition, the following members have changed their corporate names: Sakai Foundation to Apereo Foundation, Ann Arbor, MI; and Global Scholar to Scantron Corporation, Bellevue, WA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IMS Global intends to file additional written notifications disclosing all changes in membership.

On April 7, 2000, IMS Global filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on November 22, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 30, 2013 (78 FR 79498).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–04674 Filed 3–3–14; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Joint Task-Force Networked Media

Notice is hereby given that, on February 6, 2014, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Joint Task-Force Networked Media (JT–NM) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Altos, London, United Kingdom; and Tata Communications, Bandra East, Mumbai, India, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and JT–NM intends to file additional written notifications disclosing all changes in membership.

On July 10, 2013, JT–NM filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 15, 2013 (78 FR 49768).

The last notification was filed with the Department on November 5, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 9, 2013 (78 FR 73884).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–04671 Filed 3–3–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Heterogeneous System Architecture Foundation

Notice is hereby given that, on February 7, 2014, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Heterogeneous System Architecture Foundation (''HSA Foundation'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, University of North Texas, Denton, TX; SUSE LLC, Seattle, WA; and Allinea Software Ltd., Warwick, United Kingdom, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and HSA Foundation intends to file additional written notifications disclosing all changes in membership.

On August 31, 2012, HSA Foundation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 11, 2012 (77 FR 61786).

The last notification was filed with the Department on November 26, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 30, 2013 (78 FR 79499).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–04673 Filed 3–3–14; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Division of Longshore and Harbor Workers' Compensation Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506 (c) (2) (A)] This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized,

collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Workers' Compensation (OWCP) is soliciting comments concerning the proposed collection: Request for Examination and/or Treatment (LS–1). A copy of the proposed information collection request can be obtained by contacting the office listed below in the address section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before May 5, 2014.

ADDRESSES: Ms. Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–3323, Washington, DC 20210, telephone (202) 693–0701, fax (202) 693–1449, Email *ferguson.yoon@dol.gov.* Please use only one method of transmission for comments (mail, fax, or Email).

SUPPLEMENTARY INFORMATION

I. Background

The Office of Workers' Compensation Programs (OWCP) administers the Longshore and Harbor Workers' Compensation Act (LHWCA). The Act provides benefits to workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employee in loading, unloading, repairing or building a vessel. In addition, several acts extend coverage to certain other employees.

Under section 7 (33 U.S.C., Chapter 18, Section 907) of the Longshore Act the employer/insurance carrier is responsible for furnishing medical care for the injured employee for such period of time as the injury or recovery period may require. Form LS–1 serves two purposes: It authorizes the medical care, and it provides a vehicle for the treating physician to report the findings, treatment given, and anticipated physical condition of the employee. This information collection is currently approved for use through June 30, 2014.

II. Review Focus

The Department of Labor is particularly interested in comments which:

* 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 submissions of responses.

III. Current Actions

The Department of Labor seeks the extension of approval of this information collection in order to carry out its responsibility to verify authorized medical care and entitlement to compensation benefits.

Agency: Office of Workers' Compensation Programs.

Type of Review: Extension.

Title: Request for Examination and/or Treatment.

OMB Number: 1240–0029.

Agency Number: LS–1.

Affected Public: Individuals or households; business or other for-profit.

Total Respondents: 16,000.

Total Annual Responses: 48,000.

Estimated Total Burden Hours: 52,000.

Estimated Time per Response: 65 minutes.

Frequency: On occasion.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $2,088,960.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: February 25, 2014.

Yoon Ferguson,

Agency Clearance Officer, Office of Workers' Compensation Programs, U.S. Department of Labor.

[FR Doc. 2014–04704 Filed 3–3–14; 8:45 am]

BILLING CODE 4510–CF–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Division of Federal Employees' Compensation; Proposed Extension of Existing Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Workers' Compensation Programs is soliciting comments concerning the proposed collection: Claim for Continuance of Compensation (CA–12). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before May 5, 2014.

ADDRESSES: Ms. Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0701, fax (202) 693–1447, Email *ferguson.yoon@dol.gov*. Please use only one method of transmission for comments (mail, fax, or Email).

SUPPLEMENTARY INFORMATION:

I. Background: The Office of Workers' Compensation Programs administers the Federal Employees' Compensation Act, 5 U.S.C. 8133. Under the Act, eligible dependents of deceased employees receive compensation benefits on account of the employee's death. OWCP has to monitor death benefits for current marital status, potential for dual benefits, and other criteria for qualifying as a dependent under the law. The CA–12 is sent annually to beneficiaries in death cases to ensure that their status has not changed and that they remain entitled to benefits. The information collected is used by OWCP claims examiners to ensure that death benefits being paid are correct, and that payments are not made to ineligible survivors. This information collection is currently approved for use through June 30, 2014.

II. Review Focus: The Department of Labor is particularly interested in comments which:

* 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 submissions of responses.

III. Current Actions: The Department of Labor seeks extension of approval to collect this information collection in order to ensure that death benefits being paid are correct.

Type of Review: Extension.

Agency: Office of Workers' Compensation Programs.

Title: Claim for Continuance of Compensation.

OMB Number: 1240–0015.

Agency Number: CA–12.

Affected Public: Individuals or households.

Total Respondents: 4,083.

Total Annual Responses: 4,083.

Average Time per Response: 5 minutes.

Estimated Total Burden Hours: 340.

Frequency: Annually.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $2,067.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: February 21, 2014.

Yoon Ferguson,

Agency Clearance Officer, Office of Workers' Compensation Programs, U.S. Department of Labor.

[FR Doc. 2014–04702 Filed 3–3–14; 8:45 am]

BILLING CODE 4510–CH–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Division of Longshore and Harbor Workers' Compensation; Proposed Extension of Existing Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506 (c)(2)(A)] This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Workers' Compensation (OWCP) is soliciting comments concerning the proposed collection: Pre-Hearing Statement (LS–18). A copy of the proposed information collection request can be obtained by contacting the office listed below in the address section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before May 5, 2014.

ADDRESSES: Ms. Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–32331, Washington, DC 20210, telephone (202) 693–0701, fax (202) 693–1447, Email *Ferguson.Yoon@dol.gov.* Please use only one method of transmission for comments (mail, fax, or Email).

SUPPLEMENTARY INFORMATION

I. Background: The Office of Workers' Compensation Programs, (OWCP) administers the Longshore and Harbor Workers' Compensation Act. The Act provides benefits to workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. In addition, several acts extend the Longshore Act's coverage to certain other employees.

Title 20, CFR 702.317 provides for the referral of claims under the Longshore Act for formal hearings. This Section provides that before a case is transferred to the Office of Administrative Law Judges the district director shall furnish each of the parties or their representatives with a copy of a pre-hearing statement form. Each party shall, within 21 days after receipt of each form, complete it and return it to the district director. Upon receipt of the forms, the district director, after checking them for completeness and after any further conferences that, in his/her opinion, are warranted, shall transmit them to the Office of the Chief Administrative Law Judge with all available evidence which the parties intend to submit at the hearing. This information collection is currently approved for use through June 30, 2014.

II. Review Focus: The Department of Labor is particularly interested in comments which:

* 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 submissions of responses.

III. Current Actions: The Department of Labor seeks the extension of approval of this information collection in order to carry out its responsibility to refer cases for formal hearings.

Agency: Office of Workers' Compensation Programs.

Type of Review: Extension.

Title: Pre-Hearing Statement.

OMB Number: 1240–0036.

Agency Number: LS–18.

Affected Public: Insurance carriers and self-insurers.

Total Respondents: 3,100.

Total Annual Responses: 3,100.

Estimated Total Burden Hours: 527.

Estimated Time per Response: 10 minutes.

Frequency: On occasion.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $1,612.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: February 21, 2014.

Yoon Ferguson,

Agency Clearance Officer, Office of Workers' Compensation Programs, U.S. Department of Labor.

[FR Doc. 2014–04703 Filed 3–3–14; 8:45 am]

BILLING CODE 4510–CF–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 14–01]

Notice of Quarterly Report (July 1, 2013–September 30, 2013)

AGENCY: Millennium Challenge Corporation.

SUMMARY: The Millennium Challenge Corporation (MCC) is reporting for the quarter July 1, 2013 to September 30, 2013, on assistance provided under section 605 of the Millennium Challenge Act of 2003 (22 U.S.C. 7701 *et seq.*), as amended (the Act), and on transfers or allocations of funds to other federal agencies under section 619(b) of the Act. The following report will be made available to the public by publication in the Federal Register and on the Internet Web site of the MCC (*www.mcc.gov*) in accordance with section 612(b) of the Act.

Dated: February 26, 2014.

Paul C. Weinberger,

Vice President, Congressional and Public Affairs,

Millennium Challenge Corporation.

Projects	Obligated	Objective	Cumulative disbursements	Measures [3]
Country: Burkina Faso Year: 2013 Quarter 4 Total Obligation [1]: $478,954,470 Entity to which the assistance is provided: MCA Burkina Faso Total Quarterly Disbursements [2]: $36,078,911				
Roads Project	$194,130,681	Enhance access to markets through investments in the road network.	$77,726,203	Roughness: Sabou-Koudougou-Perkoa-Didyr. Roughness: Dedougou-Nouna-Bomborukuy-Nouna Border. Roughness: Banfora-Sindou. Kilometers of road under works contract (primary roads). Access time (in minutes) to the nearest market in the Sourou and Comoe. Kilometers of road under works contract (rural roads). Personnel trained. Periodic road maintenance coverage rate (for all funds) (percent).
Rural Land Governance Project.	$59,934,615	Increase investment in land and rural productivity through improved land tenure security and land management.	$27,499,131	Trend in incidence of conflict over land rights reported in the 17 pilot communes (annual rate of change in the occurrence of conflicts over land rights). Legal and regulatory reforms adopted. Stakeholders trained. Rural land service offices installed and functioning. Rural hectares formalized. Extent of confidence in land tenure security (percent). New perimeter development in Di (Hectares).
Agriculture Development Project.	$141,910,059	Expand the productive use of land in order to increase the volume and value of agricultural production in project zones.	$92,104,838	Value of contracts for irrigation systems works disbursed. Responsible members of Water Users Association trained in the Sourou. Farmers trained. Farmers who have applied improved practices as a result of training, Loan borrowers. Volume of agricultural and rural loans (millions of U.S. dollars). Girls and boys graduating from BRIGHT II primary schools.
Bright II Schools Project	$26,840,570	Increase primary school completion rates.	$26,840,570	Ninety percent of girls regularly attending BRIGHT II schools. Girls enrolled in the MCC/USAID-supported BRIGHT II schools. Boys enrolled in the MCC/USAID-supported BRIGHT II schools. Educational facilities constructed or rehabilitated. Teachers trained through 10 provincial workshops.
Program Administration [4] and Control, Monitoring and Evaluation.	$56,138,545	.....	$40,821,651	
Pending Subsequent Reports [5].	.....	.....	$867,206	

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Cape Verde II Year: 2013 Quarter 4 Total Obligation: $66,230,000 Entity to which the assistance is provided: MCA Cape Verde II Total Quarterly Disbursements: $1,086,045				
Land Management for Investment Projects.	$17,260,000	Increased investments in and value of property; improved ease of doing business; increased investments and value added in tourism; increased employment.	$1,009,742	Legal and regulatory reforms adopted. Stakeholders receiving formal on-the-job training or technical assistance regarding roles, responsibilities or new technologies. Field test of ''Fieldwork Operations Manual'' and methodology completed on Sal.
Water, Sanitation, and Hygiene Project.	$41,030,000	Increased access to improved water and sanitation; reduced household costs for water; reduced incidence of waterborne disease; improved capital accumulation; increase productive government spending.	$503,800	Value of implicit subsidy reduction (U.S. dollars). Service coverage by corporatized utilities (percent). Operating cost coverage (percent) (operational revenue/annual operating costs). Continuity of service (average hours of service per day for water supply). Objective measure of water quality (randomized water samples, fecal coliform counts, number per 100 mL). Non-revenue water for multiple municipal utility/utilities. Individuals adopting improved water, sanitation, and hygiene behaviors and practices (percent) Value of signed water and sanitation construction contracts Percent disbursed of water and sanitation construction contracts.
Program Administration and Control, Monitoring and Evaluation.	$7,940,000	.....	$1,305,099	
Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: El Salvador Year: 2013 Quarter 4 Total Obligation: $449,566,762 Entity to which the assistance is provided: MCA El Salvador Total Quarterly Disbursements: $194,700				
Human Development Project.	$84,210,866	Increase human and physical capital of residents of the Northern Zone to take advantage of employment and business opportunities..	$84,210,865	Non-formal trained students that complete the training. Students participating in MCC-supported education activities. Additional school female students enrolled in MCC-supported activities. Instructors trained or certified through MCC-supported activities. Educational facilities constructed/rehabilitated and/or equipped through MCC-supported activities. Households with access to improved water supply. Households with access to improved sanitation. Persons trained in hygiene and sanitary best practices. Households benefiting from a connection to the electricity network. Households benefiting from the installation of isolated solar systems. Kilometers of new electrical lines with construction contracts signed. Population benefiting from strategic infrastructure (number of people).
Connectivity Project	$270,051,380	Reduce travel cost and time within the Northern Zone, with the rest of the country, and within the region..	$270,051,380	Average annual daily traffic on the Northern Transnational Highway. Travel time from Guatemala to Honduras through the Northern Zone (hours and minutes). Kilometers of roads completed.

Projects	Obligated	Objective	Cumulative disbursements	Measures
Productive Development Project.	$65,973,922	Increase production and employment in the Northern Zone..	$65,973,922	Employment created (number of jobs). Investment in productive chains by selected beneficiaries (U.S. dollars). Hectares under production with MCC support. Beneficiaries of technical assistance and training. Amount of Investment Support Fund (FIDENORTE) approved. Value of agricultural loans to farmers/agribusiness. Value of loans guaranteed. Guarantees granted.
Program Administration and Control, Monitoring and Evaluation.	$29,330,595	.....	$29,330,595	

Projects	Obligated	Objective	Cumulative expenditures	Measures
Country: Georgia [6] Year: 2013 Quarter 4 Total Obligation: $387,178,520 Entity to which the assistance is provided: MCA Georgia Total Quarterly Expenditures: $0				
Regional Infrastructure Rehabilitation Project.	$309,899,714	Key Regional Infrastructure Rehabilitated.	$309,899,714	Savings in vehicle operating costs. International roughness index. Annual average daily traffic. Amount of travel time. Kilometers of road completed. Sites rehabilitated (phases I, II, III)—pipeline. Construction works completed (phase II)—pipeline. Savings in household expenditures for all Regional Infrastructure Development (RID) subprojects. Population served by all RID subprojects. RID subprojects completed. Value of grant agreements signed. Subprojects with works initiated.
Regional Enterprise Development Project.	$52,040,800	Enterprises in Regions Developed.	$52,040,800	Jobs created by Agribusiness Development Activity (ADA) and by Georgia Regional Development Fund (GRDF). Household net income—ADA and GRDF. Enterprises assisted. Jobs created—ADA Firm income—ADA Household net income—ADA Direct beneficiaries Indirect beneficiaries Grant agreements signed—ADA Increase in gross revenues of portfolio companies Increase in portfolio company employees Increase in wages paid to the portfolio company employees Portfolio companies. Amount of grant funds disbursed. Funds disbursed to the portfolio companies.
Program Administration, Due Diligence, Monitoring and Evaluation.	$25,238,005	.....	$25,238,005	
Pending Subsequent Reports.	.....	.....	$101	

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Ghana Year: 2013 Quarter 4 Total Obligation: $536,288,969 Entity to which the assistance is provided: MCA Ghana Total Quarterly Disbursements: $0				
Agriculture Project	$188,731,530	Enhance profitability of cultivation, services to agriculture and product handling in support of the expansion of commercial agriculture among groups of smallholder farms.	$188,911,823	Farmers trained in commercial agriculture. Additional hectares irrigated with MCC support. Hectares under production with MCC support. Kilometers of feeder road completed. Percent of contracted road works disbursed: feeder roads. Value of loans disbursed to clients from agriculture loan fund. Portfolio-at-risk of Agriculture Loan Fund (percent). Cooling facilities installed. Percent of value of contracted irrigation works disbursed. Parcels surveyed in the Pilot Land Registration. Land parcels registered in the Pilot Land Registration Areas. Volume of products passing through post-harvest treatment (metric tons).
Rural Development Project.	$76,030,565	Strengthen the rural institutions that provide services complementary to, and supportive of, agricultural and agriculture business development.	$75,903,274	Students enrolled in schools affected by Education Facilities Sub-Activity. Agricultural facilities in target districts with electricity due to Rural Electrification Activity. Additional female students enrolled in schools affected by Education Facilities Sub-Activity
Individuals completing internships at ministries, departments and agencies and metropolitan, municipal and district assemblies..				
				School blocks rehabilitated and constructed. Distance to collect water (meters). Households with access to improved water supply. Water points constructed. Electricity lines identified and diligence (kilometers). Inter-bank transactions. Rural banks automated under the Automation/Computerization and Interconnectivity of Rural Banks activity. Rural banks connected to the wide area network.
Transportation Project ...	$227,710,512	Reduce the transportation costs affecting agriculture commerce at sub-regional levels.	$227,657,512	N1 Highway: annualized average daily traffic. N1 Highway: kilometers of road completed. N1 Highway: Travel time at peak hours (minutes). N1 Highway: Vehicles per hour at peak hours. Trunk roads kilometers of roads completed
Percent disbursed of contracted trunk road works..				
				Ferry activity: annualized average daily traffic vehicles Ferry activity: annual average daily traffic (passengers) Percent of contracted road works disbursed: N1 Percent of contracted work disbursed: ferry and floating dock Percent of contracted work disbursed: landings and terminals.
Program Administration, Due Diligence, Monitoring and Evaluation.	$43,816,362	.....	$43,816,360	

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Indonesia Year: 2013 Quarter 4 Total Obligation: $600,000,000 Entity to which the assistance is provided: MCA Indonesia Total Quarterly Disbursements: $1,356,847				
Community Nutrition Project.	$131,500,000	.....	$22,458,673	
Procurement Modernization Project.	$50,000,000	.....	103,608	
Green Prosperity Project	$332,500,000	.....	$99,480	
Program Administration and Control, Monitoring and Evaluation.	$86,000,000	.....	$3,905,233	
Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Jordan Year: 2013 Quarter 4 Total Obligation: $275,100,000 Entity to which the assistance is provided: MCA Jordan Total Quarterly Disbursements: $15,710,623				
Water Network Project ..	$102,570,034	Reduce water losses, improve continuity of water service and improve overall efficiency and use of network water delivery leading to households substituting network water for costly alternatives.	$4,416,060	Network water consumption per capita (residential and non-residential); liters/capita/day. Operating cost coverage—Water Authority Jordan Zarqa. Non-revenue water (percent). Continuity of supply time; hours per week. Restructure and rehabilitate primary and secondary pipelines (kilometers). Restructure and rehabilitate tertiary pipelines (kilometers). Value of disbursed water construction contracts—Infrastructure Activity and Water Smart Homes Activity (U.S. dollars). National Aid Fund households with improved water and wastewater network. National Aid Fund households connected to the wastewater network as a result of the Water Smart Homes Activity.
Wastewater Network Project.	$54,274,261	Increase access to the wastewater network, increase the volume of wastewater collected and reduce the incidents of sewage overflow.	$12,538,064	Sewer blockage events (annual). Volume of wastewater collected; cubic meters/year/million. Residential population connected to the sewer system. Expand network (kilometers). Value disbursed of sanitation construction contracts.
As Samra Wastewater Treatment Plant Expansion Project.	$98,703,598	Increase the volume of treated waste water available as a substitute for fresh water in agriculture use.	$37,748,348	Treated wastewater used in agriculture (as a percent of all water used for irrigation in Northern and Middle Jordan Valley). Value of disbursed construction contracts; MCC contribution (U.S. dollars). Total engineering, procurement and construction cost of As-Samra expansion (U.S. dollars).
Program Administration and Control, Monitoring and Evaluation.	$19,552,107	.....	$2,040,286	
Pending Subsequent Reports.	.....	.....	$44,546	
Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Lesotho Year: 2013 Quarter 4 Total Obligation: $362,551,000 Entity to which the assistance is provided: MCA Lesotho Total Quarterly Disbursements: $65,987,603				
Water Project	$155,187,239	Improve the water supply for industrial and domestic needs, and enhance rural livelihoods through improved watershed management..	$135,808,735	Physical completion of Metolong water treatment works contract (percent). Physical completion of urban water supply works contracts (percent). People with access to rural water supply. Ventilated improved pit latrines built. Households with provisions to connect to water networks

Projects	Obligated	Objective	Cumulative disbursements	Measures
				Non-revenue water (percent) Knowledge of good hygiene practices (percent) Water points constructed.
Health Project	$138,511,863	Increase access to life-extending antiretroviral therapy and essential health services by providing a sustainable delivery platform..	$128,460,579	People with HIV still alive 12 months after initiation of treatment. Health centers with required staff complement (full-time employees). Tuberculosis notification (per 100,000 people). Health centers equipped. Deliveries conducted in the health facilities Physical completion of health center facilities (percent) Physical completion of outpatient departments (percent) Physical completion of the Botsabelo facilities (percent)
Private Sector Development Project.	$25,225,369	Stimulate investment by improving access to credit, reducing transaction costs and increasing the participation of women in the economy..	$22,176,405	Time required to resolve commercial disputes (number of days). Cases filed at the commercial court. Debit/smart cards issued. Bonds registered. Urban land parcels regularized and registered People trained on gender equality and economic rights Stakeholders trained Change in time for property transactions (percent) Women holding titles to land.
Program Administration and Control, Monitoring and Evaluation.	$43,626,528	.....	$37,702,451	
Pending Subsequent Reports.	.....	.....	$212,441	

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Malawi Year: 2013 Quarter 4 Total Obligation: $350,700,000 Entity to which the assistance is provided: MCA Malawi Total Quarterly Disbursements: $655,998				
Gender Integration Project.	$203,000			
Power Project	$257,115,000			
Natural Resource Management Project.	$27,739,000			
Power Sector Reform Project.	$24,229,800	.....	$223,042	
Program Administration and Control, Monitoring and Evaluation.	$41,616,200	.....	$1,328,666	
Pending Subsequent Reports.	.....	.....	$155,088	

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Moldova Year: 2013 Quarter 4 Total Obligation: $262,000,000 Entity to which the assistance is provided: MCA Moldova Total Quarterly Disbursements: $14,279,187				
Road Rehabilitation Project.	$132,840,000	Enhance transportation conditions.	$30,508,729	Reduced cost for road users. Average annual daily traffic. Road maintenance expenditure. Kilometers of roads completed.

Projects	Obligated	Objective	Cumulative disbursements	Measures
				Percent of contracted roads works disbursed Children participants in the road safety trainings Resettlement action plans implemented Final design (date received) Trafficking in persons training participants.
Transition to High Value Agriculture Project.	$120,773,402	Increase incomes in the agricultural sector; create models for transition to high value agriculture in centralized irrigation system areas and an enabling environment (legal, financial and market) for replication.	$20,530,031	Hectares under improved or new irrigation. Centralized irrigation systems rehabilitated. Percent of contracted irrigation feasibility and/or design studies disbursed. Value of irrigation feasibility and/or detailed design contracts signed. Water user associations achieving financial sustainability Management transfer agreements signed Revised water management policy framework—with long-term water rights defined—established Contracts of association signed New high value agriculture infrastructure in place (metric tons of cold storage capacity) Loans past due Value of agricultural and rural loans Loan borrowers Loan borrowers (female) Value of sales facilitated Farmers that have applied improved techniques (Growing High Value Agriculture Sales [GHS]) Farmers that have applied improved techniques (GHS) (female) Farmers trained Farmers trained (female) Enterprises assisted Enterprises assisted (female)
Program Administration and Monitoring and Evaluation.	$27,386,598	.....	$9,807,687	
Pending Subsequent Reports.	.....	.....	$130,626	

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Mongolia Year: 2013 Quarter 4 Total Obligation: $284,911,363 Entity to which the assistance is provided: MCA Mongolia Total Quarterly Disbursements: $40,901,282				
Property Rights Project	$28,970,417	Increase security and capitalization of land assets held by lower-income Mongolians, and increased peri-urban herder productivity and incomes.	$28,205,493	Wells completed. Stakeholders trained (Peri-Urban). Leases awarded. Project herder groups limiting their livestock population to the carrying capacity of their leases on farms in 3 central aimags (Ulaanbataar, Darkhan and Erdenet) (percent). Official cost prescribed for property transactions (first-time) Household land rights formalized Legal and regulatory reforms adopted Stakeholders trained (Ger Area Land Plots).
Vocational Education Project.	$50,215,035	Increase employment and income among unemployed and underemployed Mongolians.	$49,193,742	Students participating in MCC-supported educational activities. Public-Private Partnership (PPP) funding contributed to Technical Vocational Education and Training (TVET) schools (percent). Instructors trained. Educational facilities constructed or rehabilitated.

Projects	Obligated	Objective	Cumulative disbursements	Measures
Health Project	$42,045,259	Increase the adoption of behaviors that reduce noncommunicable diseases and injuries (NCDIs) among target populations and improved medical treatment and control of NCDIs.	$38,594,085	Amount of civil society grants (USD). Cervical cancer cases detected early (percent). Screening for hypertension (percent). Health staff trained. School teachers trained. Primary healthcare facilities with noncommunicable disease services (percent).
Roads Project	$84,768,788	More efficient transport for trade and access to services.	$68,624,172	Kilometers of roads completed. Kilometers of roads under design. Percent disbursed of road construction contracts.
Energy and Environmental Project.	$41,518,019	Increased wealth and productivity through greater fuel use efficiency and decreasing health costs from air.	$40,113,989	Power dispatched from substation (million kilowatt hours). Heat only boilers sites upgraded. Subsidized stoves sold.
Rail Project	$369,560	Terminated	$369,560	Terminated.
Program Administration and Control, Monitoring and Evaluation.	$37,024,286	.....	$31,237,501	
Pending Subsequent Reports.	.....	.....	$673,773	

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Morocco Year: 2013 Quarter 4 Total Obligation: $697,257,930 Entity to which the assistance is provided: MCA Morocco Total Quarterly Disbursements: $68,770,191				
Fruit Tree Productivity Project.	$339,987,321	Stimulate growth in the agricultural sector and reduce the volatility of agricultural production by restructuring farming from grains towards fruit tree cultivation.	$292,981,583	Farmers trained. Catalyst Fund proposals approved. Disbursements under the Catalyst Fund (U.S. dollars). Area planted and delivered to farmers (hectares). Area in expansion perimeters for which water and soil conservation measures have been implemented (hectares) Yield of rehabilitated olive trees in rain-fed areas (metric tons per hectare) (mt/ha) Cumulative area of irrigated perimeters rehabilitated (hectares) Yield of rehabilitated olive trees in irrigated areas (mt/ha) Average agricultural revenue per farm in oasis areas Hectares under improved irrigation Yield of rehabilitated date palms in oasis areas (mt/ha) In-vitro seedlings successfully planted.

Projects	Obligated	Objective	Cumulative disbursements	Measures
Small Scale Fisheries Project.	$122,246,589	Supported by modern landing-site infrastructure, equipment and storage facilities, develop value-chain activities related to the fishing industry encouraging greater access to national and international markets, while improving the fish quality and preserving resources.	$92,772,499	Boats benefitting from landing sites and ports. Artisan fishers who received a training certificate. Work days created for construction jobs in fish landing sites, ports, and wholesale market sites. Per capita fish consumption in areas of new market construction (kg/year). Active mobile fish vendors trained and equipped by the project. Average price of fish at auction markets. Net annual income of mobile fish vendors (U.S. dollars).
Artisan and Fez Medina Project.	$96,006,515	Increase revenue from cultural and artisan activities, and improve educational and professional qualifications of compact beneficiaries.	$68,286,067	Total receiving literacy training. Graduates of MCC-supported functional literacy program (female). Graduates of MCC-supported functional literacy program (male). Total receiving professional training. Females receiving professional training. Graduates vocational training program (residential, apprenticeship and continuing education). Drop-out rates of participants of residential and apprenticeship programs. Potters trained. MCC-subsidized gas kilns bought by artisans. Adoption rate of improved production practices promoted by the project (percent). Tourist circuits improved or created. Small and medium enterprises (SMEs) that append the label on their products. SMEs participating in promotion events. Sites constructed or rehabilitated (4 Fondouks, Place Lalla Ydouna, Ain Nokbi). Beneficiaries of Ain Nokbi construction and artisan resettlement program.
Enterprise Support Project.	$15,185,642	Improved survival rate of new small and medium enterprises (SMEs) and National Initiative for Human Development (INDH)-funded income generating activities; increased revenue for new SMEs and INDH-funded income generating activities.	$15,123,258	Reduction in SME mortality (treatment firms with respect to control firms) one year after support completion (percent). Days of individual coaching (total days). Beneficiaries trained.
Financial Services Project.	$44,175,252	To be determined	$40,888,926	Microfinance institutions' portfolio at risk at 30 days (percent). Value of loans granted through mobile branches (U.S. dollars). Clients of microcredit associations reached through mobile branches. Value of loan agreements between micro credit associations and Jaida (millions of dirhams). Value of loan disbursements to Jaida.
Program Administration and Control, Monitoring and Evaluation.	$79,656,611	.....	$66,048,833	
Pending Subsequent Reports.	.....	.....	$1,236,649	

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Mozambique Year: 2013 Quarter 4 Total Obligation: $506,924,053 Entity to which the assistance is provided: MCA Mozambique Total Quarterly Disbursements: $63,068,311				
Water Supply and Sanitation Project.	$207,385,393	Increase access to reliable and quality water and sanitation facilities.	$174,770,895	Value of municipal sanitation and drainage systems construction contracts signed. Amount disbursed for municipal sanitation and drainage construction contracts. Volume of water produced. Value of contracts signed for construction of water systems. Percent of construction contract disbursed for water systems. Rural water points constructed. Percent of rural population of the six intervention districts with access to improved water sources. Amount disbursed for rural water points construction contracts. Persons trained in hygiene and sanitary best practices.
Road Rehabilitation Project.	$176,307,480	Increase access to productive resources and markets..	$118,862,274	Percent of roads works contracts disbursed. Kilometers of roads issued ''Take-over Certificates''
Land Tenure Project	$40,068,307	Establish efficient, secure land access for households and investors..	$35,830,188	People trained (paralegal courses at Centre for Juridical and Judicial Training, general training at National Directorate of Land and Forest, etc.). Land administration offices established or upgraded. Land tenure regularization (LTR) urban parcels mapped. LTR DUATs (Direito de Use e Aproveitamento—Portuguese for land lease) delivered to the urban beneficiaries. LTR rural hectares mapped. LTR DUATs delivered to the rural beneficiaries. Community Land Fund (ITC) rural hectares formalized. ITC communities land areas mapped.
Farmer Income Support Project.	$19,250,117	Improve coconut productivity and diversification into cash crop..	$16,982,021	Coconut seedlings planted. Survival rate of coconut seedlings (percent). Hectares of alternate crops under production. Farmers trained in surveillance and pest and disease control for coconuts. Farmers trained in alternative crop production and productivity enhancing strategies. Farmers trained in planting and post-planting management of coconuts. Farmers using alternative crop production and productivity enhancing strategies. Businesses receiving Business Development Fund grants.
Program Administration and Control, Monitoring and Evaluation.	$63,912,756	.....	$42,872,175	
Pending Subsequent Reports.	.....	.....	$5,999,607	
Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Namibia Year: 2013 Quarter 4 Total Obligation: $304,477,815 Entity to which the assistance is provided: MCA Namibia Total Quarterly Disbursements: $27,794,245				
Education Project	$141,455,296	Improve the quality of the workforce in Namibia by enhancing the equity and effectiveness of basic.	$88,788,480	Learners (any level) participating in the 47 schools sub-activity. Educational facilities constructed, rehabilitated, equipped in the 47 schools sub-activity.

Projects	Obligated	Objective	Cumulative disbursements	Measures
				Percent of contracted construction works disbursed for 47 schools. Textbooks delivered. Educators trained to be textbook management trainers. Educators trained to be textbook utilization trainers. Percent disbursed against works contracts for Regional Study Resource Centers Activity. Visits to MCA Namibia assisted Regional Study and Resource Centres. Compliance rate for National Training Fund levy. Graduates from MCC-supported education activities. Percent disbursed against construction, rehabilitation, and equipment contracts for Community Skills and Development Centres. Namibia Student Financial Assistance Fund Policy in place (date).
Tourism Project	$68,678,683	Grow the Namibian tourism industry with a focus on increasing income to households in communal.	$27,106,799	Tourists to Etosha National Park (ENP). Galton Gate Plan implemented (percent). Percent disbursed against construction, rehabilitation and equipment contracts for ENP housing units/management structures. Game translocated with MCA Namibia support. Unique visits on Namibia Tourism Board website. Leisure tourist arrivals. North American tourism businesses (travel agencies and tour operators) that offer Namibian tours or tour packages. Value of grants issued by the Conservancy Development Support Grant Fund (Namibian dollars). Amount of new private sector investment secured by MCA Namibia assisted conservancies (Namibian dollars). Annual gross revenue to conservancies receiving MCA Namibia assistance.
Agriculture Project	$51,386,344	Enhance the health and marketing efficiency of livestock in the NCAs of Namibia and to increase income.	$34,474,814	Participating households registered in the Community-Based Rangeland and Livestock Management sub-activity. Grazing areas with documented combined management plans. Parcels corrected or incorporated in land system. Stakeholders trained. Cattle tagged with radio frequency identification tags. Percent disbursed against works contracts for State Veterinary Offices. Value of grant agreements signed under Livestock Market Efficiency Fund. Farmers trained. Value of grant agreements signed under Indigenous Natural Product Innovation Fund.
Program Administration and Control, Monitoring and Evaluation.	$42,957,491	.....	$27,409,907	
Pending Subsequent Reports.	.....	.....	$8,867,273	

Projects	Obligated	Objective	Cumulative expenditures	Measures
Country: Nicaragua[6] Year: 2013 Quarter 4 Total Obligation: $112,703,083 Entity to which the assistance is provided: MCA Nicaragua Total Quarterly Expenditures: $ −28,532				
Property Regularization Project.	$7,158,799	Increase Investment by strengthening property rights.	$7,158,799	Additional parcels with a registered title, urban. Additional parcels with a registered title, rural. Area covered by cadastral mapping

Projects	Obligated	Objective	Cumulative expenditures	Measures
				Automated database of registry and cadastre installed in the 10 municipalities of Leon Protected Areas with formulated Management Plans.
Transportation Project ...	$57,884,159	Reduce transportation costs between Leon and Chinandega and national, regional and global markets.	$57,884,159	Annual Average daily traffic volume: Villanueva—Guasaule. Average daily traffic volume: Somotillo-Cinco Pines (S1). Annual average daily traffic volume: León-Poneloya-Las Peñitas. International roughness index: Villanueva—Guasaule. International roughness index: Somotillo-Cinco Pines. International roughness index: León-Poneloya-Las Peñitas. Kilometers of NI [highway?] upgraded: Villanueva—Guasaule. Kilometers of S1 road upgraded. Kilometers of S9 road upgraded. Kilometers of NI upgraded: R1 and R2 and S13.
Rural Development Project.	$32,709,497	Increase the value added of farms and enterprises in the region.	$32,709,497	Beneficiaries with business plans. Manzanas (1 manzana = 1.7 hectares), by sector, harvesting higher-value crops. Beneficiaries implementing forestry business plans under Improvement of Water Supplies Activity. Manzanas reforested. Manzanas with trees planted.
Program Administration, Due Diligence, Monitoring and Evaluation.	$14,950,629	.....	$14,950,629	

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Philippines Year: 2013 Quarter 4 Total Obligation: $433,910,000 Entity to which the assistance is provided: MCA Philippines Total Quarterly Disbursements: $22,333,933				
Kalahi-CIDSS Project	$120,000,000	Improve the responsiveness of local governments to community needs, encourage communities to engage in development activities..	$42,045,588	Percent of Municipal Local Government Units that provide funding support for Kalahi-CIDSS (KC) subproject operations and maintenance. Completed KC subprojects implemented in compliance with technical plans and within schedule and budget. Barangays that have completed specific training on subproject management and implementation.
Secondary National Roads Development Project.	$214,493,000	Reduce transportation costs and improve access to markets and social services..	$48,409,627	Kilometers of road sections completed. Bridges replaced. Bridges rehabilitated. Value of road construction contracts signed. Value of road construction contracts disbursed.
Revenue Administration Reform Project.	$54,300,000	Increase tax revenues over time and support the Department of Finance's initiatives to detect and deter corruption within its revenue agencies..	$5,847,271	Number of Audits. Revenue District Offices using the electronic tax information system. Percent of audit completed in compliance with prescribed period of 120 days. Percent of audit cases performed using automated audit tool. Successful case resolutions. Personnel charged with graft, corruption, lifestyle and/or criminal cases. Time taken to complete investigation (average).

Projects	Obligated	Objective	Cumulative disbursements	Measures
Program Administration and Control, Monitoring and Evaluation.	$45,117,000	.....	$9,877,470	
Pending Subsequent Reports.	.....	.....	$4,723,962	
Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Senegal Year: 2013 Quarter 4 Total Obligation: $540,000,000 Entity to which the assistance is provided: MCA Senegal Total Quarterly Disbursements: $12,912,694				
Road Rehabilitation Project.	$324,712,499	Expand access to markets and services.	$40,689,656	Value of contracts signed for the feasibility, design, supervision and program management of the RN2 and RN6 National Roads. Percent of disbursements for the contract signed for the constructions of the RN 2 and RN6. Kilometers of roads rehabilitated on the RN2. Annual average daily traffic Richard-Toll—Ndioum. Percent change in travel time on the RN2. International Roughness Index on the RN2 (lower number = smoother road). Kilometers of roads covered by the contract for the studies, the supervision and management of the RN2. Kilometers of roads rehabilitated on the RN6. Annual average daily traffic Ziguinchor—Tanaff. Annual average daily traffic Tanaff—Kolda. Annual average daily traffic Kolda—Kounkané. Percent change in travel time on the RN6. International roughness index on the RN6 (lower number = smoother road). Kilometers of roads covered by the contract for the studies, the supervision and management of the RN6.
Irrigation and Water Resources Management Project.	$170,008,860	Improve productivity of the agricultural sector.	$29,484,039	Tons of irrigated rice production. Potentially irrigable lands area (Delta and Ngallenka). Hectares under production. Percent of the disbursements on the contracts signed for the studies in the Delta and the Ngallenka. Value of the construction contracts signed for the irrigation infrastructure in the Delta and the Ngallenka. Cropping intensity (hectares under production per year/cultivable hectares) (Delta and Ngallenka). Hectares mapped. New conflicts resolved (percent). People trained on land security tools. Women trained on land security tools.
Program Administration and Monitoring and Evaluation.	$45,278,641	.....	$14,079,655	
Pending Subsequent Reports.	.....	.....	$1,385,021	
Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Tanzania Year: 2013 Quarter 4 Total Obligation: $698,136,000 Entity to which the assistance is provided: MCA Tanzania Total Quarterly Disbursements: $119,230,113				
Energy Sector Project ...	$202,082,375	Increase value added to businesses.	$176,848,342	Number of current power customers (Zanzibar). Transmission and distribution substations capacity (megawatt-peak) (Zanzibar). Technical and non-technical losses (Zanzibar) (percent).

Projects	Obligated	Objective	Cumulative disbursements	Measures
				Kilometers of 132 kilovolt (KV) lines constructed (Zanzibar). Percent disbursed on overhead lines contract (Zanzibar). Current power customers (Malagarasi/Kigoma). Capacity of photovoltaic systems installed (kilowatt-peak) (Malagarasi/Kigoma). Current power customers (all six project regions) (Mainland). Kilometers of 33/11KV lines constructed (Mainland). Transmission and distribution substations capacity (megavolt ampere) (all six project regions) (Mainland). Technical and nontechnical losses (Mainland and Kigoma) (percent). Cost recovery ratio (Mainland).
Transport Sector Project	$396,138,379	Increase cash crop revenue and aggregate visitor spending.	$360,646,735	Percent disbursed on construction contracts. Surfacing complete: Tunduma—Sumbawanga (percent). Surfacing complete: Tanga—Horohoro (percent). Surfacing complete: Namtumba—Songea (percent). Surfacing complete: Peramiho—Mbinga (percent). Kilometers of roads completed (taken over). Pemba: Percent disbursed on construction contract. Surfacing complete: Pemba (percent). Kilometers of roads completed (taken over): Zanzibar. Road maintenance expenditures: Mainland trunk roads (percent). Road maintenance expenditures: Zanzibar rural roads (percent). Runway surfacing complete (percent).
Water Sector Project	$60,533,101	Increase investment in human and physical capital and to reduce the prevalence of water-related disease.	$49,475,588	Volume of water produced—Lower Ruvu (millions of liters per day). Operations and maintenance cost recovery—Lower Ruvu (percent). Volume of water produced—Morogoro (millions of liters per day). Operations and maintenance cost recovery—Morogoro (percent).
Program Administration and Control, Monitoring and Evaluation.	$39,382,145	.....	$33,083,449	

[1] ''Total Obligation'' for listed Compacts includes both ''Compact Implementation Funding'' under section 609(g) of the Act as well as funding under section 605 of the Act.

[2] ''Disbursements'' are cash outlays rather than expenditures.

[3] ''Measures'' are the same Key Performance Indicators that MCC reports each quarter. The Key Performance Indicators may change over time to more accurately reflect compact implementation progress. The unit for these measures is ''a number of'' unless otherwise indicated.

[4] Program administration funds are used to pay items such as salaries, rent, and the cost of office equipment.

[5] Amounts listed as ''Pending Subsequent Reports'' represent disbursements made that will be allocated to individual projects in the subsequent quarter(s) and reported as such in subsequent quarterly report(s).

[6] These compacts are closed; however, deobligations took place during the reporting period.

The following MCC compacts are closed and, therefore, do not have any quarterly disbursements: Armenia, Benin, Cape Verde I, Honduras, Madagascar, Mali and Vanuatu.

619(b) Transfer or Allocation of Funds

United States agency to which funds were transferred or allocated	Amount	Description of program or project
None	None	None.

[FR Doc. 2014–04658 Filed 3–3–14; 8:45 am]
BILLING CODE 9211–03–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (14–024)]

Notice of Intent To Grant Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant Exclusive License.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant an exclusive license in the United States to practice the invention described and claimed in U.S. Patent 7,228,241 entitled Systems, Methods And Apparatus For Determining Physical Properties Of Fluids, to APlus-QMC, LLC, having its principal place of business in McDonough, GA. The patent rights in these inventions as applicable have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Mr. James J. McGroary, Chief Patent Counsel/LS01, Marshall Space Flight Center, Huntsville, AL 35812, (256) 544–0013.

FOR FURTHER INFORMATION CONTACT: Mr. Sammy A. Nabors, Technology Transfer Office/ZP30, Marshall Space Flight Center, Huntsville, AL 35812, (256) 544–5226. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

Sumara M. Thompson-King,

Deputy General Counsel.

[FR Doc. 2014–04685 Filed 3–3–14; 8:45 am]
BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0037]

Biweekly Notice;

Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

Background

Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from February 6; 2014 to February 19, 2014. The last biweekly notice was published on February 19, 2014 (79 FR 9490).

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0037. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.*

• *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: 3WFN–06–44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2014–0037 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0037.

• *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.

B. Submitting Comments

Please include Docket ID NRC–2014–0037 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in you comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment

submissions available to the public or entering the comment submissions into ADAMS.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of Title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

All documents filed in the NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov*, or by telephone at 301–415–1677, to request (1) a digital

identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html*. System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's Web site at *http://www.nrc.gov/site-helpe-submittals.html*, by email at *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/*, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

For further details with respect to this license amendment application, see the application for amendment which is available for public inspection at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC's PDR Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*.

Entergy Gulf States Louisiana, LLC, and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: November 4, 2013.

Description of amendment request: The proposed amendment would revise Technical Specifications (TS) Sections 3.6.4.3, ''Standby Gas Treatment (SGT) System,'' 3.6.4.7, ''Fuel Building Ventilation System—Fuel Handling,''

3.7.2, ''Control Room Fresh Air (CRFA) System,'' and 5.5.7, ''Ventilation Filter Testing Program (VFTP).'' These revisions will eliminate the operability and surveillance requirements for the heaters in the safety-related charcoal filter trains in those systems, revise certain charcoal test specifications, and reduce the duration of the monthly surveillance test of the filter trains.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The SGT ensures that radioactivity leaking into the secondary containment from design basis accidents is treated and filtered before being released to the environment. The FBVS [Fuel Building Ventilation System] ensures that radioactive materials that escape from fuel assemblies damaged following a design basis fuel handling accident are filtered and adsorbed prior to exhausting to the environment. The CRFA system is designed to maintain a habitable environment in the control room envelope for a 30-day continuous occupancy after a [design basis accident (DBA)]. None of these systems involve any accident precursors or initiators. None of the proposed changes involve any reduction in the reliability of the systems.

This TS amendment request does not require or otherwise propose any physical changes to any system intended for the prevention of accidents or intended for the mitigation of accident consequences including the three systems. Neither does it involve any changes to the operation or maintenance of the three systems or to any other system designed for the prevention or mitigation of design basis accidents. This proposed TS change involves the elimination of the electric heater testing requirement and its concomitant increase in the testing criteria for relative humidity. The proposed revision to the allowable percent penetration through the FBVS filter carbon bed when challenged with methyl iodide during laboratory testing will have no adverse effects on current operating and accident off site dose calculations. With respect to the reduced duration of the monthly surveillance tests, the proposed duration of 15 minutes is adequate to ensure proper operation of the filter trains.

For the above reasons, this TS amendment request will not result in a significant increase in the probability of occurrence, or the consequences, of a previously evaluated event.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This proposed change involves elimination of the testing requirements for the electric heaters in the three charcoal filter trains. This change is consistent with the charcoal test protocol already codified in the TS. However, no changes are being made to the way the filter trains, or any other system, are operated or maintained. Changes are being made to how the filter trains will be tested, but these changes will not result in the system being operated outside of its design basis. Since no new modes of operation are introduced, the probability of occurrence of an event different from any previously evaluated is not increased.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

Response: No.

The operability requirements for the electric heaters in the three charcoal filter trains are eliminated by the proposed change. The laboratory testing criteria cited in TS 5.5.7.c for the relative humidity of the process air stream are being changed from 70% to 95%. This is consistent with the test protocol required by [American Society for Testing & Materials (ASTM)] D3803–1983, which is already incorporated by reference in the TS. The capability of the charcoal filter trains to adsorb iodine in the process stream will remain unchanged. The proposed revision to the allowable percent penetration through the FBVS filter carbon bed when challenged with methyl iodide during laboratory testing will have no adverse effects on current operating and accident off site dose calculations. The proposed 15-minute duration of the monthly surveillance test provides adequate verification of the proper operation of the credited components.

For these reasons, the margin of safety is not significantly reduced. Additionally, the elimination of the filter train heaters will significantly improve the safety margin in the performance of the emergency diesel generators by reducing their post-accident loads.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Joseph A. Aluise, Associate General Counsel—Nuclear, Entergy Services, Inc., 639 Loyola Avenue, New Orleans, Louisiana 70113.

NRC Branch Chief: Douglas A. Broaddus.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: November 8, 2013.

Description of amendment request: The proposed amendment would modify the Technical Specifications (TS) definition of ''Shutdown Margin'' (SDM) to require calculation of the SDM at a reactor moderator temperature of 68 degrees Fahrenheit (°F) or a higher temperature that represents the most reactive state throughout the operating cycle. This change is needed to address new Boiling Water Reactor (BWR) fuel designs which may be more reactive at shutdown temperatures above 68 °F.

This TS request is part of the Consolidated Line Item Improvement Process (CLIIP) TS Task Force (TSTF) Traveler TSTF–535, ''Revise Shutdown Margin Definition to Address Advanced Fuel Designs.'' The Notice of Availability of the model application and model no significant hazards consideration determination was announced in **Federal Register** on February 26, 2013 (78 FR 13100).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change revises the definition of SDM. SDM is not an initiator to any accident previously evaluated. Accordingly, the proposed change to the definition of SDM has no effect on the probability of any accident previously evaluated. SDM is an assumption in the analysis of some previously evaluated accidents and inadequate SDM could lead to an increase in consequences for those accidents. However, the proposed change revises the SDM definition to ensure that the correct SDM is determined for all fuel types at all times during the fuel cycle. As a result, the proposed change does not adversely affect the consequences of any accident previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change revises the definition of SDM. The change does not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operations. The change does not alter assumptions made in the safety analysis regarding SDM.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change revises the definition of SDM. The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The proposed change ensures that the SDM assumed in determining safety limits, limiting safety system settings or limiting conditions for operation is correct for all BWR fuel types at all times during the fuel cycle.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Joseph A. Aluise, Associate General Counsel—Nuclear, Entergy Services, Inc., 639 Loyola Avenue, New Orleans, Louisiana 70113.

NRC Branch Chief: Douglas A. Broaddus.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: November 8, 2013.

Description of amendment request: The amendment would modify the Technical Specifications (TS) to risk-informed requirements regarding selected Required Action End States. Additionally, it would modify the TS Required Actions with a Note prohibiting the use of Limiting Condition for Operation (LCO) 3.0.4.a when entering the preferred end state (Mode 3) on startup.

This TS request is part of the Consolidated Line Item Improvement Process (CLIIP) TS Task Force (TSTF) Traveler TSTF–423, Revision 1, ''Technical Specifications End States, NEDC–32988–A,'' with some deviations noted. The Notice of Availability of the model application and model no significant hazards consideration determination was announced in **Federal Register** on February 18, 2011 (76 FR 9614).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has affirmed the applicability of the model no significant hazards consideration determination, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change allows a change to certain required end states when the TS Completion Times for remaining in power operation will be exceeded. Most of the requested technical specification (TS) changes are to permit an end state of hot shutdown (Mode 3) rather than an end state of cold shutdown (Mode 4) contained in the current TS. The request was limited to: (1) Those end states where entry into the shutdown mode is for a short interval, (2) entry is initiated by inoperability of a single train of equipment or a restriction on a plant operational parameter, unless otherwise stated in the applicable TS, and (3) the primary purpose is to correct the initiating condition and return to power operation as soon as is practical. Risk insights from both the qualitative and quantitative risk assessments were used in specific TS assessments. Such assessments are documented in Section 6 of topical report NEDC–32988–A, Revision 2, ''Technical Justification to Support Risk Informed Modification to Selected Required Action End States for BWR [Boiling-Water Reactor] Plants.'' They provide an integrated discussion of deterministic and probabilistic issues, focusing on specific TSs, which are used to support the proposed TS end state and associated restrictions. The NRC staff finds that the risk insights support the conclusions of the specific TS assessments. Therefore, the probability of an accident previously evaluated is not significantly increased, if at all. The consequences of an accident after adopting TSTF–423 are no different than the consequences of an accident prior to adopting TSTF–423. Therefore, the consequences of an accident previously evaluated are not significantly affected by this change. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). If risk is assessed and managed, allowing a change to certain required end states when the TS Completion Times for remaining in power operation are exceeded (i.e., entry into hot shutdown rather than cold shutdown to repair equipment) will not introduce new failure modes or effects and will not, in the absence of other unrelated failures, lead to an accident whose consequences exceed the consequences of accidents previously evaluated. The addition of a requirement to assess and manage the risk introduced by this change and the commitment by the licensee to adhere to the guidance in TSTF–IG–05–02, ''Implementation Guidance for TSTF–423, Revision 1, 'Technical Specifications End States, NEDC–32988–A,' '' will further minimize possible concerns.

Thus, based on the above, this change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change allows, for some systems, entry into hot shutdown rather than cold shutdown to repair equipment, if risk is assessed and managed. The [BWR Owners Group's (BWROG's)] risk assessment approach is comprehensive and follows NRC staff guidance as documented in Regulatory Guides (RG) 1.174 and 1.177. In addition, the analyses show that the criteria of the three-tiered approach for allowing TS changes are met. The risk impact of the proposed TS changes was assessed following the three-tiered approach recommended in RG 1.177. A risk assessment was performed to justify the proposed TS changes. The net change to the margin of safety is insignificant.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Since the licensee has affirmed the applicability of the model no significant hazards consideration determination, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Joseph A. Aluise, Associate General Counsel—Nuclear, Entergy Services, Inc., 639 Loyola Avenue, New Orleans, Louisiana 70113.

NRC Branch Chief: Douglas A. Broaddus.

Exelon Generation Company, LLC, and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units 2 and 3, York and Lancaster Counties, Pennsylvania

Date of application for amendments: December 4, 2013.

Description of amendment request: The proposed amendments would revise Technical Specification (TS) Limiting Condition for Operation (LCO) 3.5.1 to delete a note pertaining to the low pressure coolant injection (LPCI) mode of residual heat removal (RHR). The licensee's application stated the note was being deleted because plant operation in accordance with the note could result in potential damage to the RHR system.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

No physical changes to the facility will occur as a result of this proposed amendment. The proposed change will not alter the physical design. Current TSs could make PBAPS [Peach Bottom Atomic Power Station] susceptible to potential water hammer in the RHR system if in the SDC [Shutdown Cooling] Mode of RHR in Mode 3 when swapping from the SDC to LPCI mode of RHR. The proposed LAR [license amendment request] will eliminate the risk for cavitation of the pump and voiding in the suction piping, thereby avoiding potential to damage the RHR system, including water hammer.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not alter the physical design, safety limits, or safety analysis assumptions associated with the operation of the plant. Accordingly, the change does not introduce any new accident initiators, nor does it reduce or adversely affect the capabilities of any plant structure, system, or component to perform their safety function. Deletion of the TS Note is appropriate because current TSs could put the plant at risk for potential cavitation of the pump and voiding in the suction piping, resulting in potential to damage the RHR system, including water hammer.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change conforms to NRC regulatory guidance regarding the content of plant Technical Specifications. The proposed change does not alter the physical design, safety limits, or safety analysis assumptions associated with the operation of the plant.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for Licensee: Mr. J. Bradley Fewell, Assistant General Counsel, Exelon Generation Company, LLC, 200 Exelon Way, Kennett Square, Pennsylvania 19348.

NRC Branch Chief: Meena K. Khanna.

Tennessee Valley Authority (TVA), Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant (SQN), Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: July 3, 2013 (SQN–TS–12–04).

Description of amendment request: The proposed amendments would revise the Technical Specifications (TSs) 3/4.6.5, ''Ice Condenser.'' The proposed changes would revise TS Limiting Condition for Operation 3.6.5.1.d and TS Surveillance Requirement 4.6.5.1.d.2 to raise the overall ice condenser ice weight from 2,225,880 pounds (lbs) to 2,540,808 lbs and to raise the minimum TS ice basket weight from 1145 lbs to 1307 lbs, respectively. These changes are necessary to address the issues raised in Nuclear Safety Advisory Letter (NSAL) 11–5, ''Westinghouse LOCA [loss-of-coolant accident] Mass and Energy Release Calculation Issues.'' The issues identified in NSAL–11–5 affected plant-specific LOCA mass and energy release calculation results that are used as input to the containment integrity response analyses. The basis for the proposed changes is provided in WCAP–12455, Revision 1, Supplement 2R, ''Tennessee Valley Authority Sequoyah Nuclear Plant Units 1 and 2 Containment Integrity Reanalyses Engineering Report.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequence of an accident previously evaluated?

Response: No.

The analyzed accidents of consideration in regards to changes affecting the ice condenser are a loss of coolant accident (LOCA) and a main steam line break (MSLB) inside containment. The ice condenser is a passive system and is not postulated as being the initiator of any LOCA or MSLB and is designed to remain functional following a design basis earthquake. In addition, the ice condenser does not interconnect or interact with any systems that have an interface with the reactor coolant or main steam systems.

For SQN, the LOCA is the more severe accident in terms of containment pressure and ice bed melt out, and is therefore the more limiting accident. The revised SQN LOCA containment integrity analysis determined that the post-LOCA peak containment pressure is below the containment design pressure and that the margin to ice meltout is maintained. The analysis assumes an ice weight that ensures sufficient heat removal capability is available from the ice condenser to limit the accident peak pressure inside containment.

TVA has evaluated the effects of the increased ice condenser ice weight and determined that the increase in ice weight does not invalidate the ice condenser seismic qualification, does not adversely affect the capacity of the ice bed to absorb iodine during a LOCA, and does not diminish the boron concentration of the recirculated primary coolant during a LOCA. TVA has also evaluated differences between the as-built plant and the assumptions of the revised analysis and determined that the results of the revised analysis remain valid for Model 57AG steam generators and for AREVA Advanced W17 High Thermal Performance (HTP) fuel.

The proposed changes reflect the ice weight assumed in the containment integrity analysis including conservative allowances for sublimation and weighing instrument systematic error. Accordingly, the proposed changes ensure that ice weight values maintain margin between the calculated peak containment accident pressure and the containment design pressure. The results of the analysis and the margins are maintained; therefore, the consequences of a previously evaluated accident are not adversely affected by the proposed changes.

Because (1) the ice condenser is not an accident initiator, (2) the results of the revised analysis remain valid for Model 57AG steam generators and for AREVA Advanced W17 High Thermal Performance (HTP) fuel, and (3) the proposed changes to the TSs are limited to revision of the ice weight values to reflect the revised containment integrity analysis, there is no change in the probability of an accident previously evaluated in the SQN Updated Final Safety Analysis Report (UFSAR).

Based on the above discussions, the proposed changes do not involve an increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The ice condenser serves to limit the peak pressure inside containment following a LOCA or MSLB. The proposed changes are limited to the revision of the minimum ice weights specified in the TSs. The revised containment pressure analysis determined that sufficient ice would be present to maintain the peak containment pressure below the containment design pressure. No new modes of operation, accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of this proposed change.

TVA has evaluated the effects of the increased ice condenser ice weight and determined that the increase in ice weight does not invalidate the ice condenser seismic qualification, does not adversely affect the capacity of the ice bed to absorb iodine during a LOCA, and does not diminish the boron concentration of the recirculated primary coolant during a LOCA. TVA has also evaluated differences between the as-built plant and the assumptions of the

revised analysis and determined that the results of the revised analysis remain valid for Model 57AG steam generators and for AREVA Advanced W17 High Thermal Performance (HTP) fuel. Because sufficient ice weight is available to maintain the peak containment pressure below the containment design pressure, the results of the revised analysis remain valid for Model 57AG steam generators and for AREVA Advanced W1 7 High Thermal Performance (HTP) fuel, and the increase in ice weight does not invalidate the ice condenser seismic qualification, the increased ice weight does not create the possibility of an accident that is different than any already evaluated in the SQN UFSAR.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The operability of the ice bed ensures that the required ice inventory will (1) be distributed evenly through the containment bays, (2) contain sufficient boron to preclude dilution of the containment sump following the LOCA and (3) contain sufficient heat removal capability to condense the reactor system volume released during a LOCA. These conditions are consistent with the assumptions used in the accident analyses.

The revised analysis demonstrates that the ice condensers will continue to preclude over-pressurizing the lower containment and continue to absorb sufficient heat energy to assist in precluding containment vessel failure. TVA has evaluated the effects of the increased ice condenser ice weight and determined that the increase in ice weight does not invalidate the ice condenser seismic qualification, does not adversely affect the capacity of the ice bed to absorb iodine during a LOCA, and does not diminish the boron concentration of the recirculated primary coolant during a LOCA.

The proposed changes are required to resolve non-conservative TSs currently addressed by administrative controls established in accordance with Nuclear Regulatory Commission (NRC) Administrative Letter 98–10. The revised containment integrity response analysis requires an increase in the required ice weight to ensure that the post-LOCA peak containment pressure remains within the design limits. As a result, the proposed changes restore margin between the accident peak pressure and the containment design pressure and resolve non-conservative TSs ice weight values currently under administrative controls. Accordingly, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 6A–K, Knoxville, Tennessee 37902.

NRC Branch Chief: Jessie F. Quichocho.

Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the NRC's Public Document Room (PDR), located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through the Agencywide Documents Access and Management System (ADAMS) in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR's Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr.resource@nrc.gov*.

DTE Electric Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of application for amendment: December 21, 2012, as supplemented by letters dated July 9, 2013, and October 17, 2013.

Brief description of amendment: The amendment revises the Fermi 2 Technical Specification (TS) Section 1.1, Definitions, TS Section 3.4.10, [Reactor Coolant System] Pressure and Temperature (P/T) Limits, and TS Section 5.6, Reporting Requirements, by replacing the existing reactor vessel heatup and cooldown rates limits and the P/T limit curves with references to the Pressure and Temperature Limits Report at Fermi 2.

Date of issuance: February 4, 2014.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 195.

Facility Operating License No. NPF–43: Amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** April 9, 2013 (78 FR 21167). The supplemental letters dated July 9, 2013, and October 17, 2013, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 4, 2014.

No significant hazards consideration comments received: No.

DTE Electric Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of application for amendment: February 7, 2013, as supplemented by letters dated March 8, April 5, June 7, July 15, and September 27, 2013.

Brief description of amendment: The amendment revises the Operating License and Technical Specifications to implement an increase of approximately 1.64 percent in rated thermal power from the current licensed thermal power of 3430 megawatts thermal (MWt) to 3486 MWt. The changes are based on increased feedwater flow measurement accuracy, which will be achieved by utilizing Cameron International (formerly Caldon) CheckPlus™ Leading Edge Flow Meter ultrasonic flow measurement instrumentation.

Date of issuance: February 10, 2014.

Effective date: As of the date of issuance and shall be implemented upon startup from the Sixteenth Refueling Outage.

Amendment No.: 196.

Facility Operating License No. NPF–43: Amendment revised the Technical Specifications and License.

Date of initial notice in ***Federal Register:*** June 11, 2013 (78 FR 35069). The supplemental letters dated March 8, April 5, June 7, July 15, and September 27, 2013, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 10, 2014.

No significant hazards consideration comments received: No.

Energy Northwest, Docket No. 50–397, Columbia Generating Station, Benton County, Washington

Date of application for amendment: July 25, 2013.

Brief description of amendment: The amendment changed the Technical Specification (TS) 3.7.4, ''Control Room Air Conditioning (AC) System,'' requirements by revising the Required Action and associated Completion Time for two inoperable control room air conditioning subsystems. The proposed changes are consistent with NRC-approved TS Task Force (TSTF) change traveler TSTF–477, Revision 3. The availability of this TS improvement was announced in the **Federal Register** on March 26, 2007 (72 FR 14143), as part of the consolidated line item improvement process.

Date of issuance: February 11, 2014.

Effective date: As of its date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment No.: 227.

Renewed Facility Operating License No. NPF–21: The amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** October 29, 2013 (78 FR 64544).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 11, 2014.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Units 1 and 2, Will County, Illinois

Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Date of application for amendment: June 23, 2011, as supplemented by letters dated August 25, November 1, December 9, 2011; February 20, March 5, March 30 (two letters), April 27, May 16, June 26, August 8, September 13, and October 9, 2012; and July 5, September 5, October 8, October 24, November 13, and November 18, 2013.

Brief description of amendment: The amendment changes the maximum power level specified in each unit's operating license to 3645 MWt, Technical Specification (TS) definition of rated thermal power to 3645 MWt, TS Section 2.1.1 to modify the departure from nucleate boiling (DNB) ratio and use of DNB correlations, TS 3.4.1 and Surveillance Requirements (SR) to modify the reactor coolant system total flow rate for revised power conditions, and TS 5.6.5 to add analytical methods used to determine the core operating limits. In addition, the amendment changed the steam generator tube rupture and margin to overfill analysis.

Date of issuance: February 7, 2014

Effective date: As of the date of issuance and shall be implemented within 180 days.

Amendment Nos.: 174 and 181

Facility Operating License Nos. NPF–72, NPF–77, NPF–37, and NPF–66: The amendments revised the Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register:*** (76 FR 76195, dated December 6, 2011.)

The licensee's supplemental letters dated August 25, November 1, December 9, 2011; February 20, March 5, March 30 (two letters), April 27, May 16, June 26, August 8, September 13, and October 9, 2012; and July 5, September 5, October 8, October 24, November 13, and November 18, 2013, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 7, 2014.

No significant hazards consideration comments received: No.

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Units 1 and 2, St. Lucie County, Florida

Date of application for amendment: July 26, 2013, as supplemented by letter dated October 16, 2013.

Brief description of amendment: The amendments aligned St. Lucie Technical Specifications (TSs) with NUREG–1432, Revision 4, Combustion Engineering Plants Standard Technical Specifications (STSs) describing the Administrative Controls requirements for the Responsibility and Organization, which includes Onsite and Offsite Organizations and the Unit Staff. The proposed amendment revised TSs 6.1, Responsibility and 6.2, Organization to be consistent with STSs 5.1 Responsibility and 5.2 Organization, which directly reference the requirements in 10 CFR 50.54(m). The current Units 1 and 2 TSs 6.1 and 6.2 use custom language to define the requirements of the regulation.

Date of issuance: February 7, 2014.

Effective date: As of the date of issuance and shall be implemented within 90 days.

Amendment Nos.: 217 and 167.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revised the License and TSs.

Date of initial notice in ***Federal Register:*** November 12, 2013 (78 FR 67406).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 7, 2014.

No significant hazards consideration comments received: No.

South Carolina Electric and Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of application for amendment: April 2, 2013.

Brief description of amendment: This amendment revises the Snubber Technical Specification 3/4.7.7 to conform to planned revisions to the snubber inservice inspection and testing program.

Date of issuance: February 6, 2014.

Effective date: This license amendment is effective as of the date of its issuance.

Amendment No.: 195.

Renewed Facility Operating License No. NPF–12: Amendment revises the License.

Date of initial notice in ***Federal Register:*** May 28, 2013 (78 FR 31983).

The Commission's related evaluation of the amendment is contained in a

Safety Evaluation dated February 6, 2014.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 24th day of February, 2014.

For the Nuclear Regulatory Commission.

Michele G. Evans,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–04687 Filed 3–3–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Reliability & PRA; Notice of Meeting

The ACRS Subcommittee on Reliability & PRA will hold a meeting on March 5, 2014, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, March 5, 2014–8:30 a.m.–12:00 p.m.

The Subcommittee will review the national analysis approach used by the staff to estimate the multi-unit nuclear power plant site risks. The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), John Lai (Telephone 301–415–5197 or Email: *John.Lai@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on November 8, 2013, (78 CFR 67205–67206).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: February 25, 2014.

Cayetano Santos,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2014–04719 Filed 3–3–14; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2014–19 and CP2014–32; Order No. 1998]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing requesting the addition of Priority Mail Contract 78 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 7, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Brian Corcoran, Acting General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 78 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B.

To support its Request, the Postal Service filed six attachments: a copy of the contract, a redacted copy of Governors' Decision No. 11–6, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Filings

The Commission establishes Docket Nos. MC2014–19 and CP2014–32 to consider the Request pertaining to the proposed Priority Mail Contract 78 product and the related contract, respectively.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than March 7, 2014. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints James F. Callow to serve as Public Representative in these dockets.

III. Request for Supplemental Information

The contract is scheduled to take effect one business day following the day on which the Commission issues all necessary regulatory approval. Request, Attachment B at 9. Quarter 1 of the

[1] Request of the United States Postal Service to Add Priority Mail Contract 78 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, February 26, 2014 (Request).

contract begins on April 1 and ends on June 30, and Quarter 4 of the contract begins on January 1 and ends on March 31. *Id.,* Attachment B at 2. Section 1.H.1. of the contract provides that ''[f]or subsequent years of the contract, beginning on the first anniversary of the contract's effective date, customized prices under this contract will be the previous year's prices plus the most recent (as of the anniversary date) average increase in prices of general applicability, as calculated by the Postal Service, for Priority Mail Commercial Plus.'' *Id.,* Attachment B at 9.

If the Commission approves the Request in March 2014, the first anniversary of the contract's effective date is likely to occur during Quarter 4 of the first contract year. The Postal Service is requested to specify whether prices will be adjusted pursuant to section I.H.1. of the contract during Quarter 4 of the first contract year. The Postal Service is also requested to confirm that prices will be adjusted pursuant to section I.H.1. of the contract during Quarter 4 of the second and third contract years.

Finally, the Postal Service is requested to confirm that the second paragraph of section III of the contract is intended to refer to the escalation clause in section I.G. and I.H. of the contract (which establish subsequent year prices and an annual adjustment mechanism, respectively) rather than section I.E. and I.F (which establish contract quarters and first-year prices, respectively).

The Postal Service response is due no later than March 5, 2014.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2014–19 and CP2014–32 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. The response to the request for supplemental information is due no later than March 5, 2014.

4. Comments by interested persons in these proceedings are due no later than March 7, 2014.

5. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–04753 Filed 3–3–14; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2014–18 and CP2014–31; Order No. 1997]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing requesting the addition of Priority Mail Contract 77 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 6, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Brian Corcoran, Acting General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 77 to the competitive product list.[1] The Postal Service asserts that Priority Mail Contract 77 is a competitive product ''not of general applicability'' within the meaning of 39 U.S.C. 3632(b)(3). Request at 1. The Request has been assigned Docket No. MC2014–18.

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B. The instant contract has been assigned Docket No. CP2014–31.

Request. To support its Request, the Postal Service filed six attachments: a redacted copy of the contract, a redacted copy of Governors' Decision No. 11–6, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials.

In the Statement of Supporting Justification, the Postal Service asserts that the contract will cover its attributable costs, make a positive contribution to covering institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.* Attachment D at 1. It contends that there will be no issue of market dominant products subsidizing competitive products as a result of this contract. *Id.*

Related contract. The Postal Service included a redacted version of the related contract with the Request. *Id.* Attachment B. The contract will expire three years from the effective date unless, among other things, the customer terminates the agreement upon 30 days' written notice to the other party or the agreement is renewed by mutual written agreement. *Id.* at 3. The contract also allows two 90-day extensions of the agreement if the preparation of a successor agreement is active and the Commission is notified within at least seven days of the contract's expiration date. *Id.* The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a).[2]

The Postal Service filed much of the supporting materials, including the related contract, under seal. *Id.* Attachment F. It maintains that the redacted portions of the Governors' Decision, contract, customer-identifying information, and related financial information, should remain confidential. *Id.* at 3. This information includes the price structure, underlying costs and assumptions, pricing formulas, information relevant to the customer's mailing profile, and cost coverage projections. *Id.* The Postal Service asks the Commission to protect customer-identifying information from public disclosure indefinitely. *Id.* at 7.

II. Notice of Filings

The Commission establishes Docket Nos. MC2014–18 and CP2014–31 to

[1] Request of the United States Postal Service to Add Priority Mail Contract 77 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, February 25, 2014 (Request).

[2] Although the Request appears to state that the certification only pertains to paragraphs (1) and (3) of 39 U.S.C. 3633(a), the certification itself contains an assertion that the prices are in compliance with 39 U.S.C. 3633(a)(1), (2), and (3). *See* Request at 2; Attachment E.

consider the Request pertaining to the proposed Priority Mail Contract 77 product and the related contract, respectively.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR Part 3020, subpart B. Comments are due no later than March 6, 2014. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Lyudmila Y. Bzhilyanskaya to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2014–18 and CP2014–31 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Lyudmila Y. Bzhilyanskaya is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments by interested persons in these proceedings are due no later than March 6, 2014.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–04645 Filed 3–3–14; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* March 4, 2014.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on February 25, 2014, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 77 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2014–18, CP2014–31.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2014–04669 Filed 3–3–14; 8:45 am]

BILLING CODE 7710–12–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Government ''Big Data''; Request for Information

ACTION: Notice of Request for Information.

SUMMARY: On January 17, 2014, President Obama called for senior government officials to lead a comprehensive review of the ways in which ''big data'' will affect how Americans live and work, and the implications of collecting, analyzing and using such data for privacy, the economy, and public policy. The President requested that the review examine challenges confronted by both the public and private sectors; whether the United States can forge international norms on how to manage this data; and how we can continue to promote the free flow of information in ways that are consistent with both privacy and security. Once complete, the review will result in a report that anticipates future technological trends and frames the key questions that the collection, analysis, and use of ''big data'' raise for our government and nation. This notice solicits public input to inform this effort.

DATES: Responses must be received by March 31, 2014 to be considered.

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

- Email: *bigdata@ostp.gov*. Include [*Big Data RFI*] in the subject line of the message.
- Fax: (202) 456–6040, Attn: Big Data Study
- Mail: Attn: Big Data Study, Office of Science and Technology Policy, Eisenhower Executive Office Building, 1650 Pennsylvania Ave. NW., Washington, DC 20502.

Instructions: Response to this RFI is voluntary. Responses exceeding 7,500 words or 15 pages will not be considered. Respondents need not reply to all questions; however, they should clearly indicate the number of each question to which they are responding. Responses to this RFI may be posted without change online. OSTP therefore requests that no business proprietary information, copyrighted information, or personally identifiable information be submitted in response to this RFI. Please note that the U.S. Government will not pay for response preparation, or for the use of any information contained in the response.

FOR FURTHER INFORMATION CONTACT: Nicole Wong, 202–456–4444, *bigdata@ostp.gov*.

SUPPLEMENTARY INFORMATION: We are undergoing a revolution in the way that information about our purchases, our conversations, our social networks, our movements, and even our physical identities are collected, stored, analyzed, and used. The immense volume, diversity, and potential value of data will have profound implications for privacy, the economy, and public policy.

Recognizing both the trajectory of these technologies and the broadening uses of such data, the President on January 17, 2014, charged counselor John Podesta with leading a comprehensive review of issues at the intersection of ''big data'' and privacy. As part of those efforts, the Administration, in coordination with the President's Council of Advisors on Science and Technology, is engaging with privacy experts, technologists, business and government leaders and the academic community, to consider the implications of ''big data,'' and focus on how the present and future state of these technologies might motivate changes in our policies across a range of sectors. This review will explore the way that ''big data'' will affect the way we live and work; the relationship between government and citizens; and how public and private sectors can spur innovation and maximize the opportunities and free flow of this information while minimizing the risks to privacy (*http://www.whitehouse.gov/blog/2014/01/23/big-data-and-future-privacy*).

For purposes of this Request For Information, the phrase ''big data'' refers to datasets so large, diverse, and/or complex, that conventional technologies cannot adequately capture, store, or analyze them.

Questions to the Public

Without limiting the foregoing, commenters should consider the following:

(1) What are the public policy implications of the collection, storage, analysis, and use of big data? For example, do the current U.S. policy framework and privacy proposals for protecting consumer privacy and

government use of data adequately address issues raised by big data analytics?

(2) What types of uses of big data could measurably improve outcomes or productivity with further government action, funding, or research? What types of uses of big data raise the most public policy concerns? Are there specific sectors or types of uses that should receive more government and/or public attention?

(3) What technological trends or key technologies will affect the collection, storage, analysis and use of big data? Are there particularly promising technologies or new practices for safeguarding privacy while enabling effective uses of big data?

(4) How should the policy frameworks or regulations for handling big data differ between the government and the private sector? Please be specific as to the type of entity and type of use (e.g., law enforcement, government services, commercial, academic research, etc.).

(5) What issues are raised by the use of big data across jurisdictions, such as the adequacy of current international laws, regulations, or norms?

Ted Wackler,

Deputy Chief of Staff and Assistant Director.

[FR Doc. 2014–04660 Filed 3–3–14; 8:45 am]

BILLING CODE 3270–F2–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, March 6, 2014 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Gallagher, as duty officer, voted to consider the items listed for the Closed Meeting in closed session, and determined that no earlier notice thereof was possible.

The subject matter of the Closed Meeting will be:

institution and settlement of injunctive actions;

institution and settlement of administrative proceedings;

adjudicatory matters; and

other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: February 28, 2014.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2014–04831 Filed 2–28–14; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71615; File No. SR–CME–2014–04]

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Allow the LSOC With Excess Model for CFTC-Regulated Swaps

February 26, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 12, 2014, Chicago Mercantile Exchange Inc. (''CME'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been prepared primarily by CME. CME filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 4(f)(4)(ii).[4] thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CME is filing a proposed rule change that is limited to its business as a derivatives clearing organization. More specifically, the proposed rule change would make amendments to its rules that would offer FCMs and their cleared swaps customers the option to transmit collateral specifically attributed to a cleared swap customer under an ''LSOC with excess'' model.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CME included statements concerning the purpose 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. CME 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

CME is registered as a derivatives clearing organization with the Commodity Futures Trading Commission and currently offers clearing services for many different futures and swaps products. With this filing, CME proposes to add new rules to permit futures commission merchants (''FCMs'') to transmit collateral of cleared swaps customers to CME that is in excess of the CME requirement for such customers. The changes by their terms relate only to swaps and do not affect security-based swaps and therefore will be effective on filing.

On November 14, 2012, CME implemented the Legally Segregated Operationally Commingled (''LSOC'') regime for the protection of Cleared Swap Customers in accordance with Part 22 of the Commodity Futures Trading Commission's (''CFTC'') Regulations. At that time, LSOC was implemented in a ''no excess'' mode, that is, any collateral value deposited by an FCM with a derivatives clearing organization (''DCO'') in excess of the aggregate client minimum performance bond margin requirement, to the extent it is not been explicitly identified by the FCM as being provided by the firm, would be treated as unallocated cleared swap customer value without attribution to a specific cleared swaps customer. In this ''no excess'' model, the LSOC value for each cleared swaps customer is presumed to be its performance bond requirement at the last settlement cycle and any collateral on deposit at the DCO in excess of such requirement aggregate of the customer

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–44(f)(4)(ii).

initial margin requirements, is not used by the DCO for any purpose after an FCM default.

The proposed rule changes that are the subject of this filing offer FCMs and their cleared swaps customers the option to transmit collateral specifically attributed to a cleared swap customer under an ''LSOC with excess'' model. These changes are part of a coordinated futures industry effort. CFTC Regulation 22.13(c) provides requirements for FCMs to transmit such excess. Specifically, Regulation 22.13(c) states that:

(c) A futures commission merchant may transmit to a derivatives clearing organization any collateral posted by a Cleared Swaps Customer in excess of the amount required by the derivatives clearing organization if:

(1) the rules of the derivatives clearing organization expressly permit the futures commission merchant to transmit collateral in excess of the amount required by the derivatives clearing organization; and (2) the derivatives clearing organization provides a mechanism by which the futures commission merchant is able to, and maintains rules pursuant to which the futures commission merchant is required to, identify each Business Day, for each Cleared Swaps Customer, the amount of collateral posted in excess of the amount required by the derivatives clearing organization.

Accordingly, CME is proposing CME Rules 821, 8G821, and 8H821 which would expressly permit FCMs to transmit excess cleared swap customer collateral to CME and would require that they identify each Business Day, for each cleared swaps customer, the value of performance bond posted in excess of the amount required for such cleared swaps customer. Under the rules, FCMs will not be required to transmit excess collateral to CME by adoption of this rule but will be given the option to do so. Additionally, FCMs currently operating in the ''no excess'' mode will be allowed to continue in such mode. The proposed rules changes do not apply to security-based swaps positions.

The proposed changes that are described in this filing are limited to CME's business as a derivatives clearing organization clearing products under the exclusive jurisdiction of the Commodity Futures Trading Commission (''CFTC'') and do not materially impact CME's security-based swap clearing business in any way. CME notes that it has already submitted the proposed rule change that is the subject of this filing to the CFTC.

CME believes the proposed rule change is consistent with the requirements of the Exchange Act including Section 17A of the Exchange Act.[5] The proposed rule change permits futures commission merchants (''FCMs'') to transmit collateral of cleared swaps customers to CME that is in excess of the CME requirement for such customer and as such are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivatives agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and, in general, to protect investors and the public interest consistent with Section 17A(b)(3)(F) of the Exchange Act.[6]

Furthermore, the proposed changes are limited in their effect to swaps products offered under CME's authority to act as a derivatives clearing organization. Swaps are under the exclusive jurisdiction of the CFTC. As such, the proposed CME changes are limited to CME's activities as a derivatives clearing organization clearing swaps that are not security-based swaps; CME notes that the policies of the CFTC with respect to administering the Commodity Exchange Act are comparable to a number of the policies underlying the Exchange Act, such as promoting market transparency for over-the-counter derivatives markets, promoting the prompt and accurate clearance of transactions and protecting investors and the public interest.

Because the proposed changes are limited in their effect to swaps offered under CME's authority to act as a derivatives clearing organization, the proposed changes are properly classified as effecting a change in an existing service of CME that:

(a) Primarily affects the clearing operations of CME with respect to products that are not securities, including futures that are not security futures, and swaps that are not security-based swaps or mixed swaps; and

(b) does not significantly affect any securities clearing operations of CME or any rights or obligations of CME with respect to securities clearing or persons using such securities-clearing service.

As such, the proposed changes are therefore consistent with the requirements of Section 17A of the Exchange Act[7] and are properly filed under Section 19(b)(3)(A)[8] and Rule 19b–4(f)(4)(ii)[9] thereunder.

[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78q–1.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(4)(ii).

B. Self-Regulatory Organization's Statement on Burden on Competition

CME does not believe that the proposed rule change will have any impact, or impose any burden, on competition. The rule changes simply permit futures commission merchants (''FCMs'') to transmit collateral of cleared swaps customers to CME that is in excess of the CME requirement for such customer.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

CME has not solicited, and does not intend to solicit, comments regarding this proposed rule change. CME has not received any unsolicited written comments from interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)[10] of the Act and paragraph (f)(2) of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[11]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*), or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–CME–2014–04 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–CME–2014–04. This file number should be included on the subject line if email is used. To help the

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 15 U.S.C. 78s(b)(3)(C).

Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of CME and on CME's Web site at *http://www.cmegroup.com/market-regulation/rule-filings.html.*

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–CME–2014–04 and should be submitted on or before March 25, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–04683 Filed 3–3–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71618; File No. SR–NYSEArca-2013–144]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To List and Trade Shares of the ETSpreads HY Long Credit Fund, the ETSpreads HY Short Credit Fund, the ETSpreads IG Long Credit Fund and the ETSpreads IG Short Credit Fund Under NYSE Arca Equities Rule 8.600

February 26, 2014.

On December 27, 2013, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the ETSpreads HY Long Credit Fund, the ETSpreads HY Short Credit Fund, the ETSpreads IG Long Credit Fund and the ETSpreads IG Short Credit Fund (collectively, ''Funds'') under NYSE Arca Equities Rule 8.600. The proposed rule change was published for comment in the **Federal Register** on January 15, 2014.[3] The Commission received no comment letters on the proposed rule change.

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 Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. The proposed rule change would permit the listing and trading of shares of the Funds, which will invest substantially all of their assets in cleared credit default index swaps, cleared single name credit default swaps, futures contracts based on credit default swaps or other similar futures contracts, and obligations of, or those guaranteed by, the United States government with a maturity of less than six years, money market instruments, and cash.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates April 15, 2014, 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 Number SR–NYSEArca–2013–144).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–04684 Filed 3–3–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71616; File No. SR–MSRB–2013–09]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 1, Consisting of Amendments to MSRB Rules A–12, on Initial Fee, G–14, on Reports of Sales or Purchases, and the Facility for Real-Time Transaction Reporting and Price Dissemination (''RTRS Facility''); Deletion of Rules A–14, on Annual Fee, A–15, on Notification to the Board of Change in Status or Change of Name or Address, and G–40, on Electronic Mail Contacts; Deletion of References to RTRS Testing Requirements Under G–14(b)(v), G–14(c), on RTRS Procedures, and in the RTRS Facility; Elimination of MSRB Forms RTRS and G–40, and Adoption of a Single, Consolidated Electronic Registration Form, New Form A–12

February 26, 2014.

I. Introduction

On December 24, 2013, the Municipal Securities Rulemaking Board (the ''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change consisting of amendments to MSRB Rules A–12, on initial fee, G–14, on reports of sales or purchases, and the Facility for Real-Time Transaction Reporting and Price Dissemination (''RTRS Facility''); deletion of Rules A–14, on annual fee, A–15, on notification to the Board of change in status or change of name or address, and G–40, on electronic mail contacts; deletion of references to RTRS Testing Requirements under G–14(b)(v), G–14(c), on RTRS Procedures, and in the RTRS Facility; elimination of MSRB Forms RTRS and G–40, and adoption of a single, consolidated electronic registration form, new Form A–12. On

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 71266 (January 9, 2014), 79 FR 2705 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

January 7, 2014, the Board submitted Amendment No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on January 14, 2014.[3] The Commission received one comment letter on the proposed rule change.[4] This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposed Rule Change

The MSRB proposes to amend Rule A–12 to create new registration procedures for MSRB-regulated brokers, dealers and municipal securities dealers (''dealers''), and municipal advisors, which procedures would be incorporated into a new Form A–12. The MSRB states in the Notice that the proposed rule change would consolidate the MSRB registration process in Rule A–12 and delete the rule language under Rules A–14, A–15, and G–40, eliminate Forms RTRS and G–40, and amend Rule G–14(b)(iv).[5]

In addition to consolidating the MSRB registration process, the proposed rule change includes new changes to the existing registration process. For example, the proposed rule change would require registrants to provide contact information (name, title, phone number, address, and email address) for several new contact persons on Form A–12. The proposed rule change would provide a waiver of the annual fee for dealers and municipal advisors that register in the last month of MSRB's fiscal year. The proposed rule change would impose a late fee on those regulated entities that fail to pay MSRB assessments in a timely manner. The proposed rule change would eliminate the requirement for registrants who submit transaction data to the MSRB to test their ability to interface with MSRB systems.

Rule A–12

Rule A–12(a) would require each dealer, prior to engaging in municipal securities activities, and each municipal advisor, prior to engaging in municipal advisory activities, to register with the MSRB.[6] Rule A–12(a) also would require registrants to notify, as appropriate, a registered securities association or appropriate regulatory agency[7] of their intent to engage in municipal securities and/or municipal advisory activities and provide the MSRB, on their Form A–12, with a written statement evidencing such notification.[8] Registration with the MSRB would be effective only after the MSRB notifies a registrant that its Form A–12 is complete and all fees have been received and processed.

Rule A–12(b) would provide for the amount and method of payment of the initial registration fee. New registrants would continue to be required to pay the initial fee of $100 to the MSRB in the manner prescribed by the MSRB Registration Manual.[9] Rule A–12(c) would provide that the annual registration fee would continue to be $500 and would be paid in accordance with the method described in the MSRB Registration Manual. The annual fee would continue to be due by October 31 each year, but proposed Rule A–12 would provide that a regulated entity that registers in September and pays an annual fee at the time of registration need not pay the annual fee for the following fiscal year, beginning October 1.

Rule A–12(d) would establish late fees for any assessment due under Rules A–12 or A–13. Any registrant that fails to pay any fee due under Rules A–12 or A–13 (underwriting, transaction or technology fee) would be assessed a monthly late fee computed based on the overdue balance and the prime rate plus an additional $25 per month, until paid.

Rule A–12(e) would permit registrants to use the designation ''MSRB registered'' when referencing their registrant status.

Rule A–12(f), rather than the current requirement to provide only a primary electronic mail contact, would require the provision of a primary regulatory contact, master account administrator, billing contact, compliance contact, and primary data quality contact. MSRB registrants could also provide an optional regulatory contact, data quality contact and technical contact. For dealers, the primary regulatory contact would be required to be a registered principal. It would be the responsibility of the primary regulatory contact to receive official communications from the MSRB, similar to the role of the primary electronic mail contact under current Rule G–40.

Rule A–12(g) would require dealers, prior to registering with the MSRB, to provide trade reporting information so that their trade reports can be processed correctly, or notify the MSRB that they are exempt from the trade reporting requirements.

Rule A–12(h) would require dealers and municipal advisors to comply, within 15 days or such longer period as may be agreed to by the requesting authority, with any request from the MSRB, a registered securities association or other appropriate regulatory authority, for information required as a function of their registration with the MSRB.

Sections (i)–(k) of proposed Rule A–12 would establish the requirements for completing, updating, and annually affirming the information on new electronic Form A–12, as further described below under ''Form A–12.'' The proposed rule provides for an annual affirmation process, similar to the current process under Rule G–40(c), which would require registrants to review, update and affirm the information on Form A–12 during the first seventeen business days of each calendar year. Similar to the current requirement in Rule A–15, registrants would be required to update Form A–12, within 30 days, if any information on the form becomes inaccurate or the firm ceases to be engaged in municipal securities or municipal advisory activities either voluntarily or involuntarily through a regulatory or judicial bar, suspension or otherwise. Registrants that involuntarily cease to be engaged in municipal securities or municipal advisory activities would be required to provide a written explanation, on their Form A–12, of the circumstances that lead to, and resulted in, the involuntary cessation of such activities. Finally, regulated entities would be required to inform the MSRB of the types of municipal securities and municipal advisory activities engaged in

[3] *See* Securities Exchange Act Release No. 71255 (January 8, 2014), 79 FR 2483 (''Notice'').

[4] *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Jeanine Rodgers Caruso, President, National Association of Independent Public Finance Advisors (''NAIPFA''), dated February 1, 2014 (''NAIPFA Letter'').

[5] *See* Notice, *supra* note 3, at 2484.

[6] As noted by the MSRB, prior to registration with the MSRB, each dealer and municipal advisor must first register with and receive approval from the Commission. *See* Notice, *supra* note 3, at 2484.

[7] According to the MSRB, the term ''appropriate regulatory agency,'' as used in proposed Rule A–12(a), means the Comptroller of the Currency, Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or SEC as defined in 15 U.S.C. 78c(a)(34)(A).

[8] This requirement would only be applicable to dealers or municipal advisors first registering on or after April 28, 2014. As stated in the Notice, registrants would have the flexibility to submit any form of documentation, such as a letter on company letterhead, evidencing notice to a registered securities association or appropriate regulatory agency, as applicable, of their intent to engage in municipal securities and/or municipal advisory activities.

[9] The MSRB represents that the MSRB Registration Manual would not contain any substantive requirements not contained in MSRB rules or fairly and reasonably implied from those rules. *See* Notice, *supra* note 3, at 2485. The Commission notes that, if the MSRB Registration Manual contains any substantive requirements not provided in MSRB rules, the MSRB Registration Manual would have to be filed with, or filed with and approved by, the Commission.

by such firms. Currently, the MSRB collects similar information from municipal advisor registrants on Form G–40, and from dealers on Form RTRS. Finally, MSRB registrants would be able to withdraw their registration, either fully or partially, by amending Form A–12.

Section (l) of Rule A–12 refers to the MSRB Registration Manual as the source of specifications for the reporting of information required under Rule A–12, the instructions for submitting Form A–12, and other information relevant to payments and reporting under Rule A–12.

Form A–12

As stated in the Notice, the new Form A–12 would be required to be submitted electronically by each registrant through a web portal located on the MSRB's Web site. Form A–12 would require the submission of the following categories of information: Registration categories; general firm information (*i.e.,* firm identifiers; evidence of intent to engage in municipal securities and/or municipal advisory activities; business information; and form of organization); types of business activity; contact information for primary regulatory contact, master account administrator, billing contact, compliance contact, data quality contact, optional regulatory contact, optional data quality contact, and optional technical contact; and trade reporting (*i.e.,* submission information, including the manner of reporting transactions to the MSRB; feedback information, including the method to receive and respond to transaction status and error feedback messages from the MSRB; and trade reporting identifiers). A full description of the information required to be submitted on Form A–12 is contained in the Notice.[10]

Rules A–14, A–15 and G–40

The MSRB proposes to delete the entire rule language for Rules A–14, A–15 and G–40.

Forms RTRS and G–40

The MSRB proposes to discontinue Forms RTRS and G–40.

Rule G–14(b)(iv)

As stated in the Notice, the proposed amendments to Rule G–14(b)(iv) would replace a requirement to provide a completed Form RTRS with a provision exempting dealers from all of the requirements listed in Rule G–14(b), related to trade reporting, if the dealer does not effect any municipal securities transactions or if the dealer's transactions in municipal securities are limited to (1) transactions in securities without assigned CUSIP numbers, (2) transactions in municipal fund securities, or (3) inter-dealer transactions for principal movement of securities between dealers that are not inter-dealer transactions eligible for comparison in a clearing agency registered with the Commission.[11] Furthermore, the amended rule would require dealers to confirm that they qualified for the exemption as provided in proposed Rule A–12(g).[12]

Rule G–14(b)(v)

The MSRB proposes to delete the entire language from this section.

Rule G–14(c)

The MSRB proposes to delete the reference to testing procedures contained in the RTRS Users Manual.

A full description of the proposal is contained in the Notice. The MSRB requested an effective date for the proposed rule change of April 28, 2014.

III. Summary of Comments Received

As noted above, the Commission received one comment letter regarding the proposed rule change.[13] In its comment letter, the commenter expressed general support for the proposed rule change.[14]

IV. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB.[15] Specifically, the Commission finds that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act,[16] which provides that the MSRB's rules shall 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 facilitating transactions in municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.'' [17]

The Commission believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act because it helps to remove impediments to dealers and municipal advisors by streamlining the registration process for new registrants and reduce burdens on registrants who currently must complete multiple forms to register with the MSRB. As noted by the MSRB, the consolidation into a single rule of requirements currently located in multiple rules will help clarify and simplify the identification of regulatory requirements. Also as noted by the MSRB, the proposed rule change would allow the MSRB to collect information on the business activities of registrants, which may assist the MSRB and other appropriate regulatory authorities in regulating dealers and municipal advisors.

V. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and in particular, Section 15B(b)(2)(C) of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[18] that the proposed rule change (SR–MSRB–2013–09), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–04681 Filed 3–3–14; 8:45 am]

BILLING CODE 8011–01–P

[10] *See* Notice, *supra* note 3, at 2485–2487.

[11] MSRB Rule G–14(b)(vi).

[12] In connection with the proposed rules change, as a result of the proposed deletion of Form RTRS, the MSRB proposes deleting the following sentence in the description of the Facility for Real-Time Transaction Reporting and Price Dissemination (the ''REAL-TIME TRANSACTION REPORTING SYSTEM'' or ''RTRS''): ''The requirement for testing and submission of a ''Form RTRS'' with the name of a contact person is reflected in Rule G–14.''

[13] *See* NAIPFA Letter, *supra* note 4.

[14] *See id.*

[15] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 15 U.S.C. 78o–4(b)(2)(C).

[17] *Id.*

[18] 15 U.S.C. 78s(b)(2).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71617; File No. SR–NYSEArca-2013–135]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change To List and Trade Shares of db-X Ultra-Short Duration Fund and db-X Managed Municipal Bond Fund Under NYSE Arca Equities Rule 8.600

February 26, 2014.

I. Introduction

On December 27, 2013, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the db-X Ultra-Short Duration Fund and db-X Managed Municipal Bond Fund (each a ''Fund,'' and collectively ''Funds'') under NYSE Arca Equities Rule 8.600. The proposed rule change was published for comment in the **Federal Register** on January 15, 2014.[3] The Commission received no comments on the proposed rule change. This order grants approval of the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade Shares of the Funds pursuant to NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares on the Exchange. Each Fund is a series of the DBX ETF Trust (''Trust''), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.[4] The Funds will be managed by DBX Advisors LLC (''Adviser''). Deutsche Investment Management Americas Inc. will be the investment sub-adviser for the Funds (''Sub-Adviser''). ALPS Distributors, Inc. will be the Funds' distributor (''Distributor''). The Bank of New York Mellon will be the administrator, custodian and fund accounting and transfer agent for each Fund. The Exchange states that the Adviser and Sub-Adviser are not broker-dealers, but both the Adviser and Sub-Adviser are affiliated with a broker-dealer, and each has implemented and will maintain a fire wall with respect to such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the respective Fund's portfolio.[5]

The Exchange has made the following representations and statements in describing the Funds and their respective investment strategies, including other portfolio holdings and investment restrictions.

db-X Ultra-Short Duration Fund—Principal Investments

The investment objective of the db-X Ultra-Short Duration Fund will be to seek to provide current income consistent with total return. Under normal market conditions,[6] the Fund will seek to achieve its investment objective by investing at least 65% of its net assets in debt securities. Debt securities will include: (1) Debt securities of U.S. and foreign government agencies and instrumentalities, and U.S. Government obligations (including U.S. agency mortgage pass-through securities, as described below); (2) U.S. and foreign corporate debt securities, mortgage-backed and asset-backed securities, adjustable rate loans that have a senior right to payment (''senior loans''), money market instruments, and fixed and other floating-rate debt securities; and (3) taxable municipal and tax-exempt municipal bonds.[7] Under normal market conditions, the Fund currently does not intend to hold more than 10% of its total assets in non-U.S. dollar denominated debt securities.

The Fund may invest in investment-grade (rated BBB- or higher by Standard & Poor's Ratings Services, Inc. (''S&P'') and Fitch, Inc. (''Fitch'') or Baa3 or higher by Moody's Investors Service, Inc. (''Moody's'') or, if unrated, determined by the Fund's Adviser and/or Sub-Adviser to be of comparable quality[8]) and non-investment grade (rated BB+ or lower by S&P and Fitch or Ba1 or lower by Moody's or, if unrated, determined by the Fund's Adviser and/or Sub-Adviser to be of comparable quality) debt securities of U.S. and foreign issuers, including issuers located in countries with new or emerging securities markets.[9] The Fund's investments in non-investment grade debt securities, including non-investment grade senior loans and other non-investment grade floating-rate debt securities, will be limited to 50% of its total assets.

The senior loans in which the Fund will invest generally will be loans rated by a Nationally Recognized Statistical Rating Organization (''NRSRO'') registered with the Commission. However, the Fund also may invest in senior loans that: (i) May not be rated by a NRSRO, or listed on any national exchange; or (ii) are not secured by collateral.

The Fund may invest in mortgage-backed and asset-backed securities. Mortgage-backed securities are mortgage-related securities issued or guaranteed by the U.S. Government, its agencies and instrumentalities, or

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 71269 (January 9, 2014), 79 FR 2725 (''Notice'').

[4] The Trust is registered under the 1940 Act. The Exchange states that on December 19, 2012, the Trust filed with the Commission an amendment to its registration statement on Form N–1A under the Securities Act of 1933 (''Securities Act'') and the 1940 Act relating to the Funds (File Nos. 333–170122 and 811–22487) (''Registration Statement''). The Trust has also filed an Amended and Restated Application for an Order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (File No. 812–14004), dated October 29, 2013 (''Exemptive Application''). *See* Investment Company Act Release No. 30770 (October 29, 2013), 78 FR 66086 (November 4, 2013). The Exchange represents that the Shares will not be listed on the Exchange until an order (''Exemptive Order'') under the 1940 Act has been issued by the Commission with respect to the Exemptive Application. The Exchange also represents that investments made by the Funds will comply with the conditions set forth in the Exemptive Order.

[5] *See* NYSE Arca Equities Rule 8.600, Commentary .06. In the event (a) the Adviser or Sub-Adviser becomes a registered broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolios, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolios.

[6] The term ''under normal market conditions'' includes, but is not limited to, the absence of extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

[7] The Fund normally will target an average portfolio duration (a measure of sensitivity to interest rate changes) of no longer than one year.

[8] In determining whether a security is of ''comparable quality,'' the Adviser or Sub-Adviser will consider, for example, whether the issuer of the security has issued other rated securities; whether the obligations under the security are guaranteed by another entity and the rating of such guarantor (if any); whether and (if applicable) how the security is collateralized; other forms of credit enhancement (if any); the security's maturity date; liquidity features (if any); relevant cash flow(s); valuation features; other structural analysis; macroeconomic analysis; and sector or industry analysis.

[9] Generally, with respect to at least 75% of the Fund's portfolio, a corporate bond of a developed market issuer must have $100 million or more par amount outstanding to be considered as an eligible investment and a corporate bond of an emerging market issuer must have $200 million or more par amount outstanding to be considered as an eligible investment.

issued by non-government entities. Mortgage-related securities represent pools of mortgage loans assembled for sale to investors by various government agencies such as Government National Mortgage Association (''GNMA'') and government-related organizations such as Federal National Mortgage Association (''FNMA'') and Federal Home Loan Mortgage Corporation (''FHLMC''), as well as by non-government issuers such as commercial banks, savings and loan institutions, mortgage bankers, and private mortgage insurance companies. Other asset-backed securities are structured like mortgage-backed securities, but instead of mortgage loans or interests in mortgage loans, the underlying assets may include items such as motor vehicle installment sales or installment loan contracts, leases of various types of real and personal property, and receivables from credit card agreements and from sales of personal property. Asset-backed securities typically have no U.S. Government backing. The Fund will limit investments in mortgage-backed and asset-backed securities issued or guaranteed by non-government entities to 15% of the Fund's net assets.

The Fund may invest a portion of its assets in U.S. agency mortgage pass-through securities. The term ''U.S. agency mortgage pass-through security'' refers to a category of pass-through securities backed by pools of mortgages and issued by one of several U.S. government-sponsored enterprises: GNMA, FNMA, or FHLMC.

The Fund may invest a portion of its assets in various types of U.S. Government obligations. U.S. Government obligations are a type of bond. U.S. Government obligations include securities issued or guaranteed as to principal and interest by the U.S. Government, its agencies, or instrumentalities.[10] Payment of principal and interest on U.S. Government obligations (i) may be backed by the full faith and credit of the United States (as with U.S. Treasury obligations and GNMA certificates) or (ii) may be backed solely by the issuing or guaranteeing agency or instrumentality itself (as with FNMA, FHLMC, and Federal Home Loan Bank).

db-X Managed Municipal Bond Fund—Principal Investments

The investment objective of the db-X Managed Municipal Bond Fund will be to seek to provide current income consistent with total return.

Under normal market conditions,[11] the Fund will invest at least 80% of net assets, plus the amount of any borrowings for investment purposes, in securities issued by municipalities across the United States (and including the Commonwealth of Puerto Rico and U.S. territories such as the U.S. Virgin Islands and Guam) whose income is free from regular federal income tax.

Although the Fund may adjust duration of its holdings over a wider range, it generally intends to keep it between five and nine years.

The Fund may buy municipal securities of all maturities. These may include revenue bonds (which are backed by revenues from a particular source) and general obligation bonds (which are typically backed by the issuer's ability to levy taxes). They may also include municipal lease obligations and investments representing an interest therein.

The Fund will normally invest at least 65% of total assets in municipal securities of top credit quality (rated AAA+ through A- by S&P and Fitch or Aaa1 through A3 by Moody's or, if unrated, determined by the Fund's Adviser and/or Sub-Adviser to be of comparable quality). The Fund may invest up to 10% of total assets in high yield debt securities (commonly referred to as ''junk'' bonds) rated BB+ or lower by S&P and Fitch or Ba1 or lower by Moody's or, if unrated, determined by the Fund's Adviser and/or Sub-Adviser to be of comparable quality.[12]

Other Investments

While each Fund, under normal market conditions, will invest primarily in debt securities, each Fund may invest its remaining assets in other securities and financial instruments, as described below.

The db-X Managed Municipal Bond Fund may invest a portion of its assets in various types of U.S. Government obligations. U.S. Government obligations are a type of bond. U.S. Government obligations include securities issued or guaranteed as to principal and interest by the U.S. Government, its agencies or instrumentalities. Payment of principal and interest on U.S. Government obligations (i) may be backed by the full faith and credit of the United States (as with U.S. Treasury obligations and GNMA certificates) or (ii) may be backed solely by the issuing or guaranteeing agency or instrumentality itself (as with FNMA, FHLMC, and Federal Home Loan Bank).

The db-X Ultra-Short Duration Fund generally intends to use interest rate swaps, and/or small amounts of currency forwards, which are types of derivatives (a contract whose value is based on, for example, indices, currencies, or securities) for duration management (*e.g.,* reducing the sensitivity of a Fund's portfolio to interest rate changes). In addition, the Fund generally may use: (i) Credit default swaps based on one or more issues of debt securities or on an index or indexes of debt securities to increase the Fund's income, to gain exposure to a bond issuer's credit quality characteristics without directly investing in the bond, or to hedge the risk of default on bonds held in the Fund's portfolio; and (ii) total return swaps based on one or more issues of debt securities or on an index or indexes of debt securities, or interest rate swaps, to seek to enhance potential gains.

The db-X Managed Municipal Bond Fund generally may use interest rate swaps or U.S. Treasury futures.

Investments in derivative instruments by the Funds will be made in accordance with the 1940 Act and consistent with each Fund's investment objective and policies. To limit the potential risk associated with transactions in derivatives, the Funds will segregate or ''earmark'' assets determined to be liquid by the Adviser in accordance with procedures established by the Trust's Board of Directors (''Board'') and in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into certain offsetting positions) to cover its obligations under derivative instruments. These procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance. In addition, the Funds will include appropriate risk disclosure in their offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of the Funds, including the Funds' use of derivatives, may give rise to leverage, causing the Funds' Shares to be more volatile than if they had not been leveraged.

The db-X Ultra Short-Duration Fund may invest in convertible securities traded on an exchange or over-the counter (''OTC''). Convertible securities include bonds, debentures, notes, preferred stocks, and other securities that may be converted into a prescribed amount of common stock or other equity securities at a specified price and time. The holder of convertible securities is entitled to receive interest paid or

[10] U.S. Government obligations include, but are not limited to, mortgage-backed and asset-backed securities that are issued or guaranteed by the U.S. government, as well as U.S. agency mortgage pass-through securities, as described above.

[11] *See supra* note 6.

[12] *See supra* note 8.

accrued on debt, or dividends paid or accrued on preferred stock, until the security matures or is converted.

Each Fund may invest in the securities of other investment companies (including money market funds and exchange-listed ETFs) to the extent permitted under the 1940 Act.

The Funds will not invest in leveraged or leveraged inverse ETFs.

Investment Restrictions

Each Fund will be classified as ''non-diversified'' under the 1940 Act.[13]

Each Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser,[14] consistent with Commission guidance. Each Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of such Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.[15]

While each of the Funds will be actively-managed and not tied to an index, under normal market conditions, each Fund's respective portfolio will meet certain criteria for index-based, fixed income ETFs contained in NYSE Arca Equities Rule 5.2(j)(3), Commentary .02.[16]

With respect to qualification as a regulated investment company (''RIC''), each Fund intends to maintain the required level of diversification and otherwise conduct its operations so as to qualify as a RIC for purposes of Subchapter M of the Internal Revenue Code of 1986, as amended.[17]

With respect to each of the Funds, such Fund's investments will be consistent with the Fund's investment objective.

The Funds will not invest in equity securities other than convertible securities and securities issued by other investment companies, including money market funds and ETFs. The Funds will not invest in non-U.S. equity securities.

Additional information regarding the Trust, the Funds, and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions, and taxes, among other things, is included in the Notice and Registration Statement, as applicable.[18]

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act[19] and the rules and regulations thereunder applicable to a national securities exchange.[20] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[21] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Funds and the Shares must comply with the requirements of NYSE Arca Equities Rule 8.600 for the Shares to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[22] which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last-sale information for the Shares will be available via the Consolidated Tape Association (''CTA'') high-speed line. In addition, the Portfolio Indicative Value, as defined in NYSE Arca Equities Rule 8.600(c)(3), of Shares of each Fund will be widely disseminated at least every 15 seconds during the Exchange's Core Trading Session by one or more major market data vendors.[23] On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, each Fund will disclose on its Web site the Disclosed Portfolio, as defined in NYSE Arca Equities Rule 8.600(c)(2), that will form the basis for such Fund's calculation of net asset value (''NAV'') at the end of the business day.[24] NAV per Share of each Fund will be calculated as of the close of the regular trading session on the New York Stock Exchange (ordinarily 4:00 p.m. Eastern Time) on each day the New York Stock Exchange is open. A basket composition

[13] The diversification standard is set forth in Section 5(b)(1) of the 1940 Act.

[14] In reaching liquidity decisions, the Adviser may consider the following factors: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

[15] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act).

[16] *See* NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 governing fixed income based Investment Company Units. The requirements of Rule 5.2(j)(3), Commentary .02(a) include the following: (i) Components that in the aggregate account for at least 75% of the weight of the index or portfolio must have a minimum original principal amount outstanding of $100 million or more (Rule 5.2(j)(3), Commentary.02(a)(2)); (ii) no component fixed-income security (excluding Treasury Securities and government-sponsored entity securities) will represent more than 30% of the weight of the index or portfolio, and the five highest weighted component fixed-income securities will not in the aggregate account for more than 65% of the weight of the index or portfolio (Rule 5.2(j)(3), Commentary.02(a)(4)); and (iii) an underlying index or portfolio (excluding one consisting entirely of exempted securities) must include securities from a minimum of 13 non-affiliated issuers (Rule 5.2(j)(3), Commentary.02(a)(5)). The db-X Managed Municipal Bond Fund will meet the criteria in Rule 5.2(j)(3) as referenced above except for the criteria in Rule 5.2(j)(3), Commentary .02(a)(2).

[17] 26 U.S.C. 851.

[18] *See* Notice and Registration Statement, *supra* notes 3 and 4, respectively.

[19] 15 U.S.C. 78f.

[20] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 15 U.S.C. 78f(b)(5).

[22] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[23] According to the Exchange, several major market data vendors widely disseminate Portfolio Indicative Values taken from the CTA or other data feeds.

[24] On a daily basis, the Adviser or Sub-Adviser will disclose on the Funds' Web site for each portfolio security and financial instrument of each Fund the following information: ticker symbol (if applicable); name of security and financial instrument; number of shares, if applicable, and dollar value of securities and financial instruments held in the portfolio; and percentage weighting of the security and financial instrument in the portfolio. The Web site information will be publicly available at no charge.

file disclosing each Fund's securities, which will include the security names and share quantities required to be delivered in exchange for Fund Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the New York Stock Exchange via the National Securities Clearing Corporation. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Intra-day and closing price information regarding debt securities, including debt securities of U.S. and foreign government agencies and instrumentalities, U.S. Government obligations (including U.S. agency mortgage pass-through securities), U.S. and foreign corporate debt securities, mortgage-backed and asset-backed securities, senior loans, fixed and other floating-rate debt securities, money market instruments, taxable municipal bonds, and tax-exempt municipal bonds will be available from major market data vendors. Price information regarding U.S. Treasury futures will be available from the applicable exchange and from major market data vendors. Price information regarding currency forwards will be available from major market data vendors. Major market data vendors provide intra-day and end-of-day prices for credit default swaps, interest rate swaps, and total return swaps. Price information for exchange-traded equity investments, including ETFs and exchange-traded convertible securities, will be available from the applicable exchange or major market data vendors. Price information for convertible securities traded OTC and other investment company securities, including money market funds, also will be available from major market data vendors. Each Fund's Web site will include a form of the prospectus for each respective Fund and additional data relating to NAV and other applicable quantitative information.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Commission notes that, with respect to each Fund, the Exchange will obtain a representation from the issuer of the respective Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.[25] In addition, trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of each Fund may be halted. The Exchange may halt trading in the Shares if trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of a Fund, or if other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[26] Further, the Commission notes that the Reporting Authority that provides the Disclosed Portfolio of each Fund must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of the portfolio.[27] The Commission notes that the Financial Industry Regulatory Authority (''FINRA''), on behalf of the Exchange,[28] will communicate as needed regarding trading in the Shares, exchange-traded investment company securities, exchange-traded convertible securities, and exchange-traded futures with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG''), and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in such securities and financial instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, exchange-traded investment company securities, exchange-traded convertible securities, and exchange-traded futures from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Funds reported to FINRA's Trade Reporting and Compliance Engine (''TRACE''). The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees. The Exchange also states that the Adviser and Sub-Adviser are not broker-dealers, but both the Adviser and Sub-Adviser are affiliated with a broker-dealer, and each has implemented and will maintain a fire wall with respect to such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the respective Fund's portfolio.[29]

The Exchange represents that the Shares are deemed to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including:

(1) The Shares of each Fund will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws and that these procedures are adequate to properly monitor Exchange trading of

[25] *See* NYSE Arca Equities Rule 8.600(d)(1)(B).

[26] *See* NYSE Arca Equities Rule 8.600(d)(2)(C) (providing additional considerations for the suspension of trading in or removal from listing of Managed Fund Shares on the Exchange). With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of each Fund. Trading in Shares of either Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

[27] *See* NYSE Arca Equities Rule 8.600(d)(2)(B)(ii).

[28] The Exchange states that, while FINRA surveils trading on the Exchange pursuant to a regulatory services agreement, the Exchange is responsible for FINRA's performance under this regulatory services agreement.

[29] *See supra* note 5. An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (''Advisers Act''). As a result, the Adviser, Sub-Adviser, and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

(4) Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit (''ETP'') Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (b) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (d) how information regarding the Portfolio Indicative Value is disseminated; (e) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(5) For initial and/or continued listing, each Fund will be in compliance with Rule 10A–3 under the Exchange Act,[30] as provided by NYSE Arca Equities Rule 5.3.

(6) Each Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser, consistent with Commission guidance.

(7) A minimum of 100,000 Shares of each Fund will be outstanding at the commencement of trading on the Exchange.

(8) With respect to each of the Funds, such Fund's investments will be consistent with the Fund's investment objective. Investments in derivative instruments by the Funds will be made in accordance with the 1940 Act and consistent with each Fund's investment objective and policies. To limit the potential risk associated with transactions in derivatives, the Funds will segregate or ''earmark'' assets determined to be liquid by the Adviser in accordance with procedures established by the Trust's Board and in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into certain offsetting positions) to cover its obligations under derivative instruments.

(9) The Funds will not invest in equity securities other than convertible securities and securities issued by other investment companies, including money market funds and ETFs. The Funds will not invest in non-U.S. equity securities. The Funds will not invest in leveraged or leveraged inverse ETFs.

This approval order is based on all of the Exchange's representations and description of the Funds, including those set forth above and in the Notice.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act [31] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[32] that the proposed rule change (SR–NYSEArca-2013–135) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–04682 Filed 3–3–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Trilliant Exploration Corp.; Order of Suspension of Trading

February 28, 2014.

It appears to the Securities and Exchange Commission that there is a lack of complete and accurate information concerning the securities of Trilliant Exploration Corp. (''Trilliant'') because of questions that have been raised about the accuracy and reliability of publicly available information concerning, among other things, Trilliant's financial condition. Trilliant was a Nevada corporation based in New York, New York, whose corporate status was revoked in January 2013. Its securities are quoted on OTC Link (previously ''Pink Sheets'') operated by OTC Markets Group, Inc. under the ticker symbol ''TTXP.''

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EST on February 28, 2014, through 11:59 p.m. EDT on March 13, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–04815 Filed 2–28–14; 11:15 am]

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DEPARTMENT OF STATE

[Public Notice 8650]

Culturally Significant Objects Imported for Exhibition Determinations: ''Taras Shevchenko: Poet, Artist, Icon''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000, I hereby determine that the objects to be included in the exhibition ''Taras Shevchenko: Poet, Artist, Icon,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Ukrainian Museum, New York, New York, from on or about March 22, 2014, until on or about September 28, 2014, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: February 25, 2014.

Evan Ryan,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–04730 Filed 3–3–14; 8:45 am]

BILLING CODE 4710–05–P

[30] 17 CFR 240.10A–3.

[31] 15 U.S.C. 78f(b)(5).

[32] 15 U.S.C. 78s(b)(2).

[33] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2014–0011–N–4]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice and Request for Comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the renewal Information Collection Requests (ICRs) abstracted below are being forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collections and their expected burdens. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information was published on December 23, 2013 (78 FR 77550).

DATES: Comments must be submitted on or before April 3, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 25, Washington, DC 20590 (Telephone: (202) 493–6292), or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590 (Telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law No. 104–13, sec. 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On December 23, 2013, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. *See* 78 FR 77550. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summary below describes the nature of the information collection request (ICR) and the expected burden. The revised request is being submitted for clearance by OMB as required by the PRA.

Title: Locomotive Crashworthiness.

OMB Control Number: 2130–0564.

Abstract: In a final rule published on June 28, 2006, the Federal Railroad Administration (FRA) issued comprehensive standards for locomotive crashworthiness. These crashworthiness standards are intended to help protect locomotive cab occupants in the event of a locomotive collision. The collection of information is used by FRA ensure that locomotive manufacturers and railroads meet minimum performance standards and design load requirements for newly manufactured and re-manufactured locomotives in order to help protect locomotive cab occupants in the event that one of these covered locomotives collides with another locomotive, the rear of another train, a piece of on-track equipment, a shifted load on a freight car on an adjacent track, or a highway vehicle at a rail-highway grade crossing.

Type of Request: Revision of a currently approved information collection.

Affected Public: Businesses (Railroads).

Form(s): N/A.

Annual Estimated Burden: 6,544 hours.

Title: Bridge Safety Standards.

OMB Control Number: 2130–0586.

Abstract: The collection of information is used by FRA to ensure that railroads/track owners meet Federal safety standards for bridge safety and comply with all the requirements stipulated under the Railroad Safety Improvement Act (RSIA) of 2008 and 49 CFR 237. In particular, the collection of information is used by FRA to confirm that railroads/track owners adopt and implement bridge management programs to properly inspect, maintain, modify, and repair all bridges that carry trains over them for which they are responsible. Railroads/track owners must conduct annual inspections of railroad bridges. Further, railroads must incorporate provisions for internal audit into their bridge management program and must conduct internal audits of bridge inspection reports. The internal audit information is used by railroads/track owners to verify that the inspection provisions of the bridge management program are being followed and to continually evaluate the effectiveness of their bridge management program and bridge inspection activities. FRA uses this information to ensure that railroads/track owners implement a safe and effective bridge management program and bridge inspection regime.

Form Number(s): N/A.

Affected Public: Businesses (Railroads).

Annual Estimated Burden: 224,608 hours.

Status: Revision of a currently approved information collection.

Addressee: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC, 20503, Attention: FRA Desk Officer. Comments may also be sent via email to OMB at the following address: *oira_submissions@omb.eop.gov*.

Comments are invited on the following: Whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on 25 February 2014.

Rebecca Pennington,

Chief Financial Officer.

[FR Doc. 2014–04664 Filed 3–3–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2014–0011–N–5]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking renewal of the following currently approved information collection activities. Before submitting the information collection request (ICR) below for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than May 5, 2014.

ADDRESSES: Submit written comments on any or all of the following proposed activities by mail to either: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 25, Washington, DC 20590, or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, ''Comments on OMB control number 2130–0594.'' Alternatively, comments may be transmitted via facsimile to (202) 493–6216 or (202) 493–6479, or via email to Mr. Brogan at *Robert.Brogan@dot.gov*, or to Ms. Toone at *Kimberly.Toone@dot.gov*. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292) or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, sec. 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days notice to the public for comment on information collection activities before seeking approval for reinstatement or renewal by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding (i) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses). *See* 44 U.S.C. 3506(c)(2)(A)(i)–(iv); 5 CFR 1320.8(d)(1)(i)–(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) Reduce reporting burdens; (ii) ensure that it organizes information collection requirements in a ''user friendly'' format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

Below is a brief summary of currently approved information collection activities that FRA will submit for clearance by OMB as required under the PRA:

Title: Railroad Safety Appliance Standards (Miscellaneous Revisions).

OMB Control Number: 2130–0594.

Abstract: FRA amended the regulations related to safety appliance arrangements on railroad equipment on April 28, 2011. *See* 76 FR 23714. The amendments are intended to promote the safe placement and securement of safety appliances on modern rail equipment by establishing a process for the review and approval of existing industry standards. This process permits railroad industry representatives to submit requests for the approval of existing industry standards relating to the safety appliance arrangements on newly constructed railroad cars, locomotives, tenders, or other rail vehicles in lieu of the specific provisions currently contained in part 231. It is anticipated that this special approval process enhances railroad safety by allowing FRA to consider technological advancements and ergonomic design standards for new car construction and ensuring that modern rail equipment complies with the applicable statutory and safety-critical regulatory requirements related to safety appliances while also providing the flexibility to efficiently address safety appliance requirements on new designs in the future for railroad cars, locomotives, tenders, or other rail vehicles. The information collected under this regulation is used by FRA to better serve the goal of adapting to changes in modern rail car design while also facilitating statutory and regulatory compliance.

Form Number(s): N/A.

Affected Public: Businesses.

Respondent Universe: 734 railroads/labor unions/general public.

Frequency of Submission: On occasion.

Reporting Burden:

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
231.33—Procedure for Special Approval of Existing Industry Safety Appliance Standards—Filing of Petitions:	AAR (Industry Rep.)	5 petitions	160 hours	800

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
—Affirmative Statement by Petitioner that a Petition Copy has been served on Rep. of Employees Responsible for Equipment's Operation/Inspection/Testing/Maintenance.	AAR (Industry Rep.)	5 statements	30 minutes	3
—Service of Each Special Approval Petition on Parties Designated in section 231.33(c).	AAR (Industry Rep.)	565 petition copies	2 hours	1,130
—Statement of Interest in Reviewing Special Approval Filed with FRA.	5 RR Labor Unions/General Public.	15 statements	7 hours	105
—Comments on Petitions for Special Approval	728 Railroads/5 Labor Groups/General Public.	25 comments	6 hours	150
—Disposition of Petitions: Hearing on Petition for Special Approval.	AAR/5 RR Labor Unions/General Public.	1 hearing	8 hours	8
—Disposition of Petitions: Petition Returned by FRA Requesting Additional Information.	AAR (Industry Rep.)	1 amended document.	3 hours	3
231.35—Procedure for Modification of An Approved Industry Safety Appliance Standard for New Car Construction—Filing of Petitions:	AAR (Industry Rep.)	5 petitions for modification.	160 hours	800
—Affirmative Statement by Petitioner that a Petition Copy has been served on Rep. of Employees Responsible for Equipment's Operation/Inspection/Testing/Maintenance.	AAR (Industry Rep.)	5 statements	30 minutes	3
—Service of Each Special Approval Petition on Parties Designated in section 231.35(b).	AAR (Industry Rep.)	565 petition copies	2 hours	1,130
—Statement of Interest in Reviewing Special Approval Filed with FRA.	5 RR Labor Unions/General Public.	15 statements	7 hours	105
—Comments on Petitions for Modification	728 Railroads/5 Labor Groups/General Public.	25 comments	6 hours	150
—Disposition of Petitions: Petition Returned by FRA Requesting Additional Information.	AAR (Industry Rep.)	1 amended document.	3 hours	3

Estimated Annual Burden: 4,390 hours.

Status: Extension of a Currently Approved Collection.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC, on 25 February 2014.

Rebecca Pennington,

Chief Financial Officer.

[FR Doc. 2014–04665 Filed 3–3–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Notice of Applications for Modification of Special Permit

AGENCY: Office of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for modification of special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modification of special permits (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. These applications have been separated from the new application for special permits to facilitate processing.

DATES: Comments must be received on or before March 19, 2014.

ADDRESSES: *Send comments to:* Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington DC or at *http://regulations.gov*.

This notice of receipt of applications for modification of special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on February 18, 2014.

Donald Burger,

Chief, General Approvals and Permits.

MODIFICATION SPECIAL PERMITS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits thereof
9610–M	.....	ATK Small Caliber Systems Independece, MO Part.	49 CFR 172.201(c), Subpart F of 172, 172.301(c), 172.203(a), 174.59, and 174.61(a).	To modify the special permit to authorize Class 1 smokeless powder UN0161 in combination packaging.
10832–M	.....	Autoliv ASP, Inc. Ogden, UT.	49 CFR 173.56(b), and 173.61(a).	To modify the special permit to remove the inner packaging requirements, remove the requirement for trays in outer packaging, and update locations where the permit may be used.
11826–M	.....	Linde Gas North America, LLC. Murray Hill, NJ.	49 CFR 173.302(a)(5)	To modify the special permit to authorize the requalification of cylinders manufactured in accordance with DOT–SP 12399 and 14546, and the use of ultrasonic requalification.
11993–M	.....	Key Safety Systems Lakeland, FL.	49 CFR 173.301(a)(1), and 173.302a.	To modify the special permit to add a Division 2.2 material.
12122–M	.....	ARC Automotive, Inc. Knoxville, TN.	49 CFR 173.301(a)(1), 173.302(a)(2), 178.65 (f)(2), and 178.65(i)(3).	To modify the special permit to remove the requirement for marking the special and permit number on the package and shipping papers, and also remove the requirement of providing a copy of the special permit when offered for transportation.
12629–M	.....	TEA Technologies, Inc. Amarillo, TX.	49 CFR 180.209(a), 180.205(c), (f), (g) and (i), 173.302a(b) (2), (3), (4) and (5), and 180.213.	To modify the special permit to authorize testing to be performed by a person that is certified by TEA Technologies.
14313–M	.....	Airgas USA, LLC. Tulsa, OK.	49 CFR 173.302a(b)(2), 180.205, 172.203(a), 172.301(c).	To authorize the use of ultrasonic inspection as an alternative retest method for certain cylinders manufactured under a DOT special permit.
14392–M	.....	U.S. Department of Defense Scott AFB, IL.	49 CFR 172.101 Column (10B), 176.83(a),(b) and (g), 176.84(c)(2), 176.136, 176.144(a), 172.203(a), and 172.302(c)..	To modify the special permit to authorize all Government owned Maritime Prepostioning Ships to use alternative stowage.
14999–M	.....	Classic Helicopter Group, LLC (Former Grantee Classic Helicopters Limited L.C.) Woods Cross, UT.	49 CFR 172.101 Column (9B), 172.204(c)(3), 173.27(b)(2), 175.30(a)(1), 172.200, 172.300, and 175.75.	To modify the special permit to authorize additional Division 1.1 materials and remove the requirement that the propane cylinders must be transported in approved netting.
15448–M	.....	U.S. Department of Defense Scott AFB, IL.	49 CFR 172.320, 173.51, 173.56, 173.57 and 173.58.	To modify the special permit to authorize Class 2, 3, 4, 5, 6, 7, 8, and 9 materials under interim hazard class.
15735–M	.....	W.R. Grace & Co.-Conn. Columbia, MD.	49 CFR 173.242(d)	To modify the special permit to authorize Divison 4.2 materials.
15788–M	.....	Amtrol-Alfa, Metalomecanica SA Portugal.	49 CFR 173.302a(a)(1), 180.205.	To modify the special permit to address requests made in the original application submitted on December 26, 2012.
15865–M	.....	HeliStream Inc. Costa Mesa, CA.	49 CFR 172.101 Column(9B), 172.301(c), 175.30, 175.33, Part 178, and 175.75.	To modify the special permit to authorize Class 1, 2, 4, 8, 9, and additional Class 3 materials.
9847–M	.....	FIBA Technologies, Inc. Millbury, MA.	49 CFR 180.209(a), 180.205(c), (f), (g) and (i), 173.302a b) (2), (3), (4) and (5), and 180.213.	To modify the special permit so that alternative certifications may be authorized (for personnel responsible for performing cylinder retesting.
10427–M	.....	Astrotech Space Operations, Inc. Titusville, FL.	49 CFR 173.61(a), 173.301(g), 173.302(a), 173.336, 177.848(d).	To modify the special permit to authorize additional launch vehicles and increase the amount of and Anhydrous ammonia to 120 pounds.
10869–M	.....	Norris Cylinder Company Longview, TX.	49 CFR 173.301(a), 173.302a, 180.205(c), 180.205(c), (f) and (g), and 180.2015.	To modify the special permit to revise the referenced drawings.
12362–M	.....	U.S. Department of Defense Scott AFB, IL.	49 CFR 176.164(c)	To modify the special permit to authorize all Government owned Maritime Prepostioning Ships to use alternative stowage.

MODIFICATION SPECIAL PERMITS—Continued

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits thereof
13997–M	.....	Maritime Helicopters, Inc. Homer, AK.	49 CFR 172.101(9b), 172.204(c)(3), 173.27(b)(2), 175.30(a)(1), 172.200, 172.300, 172.400, 175.75, 172.301(c), 172.302(c), and Part 178..	To modify the special permit to authorize an increase in portable tank capacity and the addition of Class 3 materials.
14283–M	.....	U.S. Department of Energy Washington, DC.	49 CFR 172.203(g)(1), 172.302(a), 172.331, 172.332, 174.59, 172.310(b) and (c), 172.403, 173.427(b), 173.443(c) and (d), 174.715(a), and 177.843(a) and (b), and 174.26.	To modify the special permit to authorize an increase in the payload weight.
14296–M	.....	GasCon (Pty) Ltd. Elsies River 7480.	49 CFR 178.274(b)(1), and 178.276(b)(1).	To modify the special permit to authorize the latest revision of the ASME, Section VIII Division 2.
14467–M	.....	Brenner Tank, LLC Fond Du Lac, WI.	49 CFR 178.345–2, 178.346–2, 178.347–2, and 178.348–2.	To modify the special permit to authorize additional duplex stainless steel grades.
14867–M	.....	GTM Manufacturing, LLC Amarillo, TX.	49 CFR 173.302a and 173.304.	To modify the special permit to authorize Division 2.3 materials.
15335–M	.....	Seastar Chemicals Inc. Sidney, BC.	49 CFR 173.158(f)(3)	To modify the special permit to authorize alternative threaded closure caps.
15558–M	.....	3M Company St. Paul, MN.	49 CFR 173.212, 172.301(a) and (c).	To modify the special permit to authorize the use of non-specification stainless steel portable tanks.
15806–M	.....	Precision Technik Atlanta, GA.	49 CFR 173.3(d)(2)(ii)	To modify the special permit to authorize an increase in the minimum allowable working pressure.

[FR Doc. 2014–04269 Filed 3–3–14; 8:45 am]
BILLING CODE 4909–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Notice of Application for Special Permits

AGENCY: Office of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before April 3, 2014.

ADDRESSES: *Send comments to:* Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington DC or at *http://regulations.gov.*

SUPPLEMENTARY INFORMATION: This notice of receipt of applications for special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on February 20, 2014.

Donald Burger,

Chief, General Approvals and Permits.

NEW SPECIAL PERMITS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits thereof
16013–N	.....	Chem Technologies, Ltd. Middlefield, OH.	49 CFR 173.225(d)(1) and 173.240(e)(1).	To authorize the transportation in commerce of certain Class 4 and 5 hazardous materials in UN5OG large packagings. (modes 1, 3, 4, 5)
16015–N	.....	GPI Corporation Schofield, WI.	49 CFR 173.240, 173.241, 173.242 and 173.243.	To authorize the manufacture, marking, sale and use of non-DOT specification cargo tanks similar to DOT 407 and 412 cargo tanks. (mode 1)

NEW SPECIAL PERMITS—Continued

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits thereof
16016–N	.....	iSi Automotive Austria GmbH Vienna.	49 CFR 173.301, 173.302a and 173.305.	To authorize the manufacture, marking, sale and use of non-DOT specification cylinders for use in use in automobile safety systems. (modes 1, 2, 3, 4, 5)
16017–N	.....	Transportation Security Administration Arlington, VA.	49 CFR Part 107, Subpart B, Part 172, Appendix B; Subpart C; 173.25, 175.85.	To authorize the shipment of radiation detection survey meters containing a Division 2.2 compressed gas in the passenger compartment of commercial aircraft. (mode 5)
16022–N	.....	Zhejiang Juhua Equipment Manufacturing Co., Ltd. Quzhou, Zh.	49 CFR 178.274(b), 178.276(b)(1) and 178.276(a)(2).	To authorize the manufacture, marking, sale and use of and non-DOT specification portable tanks mounted within an ISO frame that have been designed, constructed and stamped in accordance with Section VIII, Division 2 of the ASME Code. (modes 1, 2, 3)
16024–N	.....	Manulwa Airways, Inc. Hilo, HI.	49 CFR 175.9(a)	To authorize the transportation in commerce of certain hazardous materials by external load. (mode 4)
16030–N	.....	Seattle Children's Hospital dba Seattle Children's Research Institute Seattle, WA.	49 CFR 49 CFR 173.24(b)	To authorize the transportation in commerce of a specification cylinder containing medical grade oxygen with the valve opened and connected to a system designed to maintain vital conditions needed to keep tissue samples viable for research use. (mode 1)
16031–N	.....	Air Rescue Systems Ashland, OR.	49 CFR §172.101 Column (9B), §172.204(c)(3), §173.27(b)(2), §175.30(a)(1), §§172.200 and 172.301(c), Part 178 and §175.75.	To authorize the transportation in commerce of certain hazardous materials by cargo aircraft including by external load in remote areas of the US without being subject to hazard communication requirements and ≤quantity limitations where no other means of transportation is available. (mode 4)
16037–N	.....	E.I. DuPont de Nemours and Company Wilmington, DE.	49 CFR 173.242	To authorize the transportation in commerce of a Class 8 (corrosive) solid in UN5OG large packagings. (modes 1, 2, 3)
16039–N	.....	UTLX Manufacturing LLC. Alexandria, LA.	49 CFR 173.314(d)	To authorize the manufacture, marking, sale and use of non-DOT specification tank cars for the transportation in commerce of anhydrous ammonia.(mode 2)
16040–N	.....	Multistar Ind., Inc. Othello, WA.	49 CFR 180.605(1)	To authorize the transportation in commerce of certain portable tanks and cargo tanks containing anhydrous ammonia that do not have manufacturer's data reports required by 49 CFR 180.605(1). (mode 1)

[FR Doc. 2014–04268 Filed 3–3–14; 8:45 am]
BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Notice of Actions on Special Permit Applications

AGENCY: Office of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on special permit applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given of the actions on special permits applications in (December to January 2014). The mode of transportation involved are identified by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Special Permits. It should be noted that some of the sections cited were those in effect at the time certain special permits were issued.

Issued in Washington, DC, on February 18, 2014.

Donald Burger,

Chief, Special Permits and Approvals Branch.

S.P No.	Applicant	Regulation(s)	Nature of special permit thereof
MODIFICATION SPECIAL PERMIT GRANTED			
15552–M	Poly-Coat Systems, Inc., Liverpool, TX 173.243.	49 CFR 173.240, 173.241, 173.242, 173.243, and 173.244.	To modify the special permit to more accurately reflect the intent of the relief concerning ''corrosion barriers'' and re-barreling.

S.P No.	Applicant	Regulation(s)	Nature of special permit thereof
11827–M	Moses Lake Industries, Inc. Moses Lake, WA.	49 CFR 180.605(c)(1) and 180.352(b)(3).	To modify the special and permit to authorize a dual hazard material.
14770–M	Nova Chemicals Inc. Moon Township, PA.	49 CFR 173.242	To modify the special permit to reference Silvan Industries portable tank drawings in paragraph 7.a. of the special permit.
14188–M	IDQ Operating Inc. Garland, TX.	49 CFR 173.304(d), 173.306(a)(3) and 178.33a.	To modify the special permit to reflect current statutes and regulations pertaining to consumer commodities.
		NEW SPECIAL PERMIT GRANTED	
15747–N	UPS, Inc. Atlanta, GA	49 CFR 177.817(a); 177.817(e); 177.802; 172.203(a); 172.602(b).	Effective March 1, 2014, this special permit authorizes the transportation in commerce of certain hazardous materials using electronic records including transmission via email, fax, or telephone in lieu of physical shipping papers. (mode 1)
15861–N	Petro2Go, LLC. De Pere, WI ..	49 CFR 177.834(h) and 178.700(c)(1).	To authorize the manufacture, mark and sale of non-bulk refueling tanks as intermediate bulk containers which are authorized to be unloaded from the motor vehicle when transporting various Class 3 hazardous materials. (mode 1)
15872–N	KMG Electronic Chemicals Pueblo, CO.	49 CFR 173.158(f)(1)	To authorize the transportation in commerce of 69.5% Nitric acid in non-DOT specification one-time use HDPE plastic drums. (mode 1)
15889–N	E.I. DuPont de Nemours & Company, Inc. WILMINGTON, DE.	49 CFR 173.32(e)	To authorize the one-time transportation in commerce of a portable tank that was filled past its required periodic reinspection date. (mode 1)
15964–N	ICL Performance Products LP St. Louis, MO.	49 CFR 180.605	To authorize the one-time transportation in commerce of an ISO tank without the required hydrostatic pressure being performed after repair. (mode 1)
15994–N	Pinnacle Helicopter Lubbock, TX.	49 CFR 175.9	To authorize the transportation in commerce of hazardous materialsin external load. (mode 4)
15986–N	Helicopter Consultants of Maui, Inc. dba Blue Hawaiian Helicopters Kahului, HI.	49 CFR 172.101 Column (9B), 172.204(c)(3), 173.27(b)(2), 175.30(a)(1), 172.200, 172.300 and 172.400.	To authorize the transportation in commerce of certain hazardous materials by external load in remote areas of the US without being subject to hazard communication requirements and quantity limitations where no other means of transportation is available. (modes 2, 4)
16033–N	Aerojet Corporation Camden, AR.	49 CFR 172.200	To authorize the transportation in commerce of certain hazardous materials across a public road within a facility without shipping papers. (mode 1)
		EMERGENCY SPECIAL PERMIT GRANTED	
16049–N	Walt Disney Parks & Resorts U.S., Inc. Anaheim, CA.	49 CFR 173.56(b) and 172.320.	To authorize the one-way transportation in commerce of certain unapproved fireworks from two Walt Disney World Park Resorts U.S., Inc. storage facilities to Clean Harbors destruction facilities by motor vehicle for destruction. (mode 1)
16064–N	Airgas USA, LLC Cheyenne, WY.	49 CFR 173.3(e)	To authorize the transportation in commerce of a DOT Specification 4AA cylinder containing anhydrous ammonia that developed a leak and is equipped with a Chlorine Institute Kit ''A'' to prevent leakage during transportation. (mode 1)
16057–N	PCC Logistics Carson, CA	49 CFR 173.56(b)	To authorize the one-time, one-way transportation in commerce of certain unapproved fireworks from Carson, CA to Wilmington CA when classed as Division 1.4G. (mode 1)
16042–N	New England Primate Research Center.	49 CFR 173.199(a)(1)	To authorize the one-time one-way transportation in commerce of lice, non-human primates (NHPs) infected with Division 6.2 (infectious substance) materials. (mode 1)
		DENIED	
14920–M	Request by Nordco Rail Services & Inspection Technologies Ridgefield, CT January 08, 2014. To modify the special permit to authorize 3A, 3AL, and DOT–SP 12440 cylinders to be retested by a 100% ultrasonic examination, marking requirements equal to or less than 5 inches, different dimensions of a flat bottom hole to be used during ultrasonic examinations, and add an acceptable level of tolerance to the maximum achieved reference amplitude.		
15634–M	Request by SodaStream USA Mount Laurel, NJ December 11, 2013. To modify the special permit to authorize the transportation of cylinders by motor vehicle consistent with the limited quanitiy exception.		
15892–N	Request by Department of Energy Washington, DC January 07, 2014. To authorize the transportation in commerce of certain radiation detectors containing methane, which are constructed of aluminum and stainless steel.		
15899–N	Request by HRD Aero Systems, Inc. Valencia, CA December 20, 2013. To authorize the manufacture, mark and sell of non-DOT specification cylinder for the transportation in commerce of a Division 2.2 gas.		
15967–N	Request by Chart Industries New Prague, MN January 22, 2014. To authorize the manufacture, mark and sale of non-DOT specification tanks cars similar to DOT113C120W for the transportation in commerce of certain refrigerated liquids.		
16041–N	Request by JCR Construction Company, Inc. Raymond, NH December 10, 2013.		

S.P No.	Applicant	Regulation(s)	Nature of special permit thereof
16045–N	Request by G.L.I. Ets Citergaz Civray, France, FR January 31, 2014. To authorize the manufacture, marking, sale and use of a non-DOT specification stainless steel cylinder similar to a DOT specification 4BW cylinder.		
15720–N	Digital Wave Corporation Centennial, CO.	49 CFR 180.205(g)	To extend the service life of certain permitted cylinders by certifying them by an alternative retest.

[FR Doc. 2014–04284 Filed 3–3–14; 8:45 am]
BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Notice of Application for Special Permits

AGENCY: Office of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before April 3, 2014.

ADDRESSES: *Send comments to:* Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington DC or at *http://regulations.gov.*

This notice of receipt of applications for special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on February 18, 2014.

Donald Burger,

Chief, General Approvals and Permits.

NEW SPECIAL PERMITS

Application No.	Applicant	Regulation(s) affected	Nature of special permit
16046–N	Rohm and Haas Electronic Materials LLC.	173.3, 173.181, and 173.187 ..	To authorize the transportation in commerce of a damaged cylinder containing Division 4.3 and/or 4.2 materials in a salvage cylinder. (modes 1, 2, 3)
16067–N	E.I. DuPont de Nemours ..... Company, Inc.	171.25(c) &	To authorize the transportation in commerce of a Division 2.2 compressed gas in non-DOT specification bulk packaging. (modes 1, 3)
16060–N	Daeryuk Can Manufacturing Co., Ltd Youngin-Myeon, Asan-Si, China.	49 CFR 173.304	To authorize the manufacture, marking, sale and use of non-DOT specification inside containers for transportation of Isobutane/Propane mixtures. (modes 1, 2, 3)
16065–N	American Spraytech North Branch, NJ.	49 CFR 173.306(a)(3)(v)	To authorize the transportation in commerce of certain aerosols containing a Division 2.2 compressed gas in certain non-refillable aerosol containers which are not subject to the hot water bath test. (mode 1)
16074–N	Welker Inc. Sugar Land, TX ...	49 CFR 173.201, 173.202, and 173.203.	To authorize the transportation in commerce of certain Class 3 liquids in non-DOT specification cylinders. (modes 1, 2, 3, 4)
16079–N	Wal-Mart Stores East, LP Bentonville, AR.	49 CFR 171.2(k)	To authorize the transportation in commerce of certain used cylinders containing Helium, compressed as fully regulated without first determining that a hazardous material is present. (mode 1)
16081–N	Cabela's Inc. Sidney, NE	49 CFR 178.602	To authorize the transportation in commerce of certain Division 1.4 primers and powders in packaging that has not been tested for each specific configuration. (modes 1, 2, 3, 4)

[FR Doc. 2014–04283 Filed 3–3–14; 8:45 am]
BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

List of Applications Delayed More Than 180 Days

AGENCY: Office of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications delayed more than 180 days.

SUMMARY: PHMSA is publishing the following list of special permit applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: Ryan Paquet, Director, Office of Hazardous Materials Special Permits and Approvals, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of 49 U.S.C. 5117(c), PHMSA is publishing the following list of special permit applications that have been in process for 180 days or more.

Key to ''Reason for Delay''

1. Awaiting additional information from applicant
2. Extensive public comment under review
3. Application is technically complex and is of significant impact or precedent-setting and requires extensive analysis
4. Staff review delayed by other priority issues or volume of special permit applications

Meaning of Application Number Suffixes

N—New application
M—Modification request
R—Renewal Request
P—Party to Exemption Request

Issued in Washington, DC, on February 18, 2014.

Donald Burger,

Chief, General Approvals.

Application No.	Applicant	Reason for delay	Estimated date of completion
	Modification to Special Permits		
15577–M	Olin Corporation Oxford, MS	4	02–28–2014
11947–M	Patts Fabrication, Inc. Midland, TX	4	03–31–2014
	New Special Permit Applications		
15767–N	Union Pacific Railroad Company Omaha, NE	1	03–31–2014
15853–N	Praxair, Inc. Danbury, CT	4	03–31–2014
15847–N	Safariland, LLC Jacksonville, FL	4	03–31–2014
15863–N	Baker Hughes Oilfield Operations Inc. Houston, TX	3	03–31–2014
15869–N	Mercedes-Benz USA, LLC (MBUSA) Montvale, NJ	4	03–31–2014
15880–N	Viking Packing Specialist Catoosa, OK	4	03–31–2014
15882–N	Ryan Air Anchorage, AK	4	03–31–2014
15883–N	The Boeing Company Canoga Park, CA	4	03–31–2014
15874–N	Summit Helicopter, Incorporated Pacoima, CA	3	03–31–2014
	Party to Special Permits Application		
14155–P	Crazy Fireworks, LLC Ann Arbor, MI	4	03–31–2014
15647–P	Allied Universal Corporation Miami, FL	3	03–31–2014
	Renewal Special Permits Applications		
12412–R	Davis Supply, Inc. Fort Myers, FL	1	03–31–2014
14155–R	American Promotional Events, Inc. North-West dba/TNT Fireworks Florence, AL	2,3	02–28–2014
7954–R	Linde LLC Murray Hill, NJ	4	03–31–2014
14267–R	LATA Environmental Services of Kentucky, LLC (LATA Kentucky) Kevil, KY	3	03–31–2014
15392–R	Brim Equipment Leasing, Inc. dba Brim Aviation Ashland, OR	4	03–31–2014

[FR Doc. 2014–04287 Filed 3–3–14; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Amendment of Notice of Allocation Availability (NOAA) Inviting Applications for the Combined Calendar Year (CY) 2013 and 2014 Allocation Round of the New Markets Tax Credit (NMTC) Program

Announcement Type: Change to NOAA inviting applications for the combined calendar year 2013 and 2014 allocation round of the NMTC Program: Removing the anticipated calendar year 2014 allocation authority from the combined calendar year 2013 and 2014 Allocation Round; decrease in allocation authority; decrease in maximum anticipated allocation award amount.

DATES: Electronic NMTC allocation applications must have been received by 5:00 p.m. ET on September 18, 2013. Any NMTC allocation applicant that was not yet certified as a Community

Development Entity (CDE) must have submitted an application for CDE certification that was postmarked on or before August 9, 2013 (see Section III of the NOAA for more details).

Executive Summary: This notice amends the NOAA that was published on July 29, 2013 (78 FR 45604) for the combined calendar year 2013 and 2014 allocation round of the NMTC Program, as authorized by Title I, subtitle C, section 121 of the Community Renewal Tax Relief Act of 2000 (Pub. L. 106–554) and as amended thereafter. Through the NMTC Program, the CDFI Fund provides authority to CDEs to offer an incentive to investors in the form of tax credits over seven years, which is expected to stimulate the provision of private investment capital that, in turn, will facilitate economic and community development in Low-Income Communities.

The July 29, 2013 NOAA announced the availability of up to $8.5 billion of NMTC investment authority, $3.5 billion of which was authorized by American Taxpayer Relief Act of 2012 and an additional $5.0 billion, which was subject to Congressional authorization. Because the CDFI Fund has not received Congressional allocation authority for calendar year 2014 as of the date of this notice, it is amending the July 29, 2013 NOAA to reflect the authorized authority for calendar year 2013 only. Thus, this notice revises the July 29, 2013 NOAA such that the funding opportunity announced therein no longer includes the combined calendar years 2013 and 2014, but is for calendar year 2013 only.

Decrease in Allocation Authority: The July 29, 2013 NOAA announced that there would be a total of $8.5 billion of NMTC allocation authority available in the combined calendar year 2013 and 2014 Allocation Round. This notice revises the July 29, 2013 NOAA such that $3.5 billion of NMTC allocation authority is available for calendar year 2013 only.

Decrease of Award Amount: The July 29, 2013 NOAA also announced that the CDFI Fund anticipates that it will provide allocation awards of not more than $125 million per Allocatee. Due to not having allocation authority for calendar year 2014 as of the date of this notice, this notice revises the July 29, 2013 NOAA such that the CDFI Fund now expects that it may provide allocation awards of not more than $100 million of allocation per Allocatee.

All other information and requirements set forth in the July 29, 2013 NOAA shall remain effective, as published.

Authority: 26 U.S.C. 45D; 31 U.S.C. 321; 26 CFR 1.45D–1.

Dated: February 27, 2014.

Dennis Nolan,

Deputy Director, Community Development Financial Institutions Fund.

[FR Doc. 2014–04723 Filed 3–3–14; 8:45 am]

BILLING CODE 4810–70–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public hearing—March 13, 2014, Washington, DC.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission.

Name: Dennis C. Shea, Chairman of the U.S.-China Economic and Security Review Commission. The Commission is mandated by Congress to investigate, assess, and report to Congress annually on ''the national security implications of the economic relationship between the United States and the People's Republic of China.'' Pursuant to this mandate, the Commission will hold a public hearing in Washington, DC on March 13, 2014, ''China and Evolving Security Dynamics in East Asia.''

Background: This is the third public hearing the Commission will hold during its 2014 report cycle to collect input from academic, industry, and government experts on national security implications of the U.S. bilateral trade and economic relationship with China. This hearing will explore the evolving security dynamics in Asia and the effects of this changing environment on the United States. More specifically, it will address how Northeast and Southeast Asia are responding to China's rise and consider what implications follow for U.S. alliances and partnerships in the region.

The hearing will be co-chaired by Commissioners Peter T.R. Brookes and Jeffrey L. Fiedler. Any interested party may file a written statement by March 13, 2014, by mailing to the contact below. A portion of each panel will include a question and answer period between the Commissioners and the witnesses.

Location, Date and Time: Location TBA. Thursday, March 13, 2014, 9:00am—3:00pm Eastern Time. A detailed agenda for the hearing will be posted to the Commission's Web site at www.uscc.gov. Also, please check our Web site for possible changes to the hearing schedule. *Reservations are not required to attend the hearing.*

FOR FURTHER INFORMATION CONTACT: Any member of the public seeking further information concerning the hearing should contact Reed Eckhold, 444 North Capitol Street, NW., Suite 602, Washington DC 20001; phone: 202–624–1496, or via email at *reckhold@uscc.gov*. Reservations are not required to attend the hearing.

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005).

Dated: February 27, 2014.

Michael Danis,

Executive Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2014–04785 Filed 3–3–14; 8:45 am]

BILLING CODE 1137–00–P

DEPARTMENT OF VETERANS AFFAIRS

Discontinuance of Annual Financial Assessments—Implementation

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) published a Notice in the **Federal Register** on October 25, 2013 (78 FR 64065), announcing that we intended to change financial reporting practices requiring annual financial assessments from certain veterans enrolled in the VA health care system. On December 30, 2013 (78 FR 79564), VA announced that it was postponing implementation of this change until a date to be determined, due to delays in modifying computer software. The purpose of this Notice is to notify interested parties that the first phase of this change will be implemented no later than March 31, 2014.

FOR FURTHER INFORMATION CONTACT: Kristin J. Cunningham, Director Business Policy, Chief Business Office, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; (202) 382–2508. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Certain veterans are enrolled in the VA health care system based on their income: Priority Groups 5, 7, and 8. VA requires these veterans to submit a financial assessment when initially enrolled and then requests resubmission of this

information each year thereafter on the enrollment anniversary. VA verifies that self-reported financial information through a computer matching of income reported to the Internal Revenue Service (IRS) and Social Security Administration (SSA).

VA intends to eliminate this annual burden by changing the financial reporting practices. Veterans will be requested to submit financial assessment information using a VA Form 10–10EZ only during the initial enrollment process. VA will continue to receive income information from IRS and SSA, which will then be compared to the information initially provided by the veteran. A veteran will be asked to provide further income and asset information, or to verify the data provided by IRS or SSA, only in those cases where VA identifies a change to the veteran's income that would result in a change to the veteran's priority group status.

As stated in VA's October 25, 2013, Notice, this change in policy will be implemented in phases because the policy change requires revision of current VA forms and processes including updating existing information technology. VA stated that the change would be implemented in phases beginning no later than the end of calendar year 2013. Phase I will eliminate the need for current enrollees to submit the annual financial assessment. Phase II, which will include new enrollees, is targeted after Phase I is completed. During Phase II, VA will discontinue the requirement that new enrollees placed in Priority Group 5, 7, or 8 provide an annual update of financial assessment information.

In VA's Notice of December 30, 2013, we stated that implementation would be postponed until a date to be determined due to delays in revising and updating supporting computer software. The purpose of this Notice is to notify interested parties that the first phase of this change will be implemented no later than March 31, 2014. VA will publish a Notice in the **Federal Register** to announce when Phase I of the implementation is complete and the commencement of Phase II.

Dated: February 27, 2014.

William F. Russo,

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

[FR Doc. 2014–04686 Filed 3–3–14; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Department of Agriculture

Food and Nutrition Service
7 CFR Part 246

Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Revisions in the WIC Food Packages; Final Rule

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 246

[FNS–2006–0037]

RIN 0584–AD77

Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Revisions in the WIC Food Packages

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Final rule.

SUMMARY: This final rule considers public comments submitted in response to the interim rule revising the WIC food packages published on December 6, 2007. The interim rule implemented the first comprehensive revisions to the WIC food packages since 1980. The interim rule revised regulations governing the WIC food packages to align them more closely with updated nutrition science and the infant feeding practice guidelines of the American Academy of Pediatrics, promote and support more effectively the establishment of successful long-term breastfeeding, provide WIC participants with a wider variety of food, and provide WIC State agencies with greater flexibility in prescribing food packages to accommodate participants with cultural food preferences. This rule makes adjustments that improve clarity of the provisions set forth in the interim rule.

DATES: *Effective Date:* This rule is effective May 5, 2014.

Implementation Dates:

- State agencies must implement the provision in Table 2 at 7 CFR 246.10(e)(10) increasing the cash-value voucher for children to $8 per month no later than June 2, 2014.
- The provision found at 7 CFR 246.12(f)(4) requiring split tender for cash-value vouchers shall be implemented no earlier than October 1, 2014 and no later than April 1, 2015.
- Footnote 11 of Table 2 at 7 CFR 246.10(e)(10) shall be implemented on the later of October 1, 2014, or the date on which the State agency exercises their option to issue authorized soy-based beverage or tofu to children who receive Food Package IV.
- The provisions in Footnote 10 of Table 2 at 7 CFR 246.10(e)(10) and Footnote 12 of Table 3 at 7 CFR 246.10(e)(11) authorizing yogurt for children and women in Food Packages III–VII may be implemented no earlier than April 1, 2015.

FOR FURTHER INFORMATION CONTACT: Anne Bartholomew, Chief, Nutrition Services Branch, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 522, Alexandria, Virginia 22302, (703) 305–2746 OR *ANNE.BARTHOLOMEW@FNS.USDA.GOV*.

SUPPLEMENTARY INFORMATION:

I. Overview

This final rule addresses public comments submitted in response to the interim rule revising the WIC food packages published on December 6, 2007 (72 FR 68966), and makes adjustments that improve clarity of the provisions set forth in the interim rule.

II. Background

An interim rule revising the WIC food packages was published in the **Federal Register** on December 6, 2007 (72 FR 68966). The interim rule implemented the first comprehensive revisions to the WIC food packages since 1980 and largely reflected recommendations made by the National Academies' Institute of Medicine (IOM) in its Report ''WIC Food Packages: Time for a Change'' (''Report'').[1] The interim rule aligned the food packages more closely with updated nutrition science, promoted and supported more effectively the establishment of successful long-term breastfeeding, provided WIC participants with a wider variety of food, and provided WIC State agencies with greater flexibility in prescribing food packages to accommodate participants with cultural food preferences. WIC State agencies were required to implement the changes by October 1, 2009.

III. General Summary of Comments Received on the Interim Rule To Revise the WIC Food Packages

The interim rule revising the WIC food packages provided an extensive public comment period to obtain comments on the impact of the changes experienced during implementation of the new food packages. The interim rule comment period ended February 1, 2010.

A total of 7,764 comment letters were received on the interim rule; of those, 111 were form letters. A total of 6,664 of the letters were from program participants, and included comments submitted in Spanish, Chinese, and other languages, in addition to English. The remaining comment letters were submitted from a variety of sources, including WIC State and local agencies and Indian Tribal Organizations, the National WIC Association (NWA), professional organizations and associations, advocacy groups, healthcare professionals (including universities), members of Congress, the food industry, vendors, farmers, and private citizens.

In general, commenters expressed broad support for the changes and reported relatively smooth implementation of the new WIC food packages. Commenters also voiced concerns about various aspects of the interim rule and made recommendations for clarifying or improving specific provisions of the interim rule. Overall, participants expressed overwhelming support for the revised WIC food packages, especially the addition of whole grains and fruits and vegetables. However, many participants who were enrolled in WIC during the transition from the previous food packages to the revised food packages expressed displeasure with changes to fat-reduced milks and less cheese.

FNS considered all timely comments without regard to whether they were provided by a single commenter or repeated by many. Importance was given to the substance or content of the comment, rather than the number of times a comment was submitted.

WIC State agencies are to be commended for the staff and vendor training that led to successful implementation of the new WIC food packages, as well as nutrition education provided to participants on the benefits of the new foods in the WIC food packages. Successful implementation of the new WIC food packages was further enhanced by the efforts of WIC's partners in the advocacy, retail, and medical communities.

IV. Discussion of the Final Rule Provisions

The following is a discussion of the major provisions set forth in this final rule, a brief summary of the comments received on the interim rule that addressed these issues, and FNS' rationale for either modifying or retaining provisions in this final rule. Provisions not addressed in the preamble to this final rule did not receive significant or substantial public comments and remain unchanged.

The preamble to this final rule articulates the basis and purpose behind significant changes from the December 6, 2007 interim rule. The reasons supporting provisions of the interim

[1] Institute of Medicine, National Academy of Sciences. ''WIC Food Packages: Time for a Change,'' 2005. Available at Internet site: *http://www.fns.usda.gov/wic-food-packages-time-change*.

regulations were carefully examined in light of the comments received to determine the continued applicability of the justifications. Unless otherwise stated, or unless inconsistent with this final rule or this preamble, the rationales contained in the preamble to the proposed and interim regulations should be regarded as the basis for this final rule. Therefore, a thorough understanding of the rationales for the interim regulations may require reference to the preamble of the August 7, 2006 proposed rule (71 FR 44784) and the December 6, 2007 interim rule (72 FR 68966).

A. Definitions

The following definitions have been added or modified in the final rule.

Farmers' market. As described in a subsequent section of this preamble, this final rule adds the definition of ''farmers' markets'' at 7 CFR 246.2.

Full nutrition benefit. As described in a subsequent section of this preamble, this final rule adds the definition of ''full nutrition benefit'' at 7 CFR 246.2.

WIC-eligible medical foods. Based on review and discussion with the Food and Drug Administration (FDA), this final rule changes the name of the food category ''WIC-eligible medical food'' to ''WIC-eligible nutritionals,'' but does not substantively change this food category. This nomenclature modification better describes the group of special WIC-eligible nutritional products the WIC Program provides to participants with qualifying conditions, and alleviates confusion associated with the use of the term ''medical food,'' which is defined by regulations governing FDA and differs from the WIC use of this term. The FNS definition for ''WIC-eligible medical food'' and the FDA definition for ''medical food'' are both comprehensive and detailed. Although the definition of ''WIC-eligible medical food'' closely aligns with the FDA definition for ''medical food,'' there are slight differences, such that some, but not all ''WIC-eligible medical foods'' meet FDA's definition of ''medical food.'' In an effort to alleviate confusion, and distinguish between the two product categories and definitions, FNS is modifying the name of the food category from ''WIC-eligible medical food'' to ''WIC-eligible nutritionals.'' Other than the name change, the definition for this food category put forth in the interim rule remains unchanged in this final rule.

B. General Provisions That Affect All WIC Food Packages

1. Nutrition Tailoring

Prior to the interim rule, FNS policy allowed both categorical and individual nutrition tailoring of WIC food packages. Categorical nutrition tailoring is the process of modifying the WIC food packages for participant groups or subgroups with similar supplemental nutrition needs, based on scientific nutrition rationale, public health concerns, cultural eating patterns, and State established policies. The interim rule prohibits categorical nutrition tailoring, but continues to allow individual nutrition tailoring based on the Competent Professional Authority's (CPA) assessment of a participant's supplemental nutrition needs.

A total of 33 commenters (of these, 8 were form letters) opposed the provision that prohibits categorical tailoring, stating that State agencies need the flexibility to propose modifications to food packages that respond to rapid changes in food industry, science, dietary recommendations, demographics, and other factors. Commenters asked that State agencies be able to request approval for categorical tailoring to meet nutritional needs and preferences.

As stated in the preamble to the interim rule, the IOM conducted a full, independent and rigorous scientific review of the nutritional needs of WIC participants prior to recommending the quantities and types of WIC foods to address those needs in its Report. In addition, Section 232 of Public Law 111–296 amended Section 17(f)(11)(C) of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1786), by requiring the Secretary to conduct, as often as necessary, but not less than every 10 years, a scientific review of supplemental foods available under the program and to amend the foods, as needed, to reflect nutrition science, public health concerns, and cultural eating patterns. As such, future reviews of the WIC food packages by FNS will be conducted as needed and used to determine the need for modification of current WIC food packages. FNS believes that this is the appropriate process for changes to the WIC food packages and that State agencies will best be able to meet the nutritional needs of each WIC participant through nutrition assessment and *individual* tailoring of the food package. Therefore, the provision to disallow State agency proposals to categorically tailor WIC food packages is retained in this final rule at 7 CFR 246.10(c).

2. Cultural Food Package Proposals

The interim rule allows State agencies to submit to FNS a plan for substitution of food(s) to allow for different cultural eating patterns. The interim rule includes criteria for submitting plans for substitutions and the criteria FNS will use to evaluate such plans. A total of 26 commenters (8 form letters) asked FNS to change the criterion that ''any proposed substitute food must be nutritionally equivalent or superior to the food it is intended to replace'' to be less restrictive and easier to satisfy.

The increased variety and choice in the supplemental foods in the interim rule, as recommended by the IOM, provide State agencies expanded flexibility in prescribing culturally appropriate packages for diverse groups. Further, the interim rule allows State agencies flexibility to meet unanticipated cultural needs of participants by submitting plans for substitutions. The criteria are not meant to preclude justifiable cultural substitution proposals submitted by WIC State agencies, but are intended to ensure that WIC food substitutions maintain the nutritional integrity of the WIC foods they replace. FNS will continue to make determinations on proposed plans for cultural substitutions based on existing evaluation criteria as appropriate. Therefore, the criteria for submitting State agency plans for substitutions for different cultural eating patterns and the criteria FNS will use to evaluate such plans are retained at 7 CFR 246.10(i).

The interim rule increased the variety and number of substitutions available for several WIC foods. This final rule further increases the number of substitutions and options available, i.e., yogurt, canned jack mackerel, and whole wheat macaroni (pasta) products. These additions are within the context of the IOM recommendations. FNS believes that these changes already provide substantial flexibility for prescribing food packages and that further modifications of the current WIC food packages are best determined through future scientific reviews of the WIC food packages. FNS will, therefore, not accept WIC State agency plans for substitutions of WIC foods for reasons other than to accommodate cultural eating patterns as provided for in 7 CFR 246.10(i).

3. Medical Documentation and Supervision Requirements

a. Milk and Milk Alternatives

Under the interim rule, medical documentation by a health care professional licensed to write medical

prescriptions is required for the issuance of certain milk alternatives for children and women. A total of 180 comment letters (53 of these form letters) opposed this requirement, primarily the documentation for children to receive soy-based beverage. Commenters stated that the provision is unnecessary, costly and burdensome for participants and physicians, creates barriers to services, and undermines FNS' efforts to provide foods that meet the cultural needs of participants. The NWA and the American Dietetic Association (now known as the Academy of Nutrition and Dietetics) stressed that WIC dietitians and nutritionists are trained health professionals capable of doing a complete nutrition assessment, selecting WIC foods, and providing appropriate education to participants and caregivers, in consultation with the health care provider when warranted.

Based on the experiences cited by WIC State and local agencies related to medical documentation throughout implementation of the new food packages, FNS will no longer require a health care professional licensed to write medical prescriptions to provide documentation for children to receive soy-based beverage and tofu as milk substitutes. Also, FNS will no longer require documentation from a health care professional licensed to write medical prescriptions for women to receive tofu in excess of the maximum substitution allowance. Instead, consistent with IOM recommendations for documentation from a ''WIC recognized medical authority,'' FNS will allow the CPA to determine and document the need for tofu and soy-based beverage as substitutes for milk for children, as established by State agency policy. Such determination must be based on individual nutritional assessment, as required under the interim rule and retained in this final rule at 7 CFR 246.10(b)(2)(ii)(C), and consultation with the participant's health care provider, as appropriate. Such determination can be made for situations that include, but are not limited to, milk allergy, lactose intolerance, and vegan diets. As previously discussed, the interim rule revised regulations governing the WIC food packages to, among other things, accommodate participants with cultural food preferences. Since cultural practices may affect nutrient intake, FNS will allow soy for cultural practices that prevent participants from including in their diets cow's milk and lactose-free or lactose-reduced fortified dairy products in amounts that meet their nutritional needs.

FNS will allow the CPA, as established by State agency policy, to determine the need for tofu in quantities that exceed the maximum substitution rates. Such determination can be made for situations that include, but are not limited to, milk allergy, lactose intolerance, and vegan diets.

FNS believes that allowing the CPA to make determinations for milk substitutes is consistent with IOM recommendations for documentation from a ''WIC recognized medical authority.'' Although FNS is no longer requiring documentation from a health care professional licensed to write medical prescriptions, it is incumbent upon WIC State agencies to ensure that participants and caregivers receive education that stresses the importance of milk over milk substitutes, and that appropriate policies and procedures are in place for appropriate issuance of milk substitutes. Parents and caregivers should be made aware that children's diets may be nutritionally inadequate when milk is replaced by other foods, and provided appropriate nutrition education. The value of milk for WIC participants, particularly in the development of bone mass for children, should be emphasized. Lactose-free or lactose-reduced fortified dairy products should be offered before non-dairy milk alternatives to those participants with lactose intolerance that cannot drink milk. Also, if milk is replaced by milk alternatives that are not vitamin D fortified, vitamin D intakes may be inadequate. Thus, replacements for milk are to be approached with caution even if they are rich in calcium.

Therefore, Table 2 of 7 CFR 246.10(e)(10) of this final rule requires that issuance of tofu and soy-based beverage as substitutes for milk for children be based on an individual nutritional assessment by the CPA, in consultation with the participant's health care provider as appropriate. Table 2 of 7 CFR 246.10(e)(10) allows the CPA, as established by State agency policy, to determine the need for women to receive tofu in excess of the maximum substitution allowance.

b. Technical Requirements for Medical Documentation

Under the interim rule, technical requirements for medical documentation were established. A total of 51 comments opposed the provision requiring health care providers to prescribe the supplemental foods and quantities appropriate for a participant's qualifying condition in Food Package III (for participants with qualifying conditions). Commenters believe that medical documentation, especially for authorization of supplemental foods in Food Package III, is burdensome to State agencies, participants and the medical community. Commenters stated that this provision has little value since the foods could otherwise be purchased by the participants at grocery stores. Commenters also stated that the WIC nutritionist or registered dietitian is capable of determining appropriate amounts and types of supplemental foods to issue to participants based on a nutrition assessment of the participant.

Due to the nature of the health conditions of participants who are issued supplemental foods in Food Package III, close medical supervision is essential for each participant's dietary management. FNS considers it appropriate that the responsibility for this close medical supervision remain with the participant's health care provider. Medical documentation requirements for specific supplemental foods that do not usually require a prescription were established to ensure that the participant's healthcare professional has determined that the supplemental foods are not medically contraindicated by the participant's condition. Therefore, FNS retains the technical requirements for medical documentation for supplemental foods in Food Package III as written in the interim rule. However, FNS recognizes that WIC registered dietitians and/or qualified nutritionists play an important role in the continuum of care of medically fragile WIC participants. Therefore, FNS would support State agency policy that allows health care providers to refer to the WIC registered dietitian and/or qualified nutritionist for identifying appropriate supplemental foods (excluding WIC formula) and their prescribed amounts, as well as the length of time the supplemental foods are required by the participant. This arrangement would be supported only in situations where the health care provider has indicated on the medical documentation form that the provider acknowledges referral to the WIC registered dietitian and/or qualified nutritionist for such determinations. This gives the health care provider medical oversight while allowing the WIC registered dietitian and/or qualified nutritionist to determine the appropriate issuance of WIC foods to participants with qualifying conditions in Food Package III.

4. Sodium Content of WIC Foods

In its Report, the IOM found that intakes of sodium were excessive in the

diets of WIC participants. The IOM reported that more than 90 percent of WIC children 2 through 4 years and of pregnant, lactating, and non-breastfeeding postpartum women had usual sodium intakes above the Tolerable Upper Intake Level (UL). More than 60 percent of WIC children age 1 year had usual sodium intakes above the UL. As such, the IOM recommended, and the interim rule reflected, reductions in the overall sodium level of WIC food packages. The majority of WIC foods under the interim rule may not contain added salt (sodium).

However, options for some WIC foods, i.e., cheese, vegetable juice, canned vegetables, canned beans, peanut butter, and canned fish include both regular and lower sodium varieties. In an effort to support participants in reducing sodium intake, FNS provided technical assistance to State agencies encouraging them to offer only lower sodium varieties of these foods when these options exist.

FNS encourages WIC State agencies that offer canned vegetables to allow only lower sodium canned vegetables and lower-sodium versions of other WIC-eligible foods, i.e., breads, as they become more widely available in the marketplace. FNS encourages food manufacturers to reduce excess sodium in processed foods and to make a wider variety of these foods available to help WIC achieve its goal to safeguard the health of children and women.

5. Organic Foods

The interim rule authorizes organic forms of foods that meet minimum nutrition requirements described in Table 4 of 7 CFR 246.10(e)(12). However, WIC State agencies are responsible for determining the specific brands and types of foods to authorize on their State WIC food lists. Some State agencies allow organic foods on their foods lists, but this will vary by State. The decision may be influenced by a number of factors such as cost, product distribution within a State, and WIC participant acceptance.

FNS received 52 comments asking that State agencies be required to offer organic foods in the WIC food packages. Many of these comments were from one State where the WIC State agency had recently removed organic milk from its list of authorized WIC foods. This final rule continues to provide State agencies the option to offer organic forms of WIC-eligible foods through the regular WIC food instrument, e.g., milk, eggs, peanut butter, and encourages State agencies to make available authorized foods that are acceptable and will be consumed by participants, including organic varieties. This final rule clarifies in Table 4 of 7 CFR 246.10(e)(12) that State agencies are required to allow organic forms of fruits and vegetables purchased with the cash-value voucher.

C. Supplemental Foods and Food Packages

Note: The order of some of the topics in this section is modified from the interim rule for the purposes of discussion.

1. Fruits and Vegetables in Food Packages III Through VII

a. Dollar Amount of Cash-Value Voucher

In order to maintain cost neutrality, the interim rule published December 2007 (72 FR 68966) only provided fully breastfeeding women with the IOM recommended amount of $10.00 per month fruit and vegetable cash-value vouchers; all other women participants were provided $8.00 per month, and children were provided $6.00. An amendment to the interim rule was published in the **Federal Register** on December 31, 2009 (74 FR 69243) to provide all WIC women participants with $10.00 per month fruit and vegetable cash-value vouchers, consistent with IOM's recommendations.

A total of 448 commenters (76 form letters) asked FNS to increase the fruit and vegetable cash-value voucher to the IOM recommended level from $6 to $8 for children. The Department has responded to commenters' requests under this final rule by increasing the cash-value voucher for children to $8 per month. This increase will allow State agencies to further efforts to increase fruit and vegetable consumption by children.

A total of 162 commenters (36 form letters) asked FNS to further increase the fruit and vegetable voucher for fully breastfeeding women from $10 to $12 to provide incentive for women to choose to fully breastfeed, and to meet the intent of the IOM to provide an enhancement to the food packages for fully breastfeeding women. While FNS understands the benefit of increasing the value of the food package for fully breastfeeding women, it is not possible under this rulemaking to go beyond the dollar value for the cash-value voucher for the fully breastfeeding package due to cost. Therefore, the cash-value voucher remains at $10 for all women, including fully breastfeeding women, in this final rule. The base year for calculation of the value of the fruit and vegetable voucher and the base value to be used are updated in 7 CFR 246.16(j)(2).

b. Clarification of Authorized Fruits and Vegetables

To improve the consumption of fresh fruits and vegetables and to appeal to participants of different cultural backgrounds, the interim rule authorized a wide variety of choices within the authorized fruit and vegetable options. The interim rule reflects the IOM recommendation to provide a cash-value fruit and vegetable benefit to participants with few restrictions. The following is a discussion of clarifications and revisions to the interim rule pertaining to authorized fruits and vegetables. Technical corrections in this final rule clarify that both fresh fruits and fresh vegetables must be authorized by State agencies. This final rule further clarifies that 21 CFR 101.95 defines the term ''fresh'' when referring to eligible fresh fruits and vegetables.

Technical corrections in this final rule clarify that the cash-value voucher may be redeemed for any eligible fruit and vegetable (refer to Table 4 of 7 CFR 246.10(e)(12) and its footnotes). Except as authorized by this final rule, State agencies may not selectively choose which fruits and vegetables are available to participants. For example, if a State agency chooses to offer dried fruits, it must authorize all WIC-eligible dried fruits, i.e., those without added sugars, fats, oils, or sodium, and may not allow only a single variety of dried fruits. This final rule clarifies that State agencies may, however, invoke their administrative option at 7 CFR 246.10(b)(1)(i) to establish criteria in addition to the minimum Federal requirements in Table 4 of 7 CFR 246.10(e)(12), which could include restricting packaging (such as plastic containers) and package sizes (such as single serving) of processed fruits and vegetables available for purchase with the cash-value voucher. In addition, State agencies may identify specific types of certain processed WIC-eligible fruits and vegetables (e.g., salsas, tomato sauces, stewed and diced tomatoes) on their food lists if they believe there is cause for significant vendor and participant confusion in identifying specific items within those categories that are WIC-eligible.

A technical correction has been made in Table 4 of 7 CFR 246.10(e)(12) to clarify that the following products are not allowed: Dried white potatoes, mixed vegetables containing white potatoes, noodles, nuts or sauce packets, and decorative flowers and blossoms. Canned tomato sauce and tomato paste without added sugar, fats, oils are authorized. Salsa and spaghetti sauce

without added sugar, fats, and oils are also authorized.

This final rule clarifies that the fruit or vegetable must be listed as the first ingredient in WIC-eligible processed fruits and vegetables. In addition, it clarifies that frozen fruits may not contain added fats, oils, salt (i.e., sodium) or added sugars.

For the reasons described in section IV.B.4 of this preamble, Table 4 of 7 CFR 246.10(e)(12) will be revised to allow State agencies the option to offer only lower sodium canned vegetables for purchase with the cash-value voucher.

c. White Potatoes

The interim rule excludes the purchase of white potatoes with the cash-value voucher. A total of 266 (of these, 213 were form letters) opposed the restriction of white potatoes. Commenters stated that white potatoes should be included in the WIC food packages because they are versatile, economical, contain key nutrients, and are preferred by participants. Thirty-two commenters (20 form letters) stated that the exclusion of white potatoes is difficult to administer.

The restriction of white potatoes, as recommended by the IOM, is based on data indicating that consumption of starchy vegetables meets or exceeds recommended amounts, and food intake data showing that white potatoes are the most widely used vegetable. Including white potatoes in the WIC food packages would not contribute towards meeting the nutritional needs of the WIC population and would not support the goal of expanding the types and varieties of fruits and vegetables available to program participants, as recommended by the IOM. Therefore, the provision to exclude white potatoes from the WIC food packages is retained in this final rule. The Department recognizes that white potatoes can be a healthful part of one's diet. However, WIC food packages are carefully designed to address the supplemental nutritional needs of a specific population. Although white potatoes are not offered in the WIC food package, nutrition education provided to WIC participants will continue to include white potatoes as a healthy source of nutrients and an important part of a healthful diet.

d. Dried Fruit and Dried Vegetables for Children

As recommended by the IOM, the interim rule disallows dried fruits and vegetables to be purchased with the cash-value voucher for children because of the risk of choking. FNS received a small number of comments asking that dried fruits be allowed for children, citing a lack of evidence that they pose choking hazards for all children. Recommendations made by IOM for the Child and Adult Care Food Program allow dried fruits for children as long as they do not pose a choking hazard.[2] Therefore, at the State agency's option, this final rule authorizes dried fruits and dried vegetables to be purchased with the cash-value voucher for children. Nutrition education regarding choking hazards, developmental readiness, proper food preparation, and oral health care should be provided to caregivers of young children.

e. Standards of Identity for Canned Fruits and Canned Vegetables

Two technical corrections have been in made in Table 4 of 7 CFR 246.10(e)(12) related to the standards of identity for canned fruits and canned vegetables. This final rule corrects the specifications for WIC-eligible canned fruits to reflect that only those WIC-eligible canned fruits that have a standard of identity, as listed at 21 CFR Part 145, must conform to the FDA standard of identity. Similarly, this final rule corrects the specifications for WIC-eligible canned vegetables to reflect that only those WIC-eligible canned vegetables that have a standard of identity, as listed at 21 CFR Part 155, must conform to the FDA standard of identity. The provision that WIC-eligible canned vegetables contain no added sugars, fats, and oils remains unchanged. This final rule clarifies that home-canned and home-preserved fruits and vegetables are not authorized.

f. Implementation of Fruit and Vegetable Options

(1) Paying the difference with the cash-value voucher. The interim rule authorized State agencies the option to allow participants to pay the difference if the fruit and vegetable purchase exceeds the value of the cash-value voucher, a transaction known as ''split tender.'' A total of 116 commenters (59 form letters) asked FNS to require all State agencies to allow split tender transactions to ensure that participants are able to maximize use of their cash-value voucher. Because it may be difficult for participants to accurately estimate the exact purchase price of the fruit and vegetable selections, particularly when fresh, canned, dried, or frozen items are combined in one purchase or when items are purchased in bulk, FNS agrees that all participants should be allowed to pay the difference when the purchase of allowable fruits and vegetables exceeds the value of the fruit/vegetable cash-value voucher. Therefore, this final rule adds a provision at 7 CFR 246.12(f)(4) to require State agencies to allow split tender transactions with the cash-value voucher.

(2) Minimum vendor stocking requirements. A technical oversight in the interim rule has been corrected at 7 CFR 246.12(g)(3)(i) by clarifying that authorized vendors must stock at least two *different* fruits and two *different* vegetables.

(3) Authorizing farmers' markets. The interim rule gave State agencies the option to allow farmers at farmers' markets to accept cash-value vouchers. FNS received 29 comments (mostly form letters) recommending that farmers' market organizations, rather than the individual farmer, be authorized to accept cash-value vouchers, as is permitted under the WIC Farmers' Market Nutrition Program (FMNP). Sixty-nine commenters (mostly form letters) additionally recommended that the WIC Program regulations be more closely aligned with the FMNP. Commenters stated that consistency between the two programs would make FMNP participation easier both for WIC participants and authorized farmers. Many of the comments suggested that State agencies be allowed to authorize farmers' markets in addition to the current provision (7 CFR 246.12(v)) that allows State agencies the flexibility to authorize farmers at farmers' markets or roadside stands. FNS finds merit in such a provision; this also would provide more consistency between WIC and FMNP.

Seventy-eight comments went on to suggest that the authorization of farmers' markets should be a Federal requirement, rather than a State agency option. FNS believes that State agencies are in the best position to determine what works for their individual benefit delivery systems, taking into consideration such factors as participant access, the availability of farmers, and the administrative burdens of monitoring and authorization. Therefore, the final rule amends 7 CFR 246.12 to allow WIC State agencies to authorize farmers or farmers' markets to accept WIC cash-value vouchers, but such authorization will remain as a State agency option. As a result of the addition of farmers' markets, conforming amendments have been

[2] Institute of Medicine, National Academy of Sciences. ''Child and Adult Care Food Program: Aligning Dietary Guidance for All,'' 2010. Available at Internet site: *http://www.fns.usda.gov/child-and-adult-care-food-program-aligning-dietary-guidance-all.*

made in 7 CFR 246.2, 246.4, 246.18, and 246.23.

A number of comments were received recommending that the Federal WIC regulations be modified to be consistent with the fruits and vegetables eligible for purchase under the FMNP. FNS makes every effort to ensure that both programs are aligned in most areas, to the extent possible. However, each program has different statutory objectives. Thus, FNS is convinced that it is critical for each program to maintain its separate identity. As stated previously, FNS found merit in allowing farmers' markets to redeem WIC cash-value vouchers, an example of aligning both programs. FNS finds no need to make any further operational changes in this area through this final rule. A technical amendment is added to 7 CFR 246.4(a)(14) to correct a cross-reference to 7 CFR 246.12 that addresses the State agency options regarding vendor sanctions.

2. Mature Legumes (Dry Beans, Peas and Lentils) and Peanut Butter

a. Clarification of Allowable Mature Legumes

Technical corrections have been made to the list of authorized mature legumes in Table 4 of 7 CFR 246.10(e)(12). Refried beans, without added sugars, fats, oils, vegetables or meat, have been added to the examples of allowable legumes in Table 4 of 7 CFR 246.10(e)(12). The specification in Table 4 also clarifies that mature legumes issued via the WIC food instrument may not contain added vegetables or fruits.

b. Issuance of Mature Legumes (Dry Beans and Peas)

The interim rule includes mature dry beans, peas, or lentils in dry-packaged or canned forms as a WIC food category. Items in this food category are issued via the regular WIC food instrument. FNS provided technical assistance to State agencies on the interim rule clarifying that beans and peas that do not qualify under this category may be purchased only with the cash-value voucher. A total of 23 commenters (8 of which were form letters) asked FNS to allow all mature varieties and forms of dry beans and peas to be purchased with both the cash-value voucher and the WIC food instrument to eliminate confusion on the part of participants and vendors.

The nutritional profile of mature dry legumes is different than that for immature varieties and FNS believes it is important to maintain this distinction. Mature legumes are excellent sources of plant protein, and also provide other nutrients such as iron and zinc. Mature dry beans and peas are similar to meats, poultry, and fish in their contribution of these nutrients. In WIC, they are offered as a separate food category from the fruit and vegetable category. Therefore, mature legumes in dry-packaged and canned forms, without added vegetables, fruits, meat, sugars, fats, or oils, are the only dry beans and peas authorized to be issued via the WIC food instrument.

c. Disallowed Ingredients in Peanut Butter

A technical oversight has been corrected in Table 4 of 7 CFR 246.10(e)(12) to disallow peanut butter with added marshmallows, honey, jelly, chocolate/or similar ingredients.

3. Fruit and Vegetable Juice

Technical corrections have been made in Table 4 of 7 CFR 246.10(e)(12) related to the standard of identities for canned fruit and vegetable juices. This final rule corrects the specifications for WIC-eligible canned fruit juice and vegetable juice to reflect that only those WIC-eligible juices that have a standard of identity, as listed at 21 CFR Part 146 and 21 CFR Part 156, must conform to these FDA standards of identity.

4. Milk and Milk Alternatives

a. Whole milk for participants greater than 2 years of age. Under the interim rule, and as recommended by the IOM, whole milk is not authorized for children greater than 2 years of age and women in Food Packages IV–VII. Under the interim rule, whole milk may be issued to medically fragile children older than 2 years of age and women only in Food Package III for participants with qualifying conditions. A total of 216 commenters, primarily local agency WIC staff, asked FNS to allow the CPA to prescribe whole milk for participants in any food package if necessary for participants who have medical or nutritional reasons for requiring additional calories.

FNS believes that WIC staff can assist participants in Food Packages IV–VII in meeting their nutritional needs through fat-reduced milks and other foods. Whole milk adds unnecessary saturated fat and cholesterol to the diets of participants. Nutrition education and individual tailoring of the food package within authorized parameters remain the most effective tools for WIC staff to use to help participants make appropriate choices based on their specific needs. Therefore, the provision to authorize whole milk for children greater than 2 years of age and women only in Food Package III is retained in this final rule in Table 3 of 7 CFR 246.10(e)(11).

b. Fat-Reduced Milks for Children 12 Months to 2 Years of Age in Food Package III and IV

Under the interim rule, children 12 months to 2 years of age may only be issued whole milk. A total of 332 commenters (34 form letters) want flexibility in this provision, citing American Academy of Pediatrics (AAP) policy,[3] recommending fat-reduced milks for children over the age of 1 for whom overweight or obesity is a concern.

In light of current AAP policy, FNS will allow, at State agency option, fat-reduced milks to be issued to 1-year-old children (12 months to 2 years of age) for whom overweight or obesity is a concern. Under Food Package IV, FNS will allow the CPA to make a determination for the need for fat-reduced milks for young children based on an individual nutritional assessment and consultation with the child's health care provider if necessary, as established by State agency policy. FNS will provide technical assistance for issuing fat-reduced milks to children 12 months to 2 years of age in Food Package IV. Due to the medically fragile qualifying conditions of children 12 months to 2 years of age, FNS will continue to require medical documentation for issuance of WIC-eligible formula and foods, including fat-reduced milks, under Food Package III.

c. Fat Content of Milk for Children Over 2 Years of Age and Women

Under the interim rule, children ≥ 24 months of age and women may be issued a variety of milk types (i.e., nonfat, lowfat (1%) and reduced fat (2%) milk). Seven commenters recommended the issuance of only nonfat or lowfat (1%) milk to children ≥ 24 months of age and women to be consistent with the Dietary Guidelines for Americans. FNS notes that State agencies already have policies to ensure that CPAs issue the appropriate milk to participants based on the assessed nutritional needs of individual participants. Since 1995 the Dietary Guidelines for Americans have recommended consumption of nonfat and lowfat milk and milk products. In technical assistance provided to State agencies on the interim rule, FNS supported and encouraged State agencies to issue only nonfat and lowfat

[3] *American Academy of Pediatrics. Policy Statement* Lipid Screening and Cardiovascular Health in Childhood, *Pediatrics Vol. 122 No. 1 July 2008, pp. 198–208.*

milk to children and women unless otherwise indicated by nutrition assessment. As such, FNS finds merit in adding a provision that nonfat and lowfat (1%) milks are the standard issuance for children ≥ 24 months of age and women in Food Packages IV–VII. Reduced fat (2%) milk is authorized only for participants with certain conditions, including but not limited to, underweight and maternal weight loss during pregnancy. The need for reduced fat (2%) milk for children ≥ 24 months of age (Food Package IV) and women (Food Packages V, VI, VII) will be determined as part of the careful nutrition assessment completed by the CPA, as established by State agency policy.

d. Fortification of Whole Milk

This final rule clarifies the minimum nutrient requirements for all milks listed in Table 4 of 7 CFR 246.10(e)(12). The table restates the milk specifications to make it clearer that vitamin A fortification is not required for whole milk.

e. Provision of Maximum Monthly Allowance of Milk

Under the interim rule, the maximum monthly allowance of milk must be provided to participants, as the WIC benefit to participants is the full authorized amount. The interim rule allows a substitution rate of 1 pound of cheese for 3 quarts of milk, leaving a quart of milk or milk substitute that must be provided to participants issued this option to fulfill the maximum allowance in the food package.

A total of 17 commenters (6 of these form letters) asked FNS to drop the ''dangling quart'' or allow State agencies to round the quantity of milk up when substituting cheese for milk because of limited availability and higher costs of milk in quart size containers. A total of 20 commenters (6 of these form letters) asked FNS to allow State agencies to issue 12 ounce cans of evaporated milk, which are the largest size available in the marketplace and which reconstitute to 24 fluid ounces, as the ''dangling quart.''

The IOM cited milk as an important source of calcium and vitamin D for WIC participants, and this food category should not be shortchanged. Therefore, the ''dangling quart'' may not be ignored. This final rule will continue to require that State agencies provide the maximum allowance of milk to participants if cheese is substituted for milk in order for participants to obtain their full milk benefit.

State agencies continue to have the option to make available other authorized milk substitutes to fulfill the maximum allowance. Because milk in quart sizes has become more widely available as States have implemented the interim rule, and this final rule allows the option of providing a quart of yogurt for children and women (as described in a subsequent section of this preamble), and allows issuance of a 12 ounce can of evaporated milk to substitute for the ''dangling quart,'' State agency concerns about difficulty providing the full milk benefit to participants who substitute cheese for milk should be alleviated. State agencies also have the option to prescribe half gallon containers of milk every other month for participants in lieu of the ''dangling quart.''

f. Cheese in Excess of Maximum Substitution Rates

Under the interim rule, cheese may be substituted for milk. The IOM set a substitution rate for cheese for milk, but put a cap on the amount that can be substituted to control total and saturated fat content of the food packages. Under the interim rule, FNS allowed, with medical documentation, additional amounts of cheese to be issued beyond the substitution rate to provide State agencies with flexibility to accommodate participants with lactose intolerance. This accommodation was made because, at the time, milk alternatives for participants with lactose intolerance were more limited. Few soy-based beverages that met FNS' nutritional standards were available, and the interim rule did not authorize yogurt, which had been recommended by IOM as a milk substitute. Since that time, more soy-based beverages that meet the nutritional standards established by FNS are available in the marketplace, and this final rule authorizes yogurt for children and women. As a result, State agencies have increased flexibility, in addition to offering lower lactose milks, to accommodate lactose intolerance with substitutes other than cheese, as recommended by the IOM. Therefore, this final rule will no longer allow cheese to be issued beyond established substitution rates, even with medical documentation, which is consistent with the recommendation of the IOM.

g. Yogurt

The IOM recommended adding yogurt to the WIC food packages as a partial milk substitute for children and women. However, under the interim rule, FNS determined that the addition of yogurt to the WIC food packages was cost prohibitive. The interim rule solicited comments from State agencies about the extent to which WIC participants would benefit from the addition of yogurt, and whether that addition could be achieved in a cost-effective manner.

A total of 304 comment letters (63 of these form letters) encouraged FNS to allow yogurt as a milk substitute, emphasizing that yogurt provides priority nutrients and is convenient, popular, and culturally acceptable to WIC participants. Commenters also cited a pilot study, conducted by the California WIC Program in conjunction with the National Dairy Council, which demonstrated the feasibility of providing yogurt in WIC food packages.[4] The pilot study results cited participant acceptance and ease of implementation.

FNS agrees that yogurt is a desirable milk alternative for participants who might not otherwise drink sufficient amounts of fluid milk due to lactose intolerance or other reasons. Therefore, this final rule authorizes yogurt as a substitute for milk for children and women in Food Packages III–VII, at the State agency's option.

(1) Maximum Monthly Allowance of Yogurt

At State agency option, 1 quart of yogurt may be substituted for 1 quart of milk for women and children in Food Packages III–VII. No more than 1 quart of yogurt is authorized per participant.

(2) Authorized Yogurts

As recommended by the IOM, yogurt must conform to the standard of identity for yogurt as listed in Table 4 of 7 CFR 246.10(e)(12) and may be plain or flavored with ≤ 40 grams of total sugar per 1 cup of yogurt. Only lowfat and nonfat yogurts are authorized for children over 2 years of age and women. Whole fat yogurt is authorized only for children less than two years of age. State agencies have the option to determine the container sizes of yogurt to authorize on their food lists.

h. Tofu

Under the interim rule, calcium-set tofu prepared only with calcium salts, (e.g., calcium sulfate), and without added fats, sugars, oils, or sodium, is authorized. A technical correction has been made in this final rule to clarify that tofu must be calcium-set, i.e., contain calcium salts, but may also contain other coagulants, i.e., magnesium chloride. This additional flexibility allows State agencies to meet the needs of WIC's culturally diverse participants. Tofu with only calcium

[4] Fung, EB, et al. Randomized, controlled trial to examine the impact of providing yogurt to women enrolled in WIC. J Nutr Educ Behav. 2010 May–Jun;42(3 Suppl):S22–9.

sulfate may not be readily available in the marketplace. Major tofu manufactures with national distribution make tofu with calcium sulfate alone or in addition to magnesium chloride as a coagulant. Magnesium chloride is not a flavoring or preservative, and should not be confused with sodium chloride, which is not permitted. The calcium content of various types of tofu, even those set only with calcium salts, varies. In choosing the brands and types of calcium-set tofu to include on food lists, State agencies should read the nutrition labels and choose tofu with the highest amount of calcium.

5. Breastfeeding Provisions

Under the interim rule, food packages for infants and women are designed to strengthen WIC's breastfeeding promotion and support efforts and provide additional incentives to assist mothers in making the decisions to initiate and continue to breastfeed. The provisions disallow routine issuance of infant formula to partially breastfeeding infants in the first month after birth to help mothers establish milk production and the breastfeeding relationship. Overall, commenters expressed support for the breastfeeding provisions, with 7 State agencies stating they have already seen increases in breastfeeding rates attributable to the interim rule provisions. State agencies stressed that adequate training of WIC staff and the provision of appropriate counseling and support to mothers is critical to the success of the new food packages for the breastfeeding mothers and their infants.

a. Exclusive Breastfeeding

This final rule clarifies the intent of the WIC Program that all women be supported to exclusively breastfeed their infants and to choose the fully breastfeeding food package without infant formula at 7 CFR 246.10(e). Breastfeeding women who do not exclusively breastfeed are to be supported to continue breastfeeding to the maximum extent possible through minimum supplementation with infant formula.

b. Clarification of Partially Breastfeeding Terminology

Commenters asked FNS to address terminology used to describe the mother-infant pair who ''partially'' breastfeed (both breastfeed and formula feed). Confusion exists because partially breastfeeding is used to describe a combination of any amounts of breastfeeding and formula feeding. However, under the interim rule, for the purposes of food package issuance, the partially breastfeeding food package is defined by a maximum quantity of formula that assumes the mother is substantially breastfeeding her infant. Confusion also exists because WIC's definition of a breastfeeding woman is the practice of feeding a mother's breast milk to her infant on the average of at least once a day. This definition determines the categorical eligibility of a participant as a breastfeeding woman, and did not change under the interim rule revising the WIC food packages. All women who meet this definition are counted as breastfeeding women for participation purposes, regardless of the food package they are issued or the amount of formula their infants receive.

Under the interim rule, three infant feeding variations are defined for the purposes of assigning food quantities and types in Food Packages I and II for infants: (1) Fully formula feeding, (2) fully breastfeeding (the infant does not receive formula from the WIC Program), and (3) partially breastfeeding (the infant is breastfed but also receives some infant formula from WIC up to the maximum allowance described for partially breastfed infants in Table 1 of 7 CFR 246.10(e)(9)). Breastfeeding assessment and the mother's plans for breastfeeding serve as the basis for determining food package issuance. Breastfed infants who are assessed to need more formula than is allowed under the food package for partially breastfed infants are assigned to the fully formula feeding package.

FNS agrees that terminology used to describe food packages for the mother-infant pair that both breastfeed and formula feed, regardless of amount from either source, needs clarification. Therefore, this final rule attempts to minimize confusion about food package issuance by parenthetically adding the descriptor ''mostly'' breastfeeding to the partially breastfeeding food package designation established under the interim rule.

c. Issuance of Formula to Breastfed Infants

There has been some confusion about the issuance of one can of powder infant formula in the first month to breastfed infants. For breastfeeding women who do not receive the fully breastfeeding package, WIC staff are expected to individually tailor the amount of infant formula based on the assessed needs of the breastfeeding infant and provide the minimal amount of formula that meets but does not exceed the infant's nutritional needs. This is consistent with long-standing FNS policy that dates back to the 1980s. State agencies should develop policies for handling breastfeeding mothers' formula requests that encourage substantial and continued breastfeeding. This is true whether the infant receives the fully formula feeding package (although the infant may be minimally breastfeeding) or the partially (mostly) breastfeeding food package. The full nutrition benefit should not be used as the standard for issuance unless the mother is not breastfeeding the infant at all.

The interim rule strengthened the WIC food packages to better enhance breastfeeding promotion and support. Food packages for partially (mostly) breastfed infants and women were created that provide additional foods for mothers as incentives, to better meet nutritional needs, and to provide less infant formula to partially breastfed infants than to infants who receive the fully formula fed package.

The food packages for partially (mostly) breastfed mothers and infants are designed to provide for the supplemental nutrition needs of the breastfeeding pair, provide minimal formula supplementation to help mothers maintain milk production, and provide incentives for continued breastfeeding by way of a larger variety and quantity of food than the full formula/postpartum packages. FNS emphasizes that the benefits of the partially breastfed food packages are lost if the breastfeeding mother-infant pair is issued the full formula/postpartum packages. Appropriate support and counseling should be provided to mothers to minimize the number of breastfeeding infants receiving the full formula packages.

This final rule clarifies at 7 CFR 246.10(b)(2)(ii)(C) that food package quantities are to be issued based on assessment of each participant's individual breastfeeding and nutritional needs.

d. Issuance of Formula to Breastfed Infants in the First Month After Birth

This final rule clarifies that the issuance of any formula to breastfed infants in the first month after birth is a State agency option. If a State agency chooses this option, it may issue one can of powder infant formula in the container size that provides closest to 104 reconstituted fluid ounces to partially breastfed infants on a case-by-case basis. Breastfed infants who are provided this option are considered partially (mostly) breastfed. Breastfed infants should not receive more than the one can option in order to maintain the mother's milk production. State agencies should not create food packages that standardize issuance of formula to partially (mostly) breastfed infants in the first month after birth.

e. Food Package VII for Fully Breastfeeding Women

Under the interim rule, Food Package VII is issued to three categories of WIC participants—fully breastfeeding women whose infants do not receive formula from the WIC Program; women pregnant with two or more fetuses, and women fully or partially (mostly) breastfeeding multiple infants. This final rule clarifies that Food Package VII is issued to partially (mostly) breastfeeding mothers who are breastfeeding multiples *from the same pregnancy.*

A total of 12 commenters (4 form letters) asked that partially breastfeeding women who are also pregnant be allowed to receive the more enhanced Food Package VII. FNS agrees with commenters that pregnant women who are also partially (mostly) breastfeeding singleton infants would benefit from the increased quantity and variety of foods in this food package. Therefore, this final rule authorizes pregnant women who are also partially (mostly) breastfeeding to receive Food Package VII.

Under the interim rule, women fully breastfeeding multiples receive 1.5 times the maximum allowance of foods authorized in Food Package VII to meet their nutritional needs. A total of 36 commenters (8 form letters) asked FNS to revise the food package quantities for women fully breastfeeding multiples to reflect a consistent amount each month and to specify amounts in quantities available in marketplace. In technical assistance provided to State agencies on the interim rule, FNS provided flexibility to allow States to choose how they will issue these quantities. Some States have elected to issue foods in this food package in amounts averaged over a 2-month timeframe to eliminate concern about providing quantities available in the marketplace. Others issue double the ''regular'' fully breastfeeding package one month and then issue the ''regular'' fully breastfeeding package the next month. FNS will allow State agencies to retain the flexibility to determine how best to issue food packages quantities for women fully breastfeeding multiples and therefore will not change the provision to specify a set amount that must be provided each month.

f. Human Milk Fortifier (HMF)

Fifteen commenters (4 form letters) asked that partially (mostly) breastfeeding women whose infants receive human milk fortifier (HMF) be considered fully breastfeeding.

Issuance of HMF as a WIC formula is allowed with medical documentation under the interim rule, as it was under previous WIC policy. A woman whose infant receives HMF is considered partially breastfeeding because her infant is receiving formula from WIC. HMF provides additional protein, minerals, and vitamins that, when added to breastmilk in the first postpartum month for premature infants, results in nutrient, mineral, and vitamin concentrations similar to those of the formulas developed for feeding preterm infants. HMF is given in the hospital, but most often is discontinued prior to discharge. There is a limit on how long HMF is necessary and the need and length of time an infant should remain on HMF should be determined and monitored by the health care provider.

Since HMF is to be used for only a very short time, the woman can be transitioned back to the fully breastfeeding package as soon as the infant is no longer receiving HMF from WIC. The final rule will retain the provision that Food Package VII is issued only to women whose infants do not receive formula from WIC, including HMF.

6. Whole Wheat Bread and Whole Grain Options

a. Authorized Breads

Under the interim rule, whole wheat breads, rolls and buns that meet the FDA standard of identity for whole wheat bread (21 CFR 136.180) are authorized. Some commenters asked FNS to allow baked products that do not meet the standard of identity for whole wheat bread, e.g., English muffins and bagels, if these products otherwise meet the whole wheat requirements. FNS has considered this request, but has determined that identifying the WIC-eligibility of whole wheat bread products that do not meet the standard of identity would be complex given the number of products in the marketplace. Therefore, the requirement that whole wheat breads meet the standard of identity for whole wheat bread is retained in this final rule in Table 4 of 7 CFR 246.10(e)(12).

b. Package Sizes of Whole Wheat/Whole Grain Bread

The interim rule established a maximum monthly allowance of two pounds of whole wheat bread or other whole grain options for children in Food Packages III and IV; and one pound of whole wheat bread or other whole grain options for women in Food Packages III, V and VII. Commenters asked that FNS authorize bread in the more commonly available 20 ounce package size.

Although the availability of bread in package sizes to meet the WIC maximum monthly amount of bread authorized in WIC food packages was of initial concern as State agencies planned to implement the new food packages and supply in the marketplace may have been limited, bread manufacturers have increasingly produced WIC-eligible breads in 16 ounce package sizes to respond to the changes in the WIC Program. As such, all State agencies have breads in appropriate size packages on their WIC food lists. A greater number of WIC-eligible breads in 16 ounce package sizes continue to be introduced by manufacturers, which will further increase the bread options available to participants. Therefore, FNS believes that this situation has been addressed and the maximum allowance for whole wheat and whole grain bread is unchanged in this final rule.

c. Expansion of Whole Grain Options

Under the interim rule, whole grains (brown rice, bulgur, oats, and whole grain barley), as well as tortillas, are authorized as substitutions for whole wheat and whole grain bread. A total of 310 commenters (22 of these form letters) asked FNS to consider expanding the list of whole grain foods available to participants. Suggestions included whole grain pasta, whole wheat English Muffins, and whole wheat bagels.

To make available additional whole grain foods to participants, this final rule will add whole wheat pasta to the list of whole wheat/whole grain bread alternatives. Whole wheat macaroni (pasta) products that meet the FDA standard of identity (21 CFR 139.138) and have no added sugars, fats, oils, or salt (i.e., sodium) are WIC-eligible. Other shapes and sizes that otherwise meet the FDA standard of identity for whole wheat macaroni (pasta) products are also authorized (e.g. whole wheat rotini, whole wheat penne).

d. Technical Corrections

In technical assistance provided to State agencies on the interim rule, FNS clarified that State agencies must offer whole wheat and/or whole grain bread. State agencies have the option to also authorize the other whole grain options listed in Table 4 of 7 CFR 246.10(e)(12). This final rule clarifies this provision. Also, consistent with technical assistance provided to State agencies on the interim rule, FNS clarifies in Table 4 of 7 CFR 246.10(e)(12) of this final

rule that corn tortillas made from ground masa flour (corn flour) using traditional processing methods are WIC-eligible. FNS recognizes that a small loss of corn kernel occurs during the traditional processing of tortillas, and therefore, such tortillas are not considered whole grain. FNS encourages State agencies to authorize corn tortillas that have whole corn listed as their primary ingredient. However, if the market availability of such corn tortillas is limited, FNS will allow State agencies to authorize corn tortillas made from ground masa flour using traditional processing methods, due to the high participant acceptance of corn tortillas, especially among Hispanic cultures. A technical clarification has been made in Table 4 of 7 CFR 246.10(e)(12) to the minimum requirements and specifications for whole wheat tortillas to address the types of flour authorized. This final rule continues to require that whole grain breads and cereals meet FDA labeling requirements for making a health claim as a ''whole grain food with moderate fat content.'' However, for simplicity and clarity, the final rule removes the specifics of the labeling requirements from Table 4 of 7 CFR 246.10(e)(12) and instead refers readers and manufacturers directly to the FDA health claim notification for further reference at *http://www.fda.gov/food/ingredientspackaginglabeling/labelingnutrition/ucm073634.htm*.

A technical clarification has been made in Table 4 of 7 CFR 246.10(e)(12) to the minimum requirements and specification for whole wheat bread to address consistency with the standard of identity for whole wheat bread. For additional clarity and to aid State agencies and participants in identifying WIC-eligible whole grain bread products, a statement has been added to the requirements noting whole grain breads must conform to the FDA standard of identity for bread, buns and rolls.

7. Breakfast Cereals

Under the interim rule, at least one half of all breakfast cereals on each State agency's authorized food list must meet the whole grain requirements as specified in Table 4 at 7 CFR 246.10(e)(12). This provision allows certain corn and rice-based cereals to be offered to participants who may have allergies to whole grain cereals. FNS is retaining this provision in this final rule, but encourages State agencies to issue whole grain cereals to participants to the maximum extent possible, reserving non-whole grain options for those participants with allergies or other medical reasons where whole grains are contraindicated. Participants should receive nutrition education on the benefits of whole grain in the diets to reduce the risk of coronary heart disease and type-2 diabetes, help with body weight maintenance, and increase intake of dietary fiber.

A technical correction has been made in this final rule in Table 4 of 7 CFR 246.10(e)(12) to clarify that there is no FDA standard of identity listed for breakfast cereals.

8. Infant Foods in Food Packages II and III

a. Fresh Bananas as Substitute for Jarred Infant Foods

Under the interim rule, State agencies have the option to offer fresh bananas as a substitute for up to 16 ounces of infant food fruit at a rate of one pound of bananas per eight ounces of infant food fruit via the regular WIC food instrument. To ensure participants receive the full food package benefit of this provision, and to simplify the transaction for vendors as well as participants, FNS will also allow State agencies the option to substitute fresh bananas at a rate of one banana per four ounces of jarred infant food fruit, up to a maximum of 16 ounces, in Food Packages II and III for infants 6 to 12 months of age. This is consistent with recommendations of the IOM.

b. Cash-Value Voucher in Lieu of Commercial Jarred Infant Foods

Under the interim rule, jarred infant foods (fruits, vegetables, and meat) are provided in Food Packages II and III for infants 6 months through 11 months of age. Although this provision overall has been well received, concerns initially made by commenters on the proposed rule persist regarding this provision. A total of 508 commenters on the interim rule asked FNS to include a State option to provide a cash-value voucher to older infants receiving Food Packages II and III in lieu of commercial jarred infant food fruits and vegetables. Commenters stated that foods for older infants should be developmentally appropriate as infants transition to toddler foods, and noted the lack of availability of jarred infant foods in appropriate textures for the older infant. Commenters also stated that the amount of jarred infant foods in the WIC food packages is excessive for some older infants who are progressing in their feeding skills and transitioning from infant foods to table foods consumed during family meals.

FNS remains committed to IOM's recommendation that commercial jarred infant foods be provided in the WIC food packages to ensure that infants receive and consume fruits and vegetables in developmentally appropriate textures and in a variety of flavors. The IOM also intended that commercial jarred infant foods be provided to ensure that these items are consumed by infants and not other participants or family members. Food safety and nutrient content were also considerations. FNS recognizes these considerations and continues to provide commercial jarred infant foods in this final rule.

FNS acknowledges the preference for alternative options for infants and agrees that the lack of developmentally appropriate infant foods available in the marketplace may make it difficult for State agencies to provide a range of textures appropriate for infants at different stages of development. This void in the market is particularly noted among infant food products for older infants, and may compromise the appropriate progression of an infant's feeding skills. The FNS Infant Nutrition and Feeding Guide [5] indicates that at around nine months of age, most infants are developmentally ready to consume foods of increased texture and consistency. Such consistency should progress from pureed to ground to fork-mashed and eventually to diced.

Therefore, in light of these considerations, under this final rule, FNS will allow infants 9 months through 11 months of age to receive a cash-value voucher for the purchase of fresh fruits and vegetables in lieu of a portion of the infant food fruits and vegetables provided in Food Packages II and III. For partially breastfed infants and fully formula fed infants, participants may opt to receive a $4 cash-value voucher plus 64 ounces of infant food fruits and vegetables; fully breastfed infants may receive an $8 cash-value voucher plus 128 ounces of infant food fruit and vegetables. The decision to issue cash-value vouchers in lieu of infant food fruits and vegetables is a State agency option. If a State agency chooses this option, it may not categorically issue cash-value vouchers to all infants of this age group. Instead, the cash-value voucher is to be provided to the participant only after a thorough assessment by the CPA, as established by State agency policy, and is optional for the participant, i.e., the mother may choose to receive either the maximum allowance of jarred foods or the combination of jarred foods and a fruit

[5] Food and Nutrition Service 2009. Infant Nutrition and Feeding: A Guide for Use in the WIC and CSF Programs. Available at Internet site: *http://www.nal.usda.gov/wicworks/Topics/FG/CompleteIFG.pdf*.

and vegetable cash-value voucher for her infant. State agencies must ensure that appropriate nutrition education is provided to the caregiver addressing safe food preparation, storage techniques, and feeding practices to make certain participants are meeting their nutritional needs in a safe and effective manner.

States continue to have the option to offer, via the regular WIC food instrument, fresh bananas as a substitute for infant food fruit in Food Packages II and III for infants six to twelve months of age as described in section IV.C.8.a of this preamble.

This final rule clarifies that a fruit or vegetable must be listed as the primary (first) ingredient in WIC-eligible jarred infant foods. Further, this final rule clarifies that combinations of single ingredients of fruits and/or vegetables (e.g., peas and carrots, apples and squash) are allowed in Food Package II and III for infants 6 to 12 months of age.

c. White Potatoes in Jarred Infant Foods

White potatoes are excluded from purchase with the cash-value voucher in the WIC food packages. However, this final rule clarifies that jarred infant foods that meet the minimum requirements and specifications for an infant food product and include white potatoes as an ingredient, but not the primary ingredient, are allowed in Food Packages II and III for infants 6 to 12 months of age.

d. Infant Cereal

Under the interim rule, infant cereal is provided in Food Packages II and III for infants 6 months to 12 months of age. A total of 223 commenters (16 form letters) asked FNS to allow State agencies the option to offer ''adult'' breakfast cereals, as appropriate, to older infants to encourage developmental feeding skills and support the transition from infant foods to appropriate table and finger foods. Commenters stated that participants report not purchasing infant cereal because older infants prefer cereals they can eat with their fingers.

The IOM recommended the provision of iron-fortified infant cereal for infants 6 to 12 months of age as a quality source of iron and zinc, nutrients needed by infants for optimal growth and development. Providing infant cereal for infants 6 months through 11 months of age is consistent with pediatric nutrition guidelines. The FNS Infant Nutrition and Feeding Guide [6] states that ready-to-eat, iron-fortified cereals designed for adults or older children are not recommended for infants because they: (1) often contain mixed grains; (2) tend to contain more sodium and sugar than infant cereals; and (3) typically contain less iron per infant-sized serving. Food safety is also of concern with the provision of adult cereals to infants as these products could cause choking if the infant is not developmentally ready to consume foods of this texture. For these reasons, the provision of iron-fortified infant cereal for infants 6 months of age through 12 months of age in Food Packages II and III remains unchanged in this final rule.

9. Canned Fish

The IOM recommended that a variety of canned fish that do not pose a mercury hazard be offered in Food Package VII. In addition to canned light tuna, canned salmon, and canned sardines, the interim rule authorized canned mackerel in Food Package VII for fully breastfeeding women. However, the two species of mackerel specified in the interim rule—N. Atlantic and Chub (Pacific)—are not readily available in canned form in the United States. FNS received 21 comments asking that canned Jack mackerel also be authorized in Food Package VII, citing its lower levels of mercury and acceptance by WIC participants.

To allow more variety and choice among canned fish options, this final rule authorizes Jack mackerel as a canned fish option in Food Package VII. King mackerel is not authorized in any form. FNS encourages State agencies to offer all authorized canned fish options, i.e., tuna, salmon, sardines, and Jack mackerel, to ensure variety and choice for participants. This final rule also clarifies that canned fish with added sauces and flavorings, e.g., tomato sauce, mustard, lemon, are authorized at the State agency's option.

10. Food Package III for Children and Women With Qualifying Conditions

a. Infant Foods In Lieu of the Cash-Value Voucher

Under the interim rule, children and women with qualifying conditions who require the use of a WIC formula (i.e., infant formula, exempt infant formula or WIC-eligible nutritional (formerly WIC-eligible medical food)) receive Food Package III. Among the supplemental foods provided to participants in this food package is a cash-value voucher to purchase fruits and vegetables. A total of 33 commenters requested the substitution of commercial jarred infant food fruit and vegetables in lieu of the cash-value voucher for participants over the age of one who have a qualifying medical condition, such as prematurity, developmental delays, and dysphasia (swallowing disorders). Commenters pointed out that these individuals would benefit from the use of this ready-to-feed form of pureed fruits and vegetables over the purchase of fresh fruits and vegetables.

Food Package III is reserved for medically fragile participants who have specific dietary needs that are dictated by their medical condition. FNS is committed to providing these individuals with WIC Formula (i.e., infant formula, exempt infant formula and WIC-eligible nutritionals) and supplemental foods that best meet their special dietary needs. Thus, FNS finds merit in the argument that some participants with certain qualifying conditions may require a pureed form of fruits and vegetables to meet their nutritional needs, and would benefit from the convenience of purchasing jarred infant food fruits and vegetables. As such, this final rule allows State agencies the flexibility to provide children and women in Food Package III the option of receiving commercial jarred infant food fruits and vegetables in lieu of the cash-value voucher. The quantity of commercial jarred infant food fruits and vegetables is based on the substitution ratio of 128 ounces of infant food fruits and vegetables for the $8 cash-value voucher for children and 160 ounces of infant food fruits and vegetables for the $10 cash-value voucher for women. The need for commercial jarred infant food fruits and vegetables in lieu of the cash-value voucher will be determined by medical documentation that meets the criteria established in 7 CFR 246.10(d). Some participants may prefer to purchase fruits and vegetables via the cash-value voucher and process/puree the fruits and vegetables themselves; this remains an option and is encouraged for those who would benefit from this method of modifying the consistency and texture of foods to improve nutritional intake.

Some commenters asked FNS to allow children in Food Package IV the option to receive commercial jarred infant foods in lieu of the cash-value voucher. However, FNS believes it appropriate that caregivers of children who do not have qualifying conditions making them eligible for Food Package III, and who need modifications in food consistency, receive nutrition education on choosing and preparing foods that meet the child's needs, e.g., pureeing fruits and

[6] Food and Nutrition Service 2009. Infant Nutrition and Feeding: A Guide for Use in the WIC and CSF Programs. Available at Internet site: *http://www.nal.usda.gov/wicworks/Topics/FG/CompleteIFG.pdf*

vegetables and/or choosing those with soft texture/consistency.

b. Allowance of Infant Formula in Food Package III for Infants

Food package III is reserved for participants who have one or more qualifying conditions that require an exempt infant formula or WIC-eligible nutritional (formerly WIC-eligible medical food) to supplement their nutrition needs, as determined by the participant's health care professional. Infants who have a qualifying condition and are successfully managed with an infant formula are issued Food Package I or II, as deemed appropriate for their age and feeding method.

Under the interim rule, infants who require a combination of infant formula and a WIC-eligible nutritional or exempt infant formula are not able to receive both products through a WIC food package. In addition, these infants at 6 months of age may not be developmentally ready to consume solid foods due to their medical condition and would benefit from an increased amount of formula in place of infant foods at that timeframe. FNS received 74 comments requesting that infants who are not developmentally ready to consume solid foods be allowed increased infant formula amounts in lieu of infant foods in Food Package II.

FNS agrees that there are a small percentage of infants who have a qualifying condition, such as prematurity, whose nutritional needs may be successfully managed with infant formula alone or a combination of infant formula and WIC-eligible nutritionals. These infants are considered medically fragile and would benefit from the close medical supervision provided under Food Package III. These infants may not be ready to consume infant foods at 6 months of age, as would otherwise generally healthy term infants, and they may benefit from receiving additional formula in lieu of infant foods at that time. Therefore, this final rule expands the type of formula authorized to infants with qualifying conditions in Food Package III to include infant formula. The issuance of infant formula in Food Package III would be strictly reserved for those infants who are medically fragile. Infants who do not have a qualifying condition and are otherwise generally healthy infants will continue to receive Food Packages I and II, as appropriate. In Food Package III, infants greater than 6 months of age may receive additional infant formula, exempt infant formula or WIC-eligible nutritionals (formerly WIC-eligible medical food) in lieu of infant foods at the same maximum monthly allowance as infants ages 4 through 5 months of age of the same feeding option. As with exempt infant formula and WIC-eligible nutritionals, infants receiving infant formula in Food Package III will need medical documentation that meets the criteria established in 7 CFR 246.10(d).

11. Liquid Concentrate Infant Formula Amounts and Full Nutrition Benefit

Table 1 in 7 CFR 246.10(e)(9) of the interim rule established the full nutrition benefit and the maximum monthly allowances of each physical form of infant formula, for each food package category and infant feeding variation. The interim rule also described the full nutrition benefit as the reconstituted fluid ounce amounts for liquid concentrate infant formula (based on a 13 ounce can) which formed the basis of substitution rates for other physical forms of infant formula (i.e., powder and ready-to-feed infant formula). Providing the full nutrition benefit amounts ensure that participants receive a comparable nutritional benefit no matter which physical form of infant formula they receive.

For decades, infant formula manufacturers consistently provided liquid concentrate and ready-to-feed infant formula in container sizes or packaging that evenly divide into the maximum monthly allowance, while powder infant formulas traditionally vary in package size across manufacturers. FNS has become aware of a shift in the marketplace, such that liquid concentrate and ready-to-feed infant formula container sizes (i.e., 13 and 32-fluid ounces) are no longer standard for all major infant formula manufacturers. Because the maximum monthly allowance amounts of liquid infant formula under the interim rule are evenly divisible by a 13 ounce standard for liquid concentrate (reconstituted) and a 32 ounce standard of ready-to-feed infant formula, there is little flexibility to accommodate changes in the package size while still providing the full nutrition benefit and not exceeding the maximum monthly allowance amount.

This final rule provides the technical correction of revised maximum monthly allowance amounts for liquid concentrate and ready-to-feed infant formula. The revision of maximum monthly allowance amounts for liquid infant formula (i.e., liquid concentrate and ready-to-feed) is consistent with the legislative authority granted to the Secretary of Agriculture in Section 733 of Public Law 111–80 and reiterated in Section 712 of Public Law 112–55, the Consolidated and Further Continuing Appropriations Act, 2012 that authorizes State Agencies to exceed the current maximum amount of liquid infant formula to ensure the full nutrition benefit be provided to participants. This will maintain competition in the infant formula market and address recent changes in package size availability of liquid concentrate and ready-to-feed infant formula.

Liquid concentrate infant formula will now have a separate maximum monthly allowance amount different from the full nutrition benefit to accommodate market changes in packaging. This provision does not change the full nutrition benefit amounts as established in the interim rule. The full nutrition benefit will now be defined as the minimum amount of reconstituted liquid concentrate infant formula as specified in Table 1 of 7 CFR 246.10(e)(9) of this rule for each food package category and infant feeding option (e.g., Food Package IA fully formula fed, IA–FF).

Infant formula issuance, whether using monthly issuance or rounding methodology, should be based on providing the amount of infant formula that most closely provides the full nutrition benefit to all infant participants as deemed appropriate based on breastfeeding assessment and infant food package and feeding method. At a minimum, State agencies must provide the full nutrition benefit to all non-breastfed infants. For breastfed infants, even those receiving the fully formula fed package, infant formula amounts should be tailored based on the assessed needs of the breastfed infant and provide the minimal amounts of formula that meets but does not exceed the infant's nutritional needs. This final rule adds the definition of full nutrition benefit at 7 CFR 246.2.

12. Infant Formula Requirements Technical Correction

A technical correction has been made to infant formula requirements in 7 CFR 246. 246.10(e)(1)(iii) to clarify the qualifying conditions for the types of supplemental foods (i.e., noncontract brand infant formula and any contract brand infant formula that does not meet the requirements in Table 4 of 7 CFR 246.10(e)(12)) that may be issued in this food package only with medical documentation.

Procedural Matters

Executive Order 12866 and Executive Order 13563

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

This final rule has been designated a ''significant regulatory action,'' under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

Regulatory Impact Analysis Summary

As required for all rules that have been designated as Significant by the Office of Management and Budget, a Regulatory Impact Analysis (RIA) was developed for this final rule. The RIA for this rule was published as part of docket number FNS–2006–0037 on *www.regulations.gov*. A summary of the analysis follows:

Need for Action. This final rule considers public comments submitted in response to the interim rule revising the WIC food packages published in December 2007 (72 FR 68966). The interim rule implemented the first comprehensive revisions to the WIC food packages since 1980. The interim rule revised regulations governing the WIC food packages to align them more closely with updated nutrition science and the infant feeding practice guidelines of the American Academy of Pediatrics, promote and support more effectively the establishment of successful long-term breastfeeding, provide WIC participants with a wider variety of food, and provide WIC State agencies with greater flexibility in prescribing food packages to accommodate participants with cultural food preferences.

This final rule addresses public comments received on the interim rule and makes adjustments that improve clarity of the provisions set forth in the interim rule.

Benefits. The revised food packages were developed to better reflect current nutrition science and dietary recommendations, promote and support more effectively the establishment of successful long-term breastfeeding, provide WIC participants with a wider variety of food than do current food packages, and provide WIC State agencies with greater flexibility in prescribing food packages to accommodate participants with cultural food preferences. The final rule makes additional administrative and food package changes that will allow local WIC agencies to better meet the nutritional needs and dietary preferences of program participants.

Costs. FNS estimates that the cost of all mandatory and optional provisions in this final rule will total $1.17 billion over 5 years assuming State implementation beginning May 1, 2014 (for all provisions except the split tender and soy-based beverage for children provisions, which have effective dates of October 1, 2014) and yogurt for women and children with an effective date of April 1, 2015. If the optional provisions are adopted by fewer than all State agencies, then the cost of the rule will be lower. The cost of the mandatory provisions across all State agencies, plus the cost of the optional provisions by State agencies that serve half of WIC participants, is estimated to be $999 million over 5 years.

Accounting statement. The following accounting statement gives the estimated discounted, annualized costs of the rule assuming full State agency implementation of the rule's mandatory and optional provisions. The figures are computed from the nominal 5-year estimates developed in the full RIA. The accounting statement contains figures computed with 7 percent and 3 percent discount rates.

	Estimate	Year dollar	Discount rate (percent)	Period covered
Benefits				
Qualitative: The final rule modifies several provisions of the interim rule based on comments from State and local agencies, interest groups, participants, and others. These modifications better fulfill the intent of the interim rule and the IOM recommendations that are the basis for the WIC food package changes. The rule would increase the quantity of fruits and vegetables contained in the food packages for children to the level recommended by the IOM. The rule also gives States and local agencies more flexibility to meet the medical needs and cultural preferences of WIC participants. Recent research on WIC participants indicates that changes in the WIC food package have resulted in increases in consumption of healthful foods recommended by IOM (see RIA text). The effect of the rule, therefore is a benefit to participants and not simply a transfer of Federal funds replacing costs that WIC participants would have incurred in the absence of this rule. Because we do not quantify the value of the benefits in the impact analysis, and therefore cannot separate them from the estimated Federal transfer to WIC participants, we show our entire dollar impact under transfers. No longer requiring medical documentation for children to receive soy-based beverage and tofu as milk substitutes will save participants some time, although we believe the overall impact on that their time will be minimal and the savings will be nominal. There may also be a benefit in that some WIC participants may not have been taking the soy-based beverage and tofu substitution because getting medical documentation was presenting a barrier. Providing a mechanism to access soy-based beverage and tofu by working with a WIC Competent Professional Authority will help to remove that barrier and may result in nutrition benefits for this group of participants.				
Transfers				
Annualized Monetized	$225.2	2014	7	FY2014–2018
($millions/year)	230.5	2014	3	
Quantified: The rule contains a mix of mandatory provisions and State options. For purposes of this impact analysis we estimate the value of both the mandatory and optional provisions assuming full implementation by all WIC State Agencies. The figures shown here are estimates of the value of full implementation of mandatory and optional provisions assuming no offsetting savings. The figures shown here which are limited to the food benefit, are transfers from the Federal government to WIC participants.				
Costs				

	Estimate	Year dollar	Discount rate (percent)	Period covered
Qualitative: Local and State WIC agencies will incur some administrative costs, other than reporting and recordkeeping, to implement the final rule. However, we are unable to quantify the potential increases in administrative burden due to the final provisions. These include the costs of training WIC clinic and administrative staff and the periodic review and updating of WIC-approved food lists. The State option to authorize farmers' markets to accept WIC cash-value vouchers may introduce administrative costs, however in general, we anticipate that State Agencies and local WIC providers will be able to absorb the burden associated with implementing this rule with current NSA funds. State and local agencies have substantial flexibility in how they spend their NSA funds and may need to reprioritize or postpone some initiatives to undertake the implementation activities, as well as adapt to certain ongoing administrative requirements associated with the final rule. FNS will continue to provide technical assistance to State and local agencies to assist them in implementing the new provisions of the final rule.				

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (RFA) of 1980, (5 U.S.C. 601–612). Pursuant to that review, FNS Administrator Audrey Rowe certified that this rule would not have a significant impact on a substantial number of small entities. State and local agencies and WIC participants will be most affected by the rule and WIC authorized vendors and the food industry may be indirectly affected.

Although not required by the RFA, FNS prepared a Regulatory Flexibility Analysis describing the impact of this interim rule on small entities that reflects comments that were received on the Regulatory Flexibility Analysis that was included in the WIC Food Package interim rule published at 72 FR 68982, December 6, 2007.

Need for and Objectives of the Final Rule

The interim rule, published in the **Federal Register** on December 6, 2007 (72 FR 68966), revised the WIC food packages. The revisions align the WIC food packages with the Dietary Guidelines for Americans and infant feeding practice guidelines of the American Academy of Pediatrics. The interim rule revisions largely reflect recommendations made by the Institute of Medicine (IOM) of the National Academies in its report, ''WIC Food Packages: Time for a Change,'' with certain cost containment and administrative modifications found necessary by the Department to ensure cost neutrality. The interim rule allowed FNS to obtain feedback on the major changes as recommended by IOM, as well as the implementation of procedures, while allowing implementation to move forward. State agencies, including Indian Tribal Organizations, were required to implement the changes by October 1, 2009, and new food packages are now being provided to WIC participants in all States. The interim rule comment period ended February 1, 2010. Public comments received on the interim rule are reflected in the final rule.

The interim rule required substantial changes by State and local agencies. Overall, implementation proceeded smoothly and all States have successfully implemented the changes. This final rule makes a much more limited number of modifications than those contained in the interim rule and requires less significant changes in response to the public comments received. Therefore, the expected effects are minimal for FNS and other Federal Agencies. FNS will continue to provide technical assistance to State and local agencies to assist them in fully implementing the changes. This rule will require State and local agencies to make further modifications to their procedures that are far less substantial than the changes required under the Interim rule. Foreign countries will not be affected.

Description and Estimate of Number of Small Entities to Which the Final Rule Would Apply

This final rule applies to WIC State agencies with respect to their selection of foods to be included on their food lists. As a result, vendors will be indirectly affected. The rule may have an indirect economic affect on certain small businesses because they may have to carry a larger variety of certain foods to be eligible for authorization as a WIC vendor. Currently, approximately 46,000 stores are authorized to accept WIC food instruments, some of which are small businesses. With the high degree of State flexibility allowable under this final rule, small vendors will be impacted differently in each State depending upon how that State chooses to meet the new requirements. Since neither FNS nor the State agencies regulate food producers under the WIC Program, it is not known how many small entities within that industry may be indirectly affected by the final rule.

A 2011 evaluation conducted by Altarum Institute [7] sought to understand the impact that the WIC food package changes had on small stores. The study demonstrated that most small WIC stores were able to maintain their authorization with the WIC Program during the period the food package changes were implemented. Small stores appear to have added healthy foods to their inventory in response to the WIC food package changes. The report concludes that adequate vendor preparation likely factored into the overall success of implementation, and cites the need for ongoing engagement of these and other WIC stakeholders.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

Modifications included in the final rule to eliminate certain medical documentation requirements imposed by the interim rule will decrease the Information Collection Burden associated with this rule.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

FNS considered significant alternatives in developing the interim rule including those that may reduce the indirect impact on small business. These considerations included (among others) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for small entities; the use of performance, rather than design, standards; and an exemption from coverage of the rule, or any part thereof, for small entities.

In general, the alternatives of exempting small entities from the requirements in the interim rule or altering the requirements for small entities were rejected. The WIC food packages provide supplemental foods designed to address the nutritional needs of low-income pregnant, breastfeeding, non-breastfeeding postpartum women, infants and

[7] Altarum Institute 2011. Impact of the Revised WIC Food Package on Small WIC Vendors: Insight from a Four State Evaluation.

children up to age 5 who are at nutritional risk. Exempting small entities from providing the specific foods intended to address the nutritional needs of participants or altering the requirements for small entities would undermine the purpose of the WIC Program and endanger the health status of participants. Therefore, this final rule retains those requirements.

FNS did, however, modify the new food provisions in an effort to mitigate the impact on small entities. As in the past, State agencies must establish minimum requirements for the variety and quantity of foods that a vendor must stock in order to receive WIC Program authorization. The interim rule added new food items, such as fruits and vegetables and whole grain breads, which may require some WIC vendors, particularly smaller stores, to expand the types and quantities of food items stocked in order to maintain their WIC authorization. In addition, vendors also have to make available more than one food type from each WIC food category, except for the categories of peanut butter and eggs, which may be a change for some vendors. To mitigate the impact of the fruit and vegetable requirement, the interim rule allowed canned, frozen and dried fruits and vegetables to be substituted for fresh produce. These provisions are all retained in this final rule.

The interim rule authorized State agencies the option to allow participants to pay the difference if the fruit and vegetable purchase exceeds the value of the cash-value voucher, a transaction known as ''split tender.'' In response to public comments received on the interim rule, this final rule requires State agencies to allow split tender transactions with the cash-value voucher.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, the Department generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local or tribal governments, in the aggregate, or the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the most cost effective or least burdensome alternative that achieves the objectives of the rule.

This final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and tribal governments or the private sector of $100 million or more in any one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

The WIC Program is listed in the Catalog of Federal Domestic Assistance Programs under 10.557. For the reasons set forth in the final rule in 7 CFR part 3015, subpart V, and related Notice (48 FR 29115, June 24, 1983), this program is included in the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under Section (6)(b)(2)(B) of Executive Order 13121.

Prior Consultation With State Officials

Since publication of the interim rule revising the WIC food packages, FNS has obtained input from WIC State and local agency staff about the provisions and implementation of the changes. Examples of the different forums and methods FNS has used to solicit WIC State and local agency staff input on the WIC food packages include the following:

- Hosting annual meetings of the National Advisory Council on Maternal, Infant and Fetal Nutrition that includes WIC staff as members of the Council; the Council develops recommendations for FNS on how to improve operations of WIC, including aspects related to the authorized foods and food packages;
- Consulting and collaborating with the National WIC Association (NWA) on a wide variety of WIC issues, including those related to the WIC food packages. NWA is a non-profit organization that was founded in 1983 by State and local agencies that administer the WIC Program. NWA's paid membership includes 72 of the 90 WIC State agencies, 813 local agencies, 7 State WIC Associations, and 27 sustaining members (i.e., for-profit and non-profit businesses or organizations). Functioning as a coalition of WIC agencies, NWA is dedicated to maximizing WIC resources through effective management practices. NWA also serves in a leadership role for WIC agencies by developing position papers on issues of concern to the WIC community; and
- Regular meetings and consultation with State health officials and other WIC stakeholders, including the medical community, advocacy groups, and retailers.

Nature of Concerns and the Need To Issue This Rule

This final rule considers public comments submitted in response to the interim rule revising the WIC food packages published in December 2007 (72 FR 68966). The interim rule implemented the first comprehensive revisions to the WIC food packages since 1980. This final rule addresses public comments received on the interim rule and makes adjustments that improve clarity of the provisions set forth in the interim rule.

Extent to Which We Meet Those Concerns

FNS has considered the impact of final rule on State and local agencies. FNS believes that the rule is responsive to the expressed concerns and requests of commenters representing State and local concerns.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This final rule is not intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full and timely implementation. This rule is not intended to have retroactive effect unless so specified in the DATES section of the final rule. Prior to any judicial challenge to the provisions of the final rule, all applicable administrative procedures must be exhausted.

Civil Rights Impact Analysis

The intent of this final rulemaking is not to limit participation or to have an adverse effect on current participants. FNS does not expect any protected populations to be adversely affected by the implementation of the requirements in this rule. State agencies must ensure participant access to supplemental foods. The foods available to WIC participants as a result of this final rule are intended to broaden the appeal of the WIC food packages for all groups

and encourage participation in WIC. This final rule revises certain provisions to better address the needs of participants with certain medical conditions, and provides State agencies increased flexibility in prescribing culturally appropriate packages for diverse groups. FNS does not anticipate this rulemaking will result in any adverse civil rights impacts.

Executive Order 13175

Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. In late 2010 and early 2011, USDA engaged in a series of consultative sessions to obtain input by Tribal officials or their designees concerning the impact of this rule on the tribe or Indian Tribal governments, or whether this rule may preempt Tribal law. USDA did not receive any input during these sessions that this rule preempts any Tribal law. Input received relative to this rule included overall satisfaction with the new WIC foods, especially the fruits and vegetables and whole grains, and changes related to supporting breastfeeding mothers. Some tribes reported that WIC participants who were enrolled in WIC during the transition from the previous food packages to the revised food packages expressed displeasure with issuance of lower fat milks and less cheese. The input from Indian tribes during these sessions was consistent with the general comments received for the interim rule, and have been addressed in this final rule. Reports from these consultations will be made part of the USDA annual reporting on Tribal Consultation and Collaboration. USDA will respond in a timely and meaningful manner to all Tribal government requests for consultation concerning this rule and will provide additional venues, such as webinars and teleconferences, to periodically host collaborative conversations with Tribal officials or their designees concerning ways to improve this rule in Indian country.

Paperwork Reduction Act of 1995

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; see 5 CFR 1320) requires that the Office of Management and Budget (OMB) approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. This final rule changes the information collection burden previously approved under OMB 0584–0545. Implementation of the data collection requirements resulting from this final rule is contingent upon OMB approval under the Paperwork Reduction Act of 1995.

The proposed food package rule was published in the **Federal Register** [71 FR 44784] with a 60-day notice on August 7, 2006, which provided the public an opportunity to submit comments on the information collection burden resulting from the proposed rule. FNS received no public comments in response to this solicitation. On November 1, 2006, OMB filed comment in accordance with 5 CFR 1320.11(c), requiring FNS to review public comments in response to the proposed rule and address any such comments in the preamble of the final rule.

The interim food package rule was published in the **Federal Register** [72 FR 68966] on December 6, 2007, and included an estimated annual information collection burden of 14,919 burden hours, which was approved as OMB Number 0584–0545. These information collection burden hours were merged into the information collection, WIC Program Reporting and Recordkeeping Requirements, OMB Number 0584–0043, changing the total approved burden hours for OMB Number 0584–0043 from 3,595,075 to 3,609,994. Information collection OMB Number 0584–0545 was then discontinued. Information collection OMB Number 0584–0043 was renewed as of December 27, 2012, changing the total approved burden hours from 3,609,994 to 4,024,697.

In this final rule, FNS will no longer require a health care professional licensed to write medical prescriptions to provide documentation for children to receive soy-based beverage and tofu as milk substitutes. Also, FNS will no longer require documentation from a health care professional licensed to write medical prescriptions for women to receive tofu in excess of the maximum substitution allowance. As a result of this final rulemaking, the overall information collection burden associated with OMB Number 0584–0043 is estimated to have decreased by 4,200 burden hours annually due to program changes in this rulemaking. The total estimated burden hours for OMB Number 0584–0043 will decrease from 4,024,697 to 4,020,497.

The breakdown of the changes is described below:

OMB Number 0584–0043;

WIC Program Reporting and Recordkeeping Requirements; expiration date December 31, 2015.

Type of Request: Revision of a currently approved collection.

Abstract: Federal regulations at 7 CFR 246.10(d)(1)(vi) and (viii) require medical documentation for the issuance of soy-based beverage and tofu for children, and tofu above the maximum substitution amount for women. Federal regulations at 7 CFR 246.10(d)(1)(v) require medical documentation for the issuance of supplemental foods to participants who receive Food Package III (for participants with qualifying conditions).

Under the interim rule, medical documentation by a health care professional licensed to write medical prescriptions is required for the issuance of certain milk alternatives for children and women. A total of 180 comment letters (53 of these form letters) opposed this requirement, primarily the documentation for children to receive soy-based beverage. Commenters stated that the provision is unnecessary, costly and burdensome for participants and physicians, creates barriers to services, and undermines FNS' efforts to provide foods that meet the cultural needs of participants. The NWA and the American Dietetic Association (now known as the Academy of Nutrition and Dietetics) stressed that WIC dietitians and nutritionists are health professionals trained and capable of doing a complete nutrition assessment, selecting WIC foods, and providing appropriate education to participants and caregivers, in consultation with the health care provider when warranted.

Based on the experiences cited by WIC State and local agencies related to medical documentation throughout implementation of the new food packages, FNS will no longer require a health care professional licensed to write medical prescriptions to provide documentation for children to receive soy-based beverage and tofu as milk substitutes. Also, FNS will no longer require documentation from a health care professional licensed to write medical prescriptions for women to receive tofu in excess of the maximum substitution allowance.

Estimate of Burden

This final rule amends the supplemental foods that require medical documentation as described in 7 CFR

246.10(d)(1) However, medical documentation continues to be required for issuance of supplemental foods in Food Package III. After revising to reflect the changes made by this final rule, the total annual reporting and recordkeeping burden estimated for medical documentation is decreased by 4,200 hours.

FNS estimates that approximately 1 percent of participants (89,606) will be issued supplemental foods under Food Package III. FNS estimates that it will take three minutes (0.05 hours) for the documentation required to issue the authorized foods, thus resulting in an estimated reporting burden for participants of 8,961 hours (89,606 total participants × 0.05 person hours × 2 certification periods per year). This results in a decrease in the approved reporting burden under OMB 0584–0043 for participants providing medical documentation for supplemental foods from 13,160 burden hours to 8,961 burden hours (a decrease of 4,200 burden hours).

FNS will submit an Information Collection Request clearance package to OMB based on the provisions of this final rule. These amended information collection requirements will not become effective until approved by OMB. When OMB has approved these information collection requirements, FNS will publish separate action in the **Federal Register** announcing OMB approval.

E-Government Act Compliance

The Food and Nutrition Service is committed to complying with the E-Government Act, 2002, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects in 7 CFR Part 246

Administrative practice and procedure, Civil rights, Food assistance programs, Grant programs-health, Grant programs-social programs, Indians, Infants and children, Maternal and child health, Nutrition, Penalties, Reporting and recordkeeping requirements, Women.

■ For reasons set forth in the preamble, 7 CFR Part 246 is amended as follows:

PART 246—SPECIAL SUPPLEMENTAL NUTRTION PROGRAM FOR WOMEN, INFANTS AND CHILDREN

■ 1. The authority citation for 7 CFR part 246 continues to read as follows:

Authority: 42 U.S.C. 1786.

■ 2. In § 246.2:

■ a. Add a definition for ''Farmers' market'' in alphabetical order;

■ b. Add a definition for ''Full nutrition benefit'' in alphabetical order;

■ c. Remove the definition heading ''WIC-eligible medical foods'' and add in its place ''WIC-eligible nutritionals for participants with qualifying conditions (hereafter referred to as ''WIC-eligible nutritionals)''; and

■ d. Remove the term ''WIC-eligible medical foods'' and add in its place the term ''WIC-eligible nutritionals'' wherever it appears.

■ The revisions and additions read as follows:

§ 246.2 Definitions.

* * * * *

Farmers' market means an association of local farmers who assemble at a defined location for the purpose of selling their produce directly to consumers.

* * * * *

Full nutrition benefit means the minimum amount of reconstituted fluid ounces of liquid concentrate infant formula as specified in Table 1 of § 246.10(e)(9) for each food package category and infant feeding variation (e.g., Food Package IA fully formula fed, IA–FF).

* * * * *

■ 3. In § 246.4:

■ a. Amend paragraph (a)(11)(iii) by removing ''§ 246.10(b)(1)'' and adding in its place ''§ 246.10(b)(2)(i)''.

■ b. Revise paragraph (a)(14)(iii);

■ c. Redesignate paragraphs (a)(14)(v) through (xvii) as paragraphs (vi) through (xviii) and add a new paragraph (a)(14)(v);

■ d. Amend newly designated paragraph (a)(14)(vi) by removing ''§ 246.12(k)(1)(i)'' and adding in its place ''§ 246.12(l)(1)(i)'';

■ e. Revise newly designated paragraph (a)(14)(xii); and

■ f. Amend paragraph (a)(18) by removing the words ''and food vendors'' and adding in their place the phrase '', food vendors, farmers and farmers' markets''.

The revisions and additions read as follows:

§ 246.4 State plan.

(a) * * *

(14) * * *

(iii) *A sample vendor, farmer and/or farmers' market, if applicable, agreement.* The sample vendor agreement must include the sanction schedule, the process for notification of violations in accordance with § 246.12(l)(3), and the State agency's policies and procedures on incentive items in accordance with § 246.12(g)(3)(iv), which may be incorporated as attachments or, if the sanction schedule, the process for notification of violations, or policies on incentive items are in the State agency's regulations, through citations to the regulations. State agencies that intend to delegate signing of vendor, farmer and/or farmers' market agreements to local agencies must describe the State agency supervision and instruction that will be provided to ensure the uniformity and quality of local agency activities;

* * * * *

(v) *Farmer monitoring.* The system for monitoring farmers and/or farmers' markets within its jurisdiction, if applicable, for compliance with program requirements;

* * * * *

(xii) *Vendor, farmer and/or farmers' market training.* The procedures the State agency will use to train vendors (in accordance with § 246.12(i)), farmers and/or farmers' markets (in accordance with § 246.12(v)). State agencies that intend to delegate any aspect of training to a local agency, contractor, vendor or farmer representative must describe the supervision and instructions that will be provided by the State agency to ensure the uniformity and quality of vendor, farmer and/or farmers' market training;

* * * * *

■ 4. In § 246.10:

■ a. Remove the term ''WIC-eligible medical food'' and add in its place the term ''WIC-eligible nutritional'' wherever it appears; and remove the term ''WIC-eligible medical foods'' and replace it with ''WIC-eligible nutritionals'' wherever it appears;

■ b. Revise paragraph (b)(1)(i);

■ c. Amend paragraph (b)(2)(ii)(C) by removing the words ''age and'' before ''nutritional'' and adding the words ''and breastfeeding'' after ''nutritional'';

■ d. Amend paragraph (d)(1)(ii) by removing the phrase ''a child'' and adding in its place the phrase ''an infant, child,'';

■ e. Remove paragraphs (d)(1)(vi) through (d)(1)(viii);

■ f. Redesignate paragraph (d)(1)(ix) as (d)(1)(vi);

■ g. Revise the heading of paragraph (d)(2);

■ h. Amend paragraph (d)(2)(ii) by adding a space between ''formula'' and ''and'';

■ i. Revise paragraph (d)(3)(i);

■ j. Revise paragraph (d)(4)(ii)(D);

■ k. Revise paragraphs (e) introductory text through (e)(1)(iii);

■ l. Revise paragraph (e)(1)(v);

■ m. Revise paragraph (e)(2)(ii);

■ n. Revise paragraph (e)(2)(iv);

■ o. Revise paragraph (e)(3)(v);

■ p. Revise paragraphs (e)(4)(ii) through (e)(7)(ii); and
■ q. Revise paragraphs (e)(9) through (e)(12).

The revisions and additions read as follows:

§ 246.10 Supplemental foods.

* * * * *

(b) * * *

(1) * * *

(i) Establish criteria in addition to the minimum Federal requirements in Table 4 of paragraph (e)(12) of this section for the supplemental foods in their States, except that the State agency may not selectively choose which eligible fruits and vegetables are available to participants. These State agency criteria could address, but not be limited to, other nutritional standards, competitive cost, State-wide availability, and participant appeal. For eligible fruits and vegetables, State agencies may restrict packaging, e.g., plastic containers, and package sizes, such as single serving, of processed fruits and vegetables available for purchase with the cash-value voucher. In addition, State agencies may identify certain processed WIC-eligible fruits and vegetables on food lists where the potential exists for vendor or participant confusion in determining authorized WIC-eligible items.

* * * * *

(d) * * *

(2) *Medical documentation for other supplemental foods.* * * *

(3) * * *

(i) Made a medical determination that the participant has a qualifying condition as described in paragraphs (e)(1) through (e)(7) of this section that dictates the use of the supplemental foods, as described in paragraph (d)(1) of this section; and

* * * * *

(4) * * *

(ii) * * *

(D) The qualifying condition(s) for issuance of the authorized supplemental food(s) requiring medical documentation, as described in paragraphs (e)(1) through (e)(7) of this section; and

* * * * *

(e) *Food packages.* There are seven food packages available under the Program that may be provided to participants. The authorized supplemental foods must be prescribed from food packages according to the category and nutritional needs of the participants. Breastfeeding assessment and the mother's plans for breastfeeding serve as the basis for determining food package issuance for all breastfeeding women. The intent of the WIC Program is that all breastfeeding women be supported to exclusively breastfeed their infants and to choose the fully breastfeeding food package without infant formula. Breastfeeding mothers whose infants receive formula from WIC are to be supported to breastfeed to the maximum extent possible with minimal supplementation with infant formula. Formula amounts issued to breastfed infants are to be tailored to meet but not exceed the infant's nutritional needs. The seven food packages are as follows:

(1) *Food Package I—Infants birth through 5 months.*—(i) *Participant category served.* This food package is designed for issuance to infant participants from birth through age 5 months who do not have a condition qualifying them to receive Food Package III. The following infant feeding variations are defined for the purposes of assigning food quantities and types in Food Packages I: Fully breastfeeding (the infant doesn't receive formula from the WIC Program); partially (mostly) breastfeeding (the infant is breastfed but also receives infant formula from WIC up to the maximum allowance described for partially (mostly) breastfed infants in Table 1 of paragraph (e)(9) of this section; and fully formula fed (the infant is not breastfed or is breastfed minimally (the infant receives infant formula from WIC in quantities that exceed those allowed for partially (mostly) breastfed infants).

(ii) *Infant feeding age categories.*—(A) *Birth to one month.* Two infant food packages are available during the first month after birth—fully breastfeeding and fully formula-feeding. State agencies also have the option to make available a third food package containing not more than one can of powder infant formula in the container size that provides closest to 104 reconstituted fluid ounces to breastfed infants on a case-by-case basis. The infant receiving this food package is considered partially breastfeeding. State agencies choosing to make available a partially breastfeeding package in the first month may not standardize issuance of this food package. Infant formula may not be routinely provided during the first month after birth to breastfed infants in order to support the successful establishment of breastfeeding.

(B) *One through 5 months.* Three infant food packages are available from 1 months through 5 months—fully breastfeeding, partially (mostly) breastfeeding, or fully formula-fed.

(iii) *Infant formula requirements.* This food package provides iron-fortified infant formula that is not an exempt infant formula and that meets the requirements in Table 4 of paragraph (e)(12) of this section. The issuance of any contract brand or noncontract brand infant formula that contains less than 10 milligrams of iron per liter (at least 1.5 milligrams iron per 100 kilocalories) at standard dilution is prohibited. Except as specified in paragraph (d) of this section, local agencies must issue as the first choice of issuance the primary contract infant formula, as defined in § 246.2, with all other infant formulas issued as an alternative to the primary contract infant formula. Noncontract brand infant formula and any contract brand infant formula that does not meet the requirements in Table 4 of paragraph (e)(12) of this section may be issued in this food package only with medical documentation of the qualifying condition. A health care professional licensed by the State to write prescriptions must make a medical determination and provide medical documentation that indicates the need for the infant formula. For situations that do not require the use of an exempt infant formula, such determinations include, but are not limited to, documented formula intolerance, food allergy or inappropriate growth pattern. Medical documentation must meet the requirements described in paragraph (d) of this section.

* * * * *

(v) *Authorized category of supplemental foods.* Infant formula is the only category of supplemental foods authorized in this food package. Exempt infant formulas and WIC-eligible nutritionals are authorized only in Food Package III. The maximum monthly allowances, allowed options and substitution rates of supplemental foods for infants in Food Packages I are stated in Table 1 of paragraph (e)(9) of this section.

(2) * * *

(ii) *Infant food packages.* Three food packages for infants 6 through 11 months are available — fully breastfeeding, partially (mostly) breastfeeding, or fully formula fed.

* * * * *

(iv) *Authorized categories of supplemental foods.* Infant formula, infant cereal, and infant foods are the categories of supplemental foods authorized in this food package. The maximum monthly allowances, allowed options and substitution rates of supplemental foods for infants in Food Packages II are stated in Table 1 of paragraph (e)(9) of this section.

* * * * *

(3) * * *

(v) *Authorized categories of supplemental foods.* The supplemental foods authorized in this food package require medical documentation for issuance and include WIC formula (infant formula, exempt infant formula, and WIC-eligible nutritionals), infant cereal, infant foods, milk, cheese, eggs, canned fish, fresh fruits and vegetables, breakfast cereal, whole wheat/whole grain bread, juice, legumes and/or peanut butter. The maximum monthly allowances, allowed options and substitution rates of supplemental foods for infants in Food Package III are stated in Table 1 of paragraph (e)(9) of this section. The maximum monthly allowances, allowed options, and substitution rates of supplemental foods for children and women in Food Package III are stated in Table 3 of paragraph (e)(11) of this section.

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(4) * * *

(ii) *Authorized categories of supplemental foods.* Milk, breakfast cereal, juice, fresh fruits and vegetables, whole wheat/whole grain bread, eggs, and legumes or peanut butter are the categories of supplemental foods authorized in this food package. The maximum monthly allowances, allowed options and substitution rates of supplemental foods for children in Food Package IV are stated in Table 2 of paragraph (e)(10) of this section.

(5) *Food Package V—Pregnant and partially (mostly) breastfeeding women.*—(i) *Participant category served.* This food package is designed for issuance to women participants with singleton pregnancies who do not have a condition qualifying them to receive Food Package III. This food package is also designed for issuance to partially (mostly) breastfeeding women participants, up to 1 year postpartum, who do not have a condition qualifying them to receive Food Package III and whose partially (mostly) breastfed infants receive formula from the WIC program in amounts that do not exceed the maximum allowances described in Table 1 of paragraph (e)(9) of this section. Women participants partially (mostly) breastfeeding more than one infant from the same pregnancy, pregnant women fully or partially breastfeeding singleton infants, and women participants pregnant with two or more fetuses, are eligible to receive Food Package VII as described in paragraph (e)(7) of this section.

(ii) *Authorized categories of supplemental foods.* Milk, breakfast cereal, juice, fresh fruits and vegetables, whole wheat/whole grain bread, eggs, legumes and peanut butter are the categories of supplemental foods authorized in this food package. The maximum monthly allowances, allowed options and substitution rates of supplemental foods for women in Food Package V are stated in Table 2 of paragraph (e)(10) of this section.

(6) *Food Package VI—Postpartum women.*—(i) *Participant category served.* This food package is designed for issuance to women up to 6 months postpartum who are not breastfeeding their infants, and to breastfeeding women up to 6 months postpartum whose participating infant receives more than the maximum amount of formula allowed for partially (mostly) breastfed infants as described in Table 1 of paragraph (e)(9) of this section, and who do not have a condition qualifying them to receive Food Package III.

(ii) *Authorized categories of supplemental foods.* Milk, breakfast cereal, juice, fresh fruits and vegetables, eggs, and legumes or peanut butter are the categories of supplemental foods authorized in this food package. The maximum monthly allowances, allowed options and substitution rates of supplemental foods for women in Food Package VI are stated in Table 2 of paragraph (e)(10) of this section.

(7) *Food Package VII—Fully breastfeeding.*—(i) *Participant category served.* This food package is designed for issuance to breastfeeding women up to 1 year postpartum whose infants do not receive infant formula from WIC (these breastfeeding women are assumed to be exclusively breastfeeding their infants), and who do not have a condition qualifying them to receive Food Package III. This food package is also designed for issuance to women participants pregnant with two or more fetuses, women participants partially (mostly) breastfeeding multiple infants from the same pregnancy, and pregnant women who are also partially (mostly) breastfeeding singleton infants, and who do not have a condition qualifying them to receive Food Package III. Women participants fully breastfeeding multiple infants from the same pregnancy receive 1.5 times the supplemental foods provided in Food Package VII.

(ii) *Authorized categories of supplemental foods.* Milk, cheese, breakfast cereal, juice, fresh fruits and vegetables, whole wheat/whole grain bread, eggs, legumes, peanut butter, and canned fish are the categories of supplemental foods authorized in this food package. The maximum monthly allowances, allowed options and substitution rates of supplemental foods for women in Food Package VII are stated in Table 2 of paragraph (e)(10) of this section.

* * * * *

(9) Full nutrition benefit and maximum monthly allowances, options and substitution rates of supplemental foods for infants in Food Packages I, II and III are stated in Table 1 as follows:

TABLE 1—FULL NUTRITION BENEFIT (FNB) AND MAXIMUM MONTHLY ALLOWANCES (MMA) OF SUPPLEMENTAL FOODS FOR INFANTS IN FOOD PACKAGES I, II AND III

Foods [1]	Fully formula fed (FF)		Partially (mostly) breastfed (BF/FF)		Fully breastfed (BF)	
	Food Packages I–FF & III–FF A: 0 through 3 months B: 4 through 5 months	Food Packages II–FF & III–FF 6 through 11 months	Food Packages I–BF/FF & III BF/FF (A: 0 to 1 month [2 3]) B: 1 through 3 months C: 4 through 5 months	Food Packages II–BF/FF & III BF/FF 6 through 11 months	Food Package I–BF 0 through 5 months	Food Package II–BF 6 through 11 months
WIC Formula [4 5 6 7 8]	A: FNB=806 fl oz, MMA=823 fl oz, reconstituted liquid concentrate or 832 fl. oz. RTF or 870 fl oz reconstituted powder.	FNB=624 fl oz, MMA=630 fl oz, reconstituted liquid concentrate. or 643 fl. oz RTF or 696 fl oz reconstituted powder.	A: 104 fl oz reconstituted powder. B: FNB=364 fl oz, MMA=388 fl oz, reconstituted liquid concentrate or 384 fl oz RTF or 435 fl oz reconstituted powder.	FNB=312 fl oz, MMA=315 fl oz, reconstituted liquid concentrate or 338 fl oz RTF or 384 fl oz reconstituted powder.		

TABLE 1—FULL NUTRITION BENEFIT (FNB) AND MAXIMUM MONTHLY ALLOWANCES (MMA) OF SUPPLEMENTAL FOODS FOR INFANTS IN FOOD PACKAGES I, II AND III—Continued

Foods [1]	Fully formula fed (FF)		Partially (mostly) breastfed (BF/FF)		Fully breastfed (BF)	
	Food Packages I–FF & III–FF A: 0 through 3 months B: 4 through 5 months	Food Packages II–FF & III–FF 6 through 11 months	Food Packages I–BF/FF & III BF/FF (A: 0 to 1 month [2 3]) B: 1 through 3 months C: 4 through 5 months	Food Packages II–BF/FF & III BF/FF 6 through 11 months	Food Package I–BF 0 through 5 months	Food Package II–BF 6 through 11 months
	B: FNB=884 fl oz, MMA=896 fl oz, reconstituted liquid concentrate or 913 fl oz RTF or 960 fl oz reconstituted powder.		C: FNB=442 fl oz, MMA=460 fl oz, reconstituted liquid concentrate or 474 fl oz RTF or 522 fl oz reconstituted powder.			
Infant Cereal [9 11]	.....	24 oz	.....	24 oz	.....	24 oz.
Infant food fruits and vegetables [9 10 11 12 13].	.....	128 oz	.....	128 oz	.....	256 oz.
Infant food meat [9]	.....	.....	.....	.....	.....	77.5 oz.

Table 1 footnotes: (Abbreviations in order of appearance in table): FF = fully formula fed; BF/FF = partially (mostly) breastfed; BF = fully breastfed; RTF = Ready-to-feed; N/A = the supplemental food is not authorized in the corresponding food package.

[1] Table 4 of paragraph (e)(12) of this section describes the minimum requirements and specifications for the supplemental foods. The competent professional authority (CPA) is authorized to determine nutritional risk and prescribe supplemental foods as established by State agency policy in Food Packages I and II. In Food Package III, the CPA, as established by State agency policy, is authorized to determine nutritional risk and prescribe supplemental foods per medical documentation.

[2] State agencies have the option to issue not more than one can of powder infant formula in the container size that provides closest to 104 reconstituted fluid ounces to breastfed infants on a case-by-case basis.

[3] Liquid concentrate and ready-to-feed (RTF) may be substituted at rates that provide comparable nutritive value.

[4] WIC formula means infant formula, exempt infant formula, or WIC-eligible nutritionals. Infant formula may be issued for infants in Food Packages I, II and III. Medical documentation is required for issuance of infant formula, exempt infant formula, WIC-eligible nutritionals, and other supplemental foods in Food Package III. Only infant formula may be issued for infants in Food Packages I and II.

[5] The full nutrition benefit is defined as the minimum amount of reconstituted fluid ounces of liquid concentrate infant formula as specified for each infant food package category and feeding variation (e.g., Food Package IA-fully formula fed).

[6] The maximum monthly allowance is specified in reconstituted fluid ounces for liquid concentrate, RTF liquid, and powder forms of infant formula and exempt infant formula. Reconstituted fluid ounce is the form prepared for consumption as directed on the container.

[7] State agencies must provide at least the full nutrition benefit authorized to non-breastfed infants up to the maximum monthly allowance for the physical form of the product specified for each food package category. State agencies must issue whole containers that are all the same size of the same physical form. Infant formula amounts for breastfed infants, even those in the fully formula fed category should be individually tailored to the amounts that meet their nutritional needs.

[8] State agencies may round up and disperse whole containers of infant formula over the food package timeframe to allow participants to receive the full nutrition benefit. State agencies must use the methodology described in accordance with paragraph (h)(1) of this section.

[9] State agencies may round up and disperse whole containers of infant foods (infant cereal, fruits and vegetables, and meat) over the Food Package timeframe. State agencies must use the methodology described in accordance with paragraph (h)(2) of this section.

[10] At State agency option, for infants 6–12 months of age, fresh banana may replace up to 16 ounces of infant food fruit at a rate of 1 pound of bananas per 8 ounces of infant food fruit. State agencies may also substitute fresh bananas at a rate of 1 banana per 4 ounces of jarred infant food fruit, up to a maximum of 16 ounces.

[11] In lieu of infant foods (cereal, fruit and vegetables), infants greater than 6 months of age in Food Package III may receive infant formula, exempt infant formula or WIC-eligible nutritionals at the same maximum monthly allowance as infants ages 4 through 5 months of age of the same feeding option.

[12] At State agency option, infants 9 months through 11 months in Food Packages II and III may receive a cash-value voucher to purchase fresh (only) fruits and vegetables in lieu of a portion of the infant food fruits and vegetables. Partially (mostly) breastfed infants and fully formula fed infants may receive a $4 cash-value voucher plus 64 ounces of infant food fruits and vegetables; fully breastfeeding infants may receive a $8 cash-value voucher plus 128 ounces of infant food fruit and vegetables.

[13] State agencies may not categorically issue cash-value vouchers for infants 9 months through 11 months. The cash-value voucher is to be provided to the participant only after an individual nutrition assessment, as established by State agency policy, and is optional for the participant, i.e., the mother may choose to receive either the maximum allowance of jarred foods or a combination of jarred foods and a fruit and vegetable cash-value voucher for her infant. State agencies must ensure that appropriate nutrition education is provided to the caregiver addressing safe food preparation, storage techniques, and feeding practices to make certain participants are meeting their nutritional needs in a safe and effective manner.

(10) *Maximum monthly allowances of supplemental foods in Food Packages IV through VII.* The maximum monthly allowances, options and substitution rates of supplemental foods for children and women in Food Package IV through VII are stated in Table 2 as follows:

TABLE 2—MAXIMUM MONTHLY ALLOWANCES OF SUPPLEMENTAL FOODS FOR CHILDREN AND WOMEN IN FOOD PACKAGES IV, V, VI AND VII

Foods [1]	Children	Women		
	Food Package IV: 1 through 4 years	Food Package V: Pregnant and Partially (Mostly) Breastfeeding (up to 1 year postpartum) [2]	Food Package VI: Postpartum (up to 6 months postpartum) [3]	Food Package VII: Fully Breastfeeding (up to 1 year post-partum) [4 5]
Juice, single strength [6]	128 fl oz	144 fl oz	96 fl oz	144 fl oz.
Milk, fluid	16 qt [7 8 9 10 11]	22 qt [7 8 9 10 12]	16 qt [7 8 9 10 12]	24 qt [7 8 9 10 12.]
Breakfast cereal [13]	36 oz	36 oz	36 oz	36 oz.
Cheese	N/A	N/A	N/A	1 lb.
Eggs	1 dozen	1 dozen	1 dozen	2 dozen.
Fresh fruits and vegetables [14 15]	$8.00 in cash-value vouchers.	$10.00 in cash-value vouchers.	$10.00 in cash-value vouchers.	$10.00 in cash-value vouchers.
Whole wheat or whole grain bread [16].	2 lb	1 lb	N/A	1 lb.
Fish (canned)	N/A	N/A	N/A	30 oz.
Legumes, dry [17] *and/or* Peanut butter.	1 lb or 18 oz	1 lb and 18 oz	1 lb or 18 oz	1 lb and 18 oz.

Table 2 Footnotes: N/A = the supplemental food is not authorized in the corresponding food package.

[1] Table 4 of paragraph (e)(12) of this section describes the minimum requirements and specifications for the supplemental foods. The competent professional authority (CPA) is authorized to determine nutritional risk and prescribe supplemental foods as established by State agency policy.

[2] Food Package V is issued to two categories of WIC participants: Women participants with singleton pregnancies; breastfeeding women whose partially (mostly) breastfed infants receive formula from the WIC Program in amounts that do not exceed the maximum formula allowances, as appropriate for the age of the infant as described in Table 1 of paragraph (e)(9) of this section.

[3] Food Package VI is issued to two categories of WIC participants: Non-breastfeeding postpartum women and breastfeeding postpartum women whose infants receive more than the maximum infant formula allowances, as appropriate for the age of the infant as described in Table 1 of paragraph (e)(9) of this section.

[4] Food Package VII is issued to four categories of WIC participants: Fully breastfeeding women whose infants do not receive formula from the WIC Program; women pregnant with two or more fetuses; women partially (mostly) breastfeeding multiple infants from the same pregnancy; and pregnant women who are also fully or partially (mostly) breastfeeding singleton infants.

[5] Women fully breastfeeding multiple infants from the same pregnancy are prescribed 1.5 times the maximum allowances.

[6] Combinations of single-strength and concentrated juices may be issued provided that the total volume does not exceed the maximum monthly allowance for single-strength juice.

[7] Whole milk is the standard milk for issuance to 1-year-old children (12 through 23 months). At State agency option, fat-reduced milks may be issued to 1-year-old children for whom overweight or obesity is a concern. The need for fat-reduced milks for 1-year-old children must be based on an individual nutritional assessment and consultation with the child's health care provider if necessary, as established by State agency policy. Lowfat (1%) or nonfat milks are the standard milk for issuance to children ≥ 24 months of age and women. Reduced fat (2%) milk is authorized only for participants with certain conditions, including but not limited to, underweight and maternal weight loss during pregnancy. The need for reduced fat (2%) milk for children ≥ 24 months of age (Food Package IV) and women (Food Packages V–VII) must be based on an individual nutritional assessment as established by State agency policy.

[8] Evaporated milk may be substituted at the rate of 16 fluid ounces of evaporated milk per 32 fluid ounces of fluid milk or a 1:2 fluid ounce substitution ratio. Dry milk may be substituted at an equal reconstituted rate to fluid milk.

[9] For children and women, cheese may be substituted for milk at the rate of 1 pound of cheese per 3 quarts of milk. For children and women in Food Packages IV–VI, no more than 1 pound of cheese may be substituted. For fully breastfeeding women in Food Package VII, no more than 2 pounds of cheese may be substituted for milk. State agencies do not have the option to issue additional amounts of cheese beyond these maximums even with medical documentation. (No more than a total of 4 quarts of milk may be substituted for a combination of cheese, yogurt or tofu for children and women in Food Packages IV–VI. No more than a total of 6 quarts of milk may be substituted for a combination of cheese, yogurt or tofu for women in Food Package VII.)

[10] For children and women, yogurt may be substituted for fluid milk at the rate of 1 quart of yogurt per 1 quart of milk; a maximum of 1 quart of milk can be substituted. Additional amounts of yogurt are not authorized. Whole yogurt is the standard yogurt for issuance to 1-year-old children (12 through 23 months). At State agency option, lowfat or nonfat yogurt may be issued to 1-year-old children for whom overweight and obesity is a concern. The need for lowfat or nonfat yogurt for 1-year-old children must be based on an individual nutritional assessment and consultation with the child's health care provider if necessary, as established by State agency policy. Lowfat or nonfat yogurts are the only types of yogurt authorized for children ≥ 24 months of age and women. (No more than a total of 4 quarts of milk may be substituted for a combination of cheese, yogurt or tofu for children and women in Food Packages IV–VI. No more than a total of 6 quarts of milk may be substituted for a combination of cheese, yogurt or tofu for women in Food Package VII.)

[11] For children, issuance of tofu and soy-based beverage as substitutes for milk must be based on an individual nutritional assessment and consultation with the participant's health care provider if necessary, as established by State agency policy. Such determination can be made for situations that include, but are not limited to, milk allergy, lactose intolerance, and vegan diets. Soy-based beverage may be substituted for milk for children on a quart for quart basis up to the total maximum allowance of milk. Tofu may be substituted for milk for children at the rate of 1 pound of tofu per 1 quart of milk. (No more than a total of 4 quarts of milk may be substituted for a combination of cheese, yogurt or tofu for children in Food Package IV.) Additional amounts of tofu may be substituted, up to the maximum allowance for fluid milk for lactose intolerance or other reasons, as established by State agency policy.

[12] For women, soy-based beverage may be substituted for milk on a quart for quart basis up to the total maximum allowance of milk. Tofu may be substituted for milk at the rate of 1 pound of tofu per 1 quart of milk. (No more than a total of 4 quarts of milk may be substituted for a combination of cheese, yogurt or tofu for women in Food Packages V and VI. No more than a total of 6 quarts of milk may be substituted for a combination of cheese, yogurt or tofu for women in Food Package VII.). Additional amounts of tofu may be substituted, up to the maximum allowances for fluid milk, for lactose intolerance or other reasons, as established by State agency policy.

[13] At least one-half of the total number of breakfast cereals on the State agency's authorized food list must have whole grain as the primary ingredient and meet labeling requirements for making a health claim as a ''whole grain food with moderate fat content'' as defined in Table 4 of paragraph (e)(12) of this section.

[14] Both fresh fruits and fresh vegetables must be authorized by State agencies. Processed fruits and vegetables, i.e., canned (shelf-stable), frozen, and/or dried fruits and vegetables may also be authorized to offer a wider variety and choice for participants. State agencies may choose to authorize one or more of the following processed fruits and vegetables: canned fruit, canned vegetables, frozen fruit, frozen vegetables, dried fruit, and/or dried vegetables. The cash-value voucher may be redeemed for any eligible fruit and vegetable (refer to Table 4 of paragraph (e)(12) of this section and its footnotes). Except as authorized in paragraph (b)(1)(i) of this section, State agencies may not selectively choose which fruits and vegetables are available to participants. For example, if a State agency chooses to offer dried fruits, it must authorize all WIC-eligible dried fruits.

[15] The monthly value of the fruit/vegetable cash-value vouchers will be adjusted annually for inflation as described in § 246.16(j).

[16] Whole wheat and/or whole grain bread must be authorized. State agencies have the option to also authorize brown rice, bulgur, oatmeal, whole-grain barley, whole wheat macaroni products, or soft corn or whole wheat tortillas on an equal weight basis.

[17] Canned legumes may be substituted for dry legumes at the rate of 64 oz. (e.g., four 16-oz cans) of canned beans for 1 pound dry beans. In Food Packages V and VII, both beans and peanut butter must be provided. However, when individually tailoring Food Packages V or VII for nutritional reasons (e.g., food allergy, underweight, participant preference), State agencies have the option to authorize the following substitutions: 1 pound dry and 64 oz. canned beans/peas (and no peanut butter); or 2 pounds dry or 128 oz. canned beans/peas (and no peanut butter); or 36 oz. peanut butter (and no beans).

(11) *Maximum monthly allowances of supplemental foods for children and women with qualifying conditions in Food Package III.* The maximum monthly allowances, options and substitution rates of supplemental foods for participants with qualifying conditions in Food Package III are stated in Table 3 as follows:

TABLE 3—MAXIMUM MONTHLY ALLOWANCES (MMA) OF SUPPLEMENTAL FOODS FOR CHILDREN AND WOMEN WITH QUALIFYING CONDITIONS IN FOOD PACKAGE III

Foods [1]	Children		Women	
	1 through 4 years	Pregnant and partially breastfeeding (up to 1 year postpartum) [2]	Postpartum (up to 6 months postpartum) [3]	Fully breastfeeding, (up to 1 year post-partum) [4 5]
Juice, single strength [6]	128 fl oz	144 fl oz	96 fl oz	144 fl oz.
WIC Formula [7 8]	455 fl oz liquid concentrate.	455 fl oz liquid concentrate	455 fl oz liquid concentrate	455 fl oz liquid concentrate.
Milk	16 qt [9 10 11 12 13]	22 qt [9 10 11 12 14]	16 qt [9 10 11 12 14]	24 qt [9 10 11 12 14].
Breakfast cereal [15 16]	36 oz	36 oz	36 oz	36 oz.
Cheese	N/A	N/A	N/A	1 lb.
Eggs	1 dozen	1 dozen	1 dozen	2 dozen.
Fruits and vegetables [17 18 19]	$8.00 in cash-value vouchers.	$10.00 in cash-value vouchers.	$10.00 in cash-value vouchers.	$10.00 in cash-value vouchers.
Whole wheat or whole grain bread [20].	2 lb	1 lb	N/A	1 lb.
Fish (canned)	N/A	N/A	N/A	30 oz.
Legumes, dry [21] *and/or* Peanut butter.	1 lb Or 18 oz	1 lb And 18 oz	1 lb Or 18 oz	1 lb. And. 18 oz.

Table 3 Footnotes: N/A=the supplemental food is not authorized in the corresponding food package.

[1] Table 4 of paragraph (e)(12) of this section describes the minimum requirements and specifications for the supplemental foods. The competent professional authority (CPA), as established by State agency policy, is authorized to determine nutritional risk and prescribe supplemental foods per medical documentation.

[2] This food package is issued to two categories of WIC participants: Women participants with singleton pregnancies and breastfeeding women whose partially (mostly) breastfed infants receive formula from the WIC Program in amounts that do not exceed the maximum formula allowances as appropriate for the age of the infant as described in Table 1 of paragraph (e)(9) of this section.

[3] This food package is issued to two categories of WIC participants: Non-breastfeeding postpartum women and breastfeeding postpartum women whose breastfed infants receive more than the maximum infant formula allowances as appropriate for the age of the infant as described in Table 1 of paragraph (e)(9) of this section.

[4] This food package is issued to four categories of WIC participants: Fully breastfeeding women whose infants do not receive formula from the WIC Program; women pregnant with two or more fetuses; women partially (mostly) breastfeeding multiple infants from the same pregnancy, and pregnant women who are also partially (mostly) breastfeeding singleton infants.

[5] Women fully breastfeeding multiple infants from the same pregnancy are prescribed 1.5 times the maximum allowances.

[6] Combinations of single-strength and concentrated juices may be issued provided that the total volume does not exceed the maximum monthly allowance for single-strength juice.

[7] WIC formula means infant formula, exempt infant formula, or WIC-eligible nutritionals.

[8] Powder and ready-to-feed may be substituted at rates that provide comparable nutritive value.

[9] Whole milk is the standard milk for issuance to 1-year-old children (12 through 23 months). Fat-reduced milks may be issued to 1-year old children as determined appropriate by the health care provider per medical documentation. Lowfat (1%) or nonfat milks are the standard milks for issuance for children ≥ 24 months of age and women. Whole milk or reduced fat (2%) milk may be substituted for lowfat (1%) or nonfat milk for children ≥ 24 months of age and women as determined appropriate by the health care provider per medical documentation.

[10] Evaporated milk may be substituted at the rate of 16 fluid ounces of evaporated milk per 32 fluid ounces of fluid milk or a 1:2 fluid ounce substitution ratio. Dry milk may be substituted at an equal reconstituted rate to fluid milk.

[11] For children and women, cheese may be substituted for milk at the rate of 1 pound of cheese per 3 quarts of milk. For children and women in the pregnant, partially breastfeeding and postpartum food packages, no more than 1 pound of cheese may be substituted. For women in the fully breastfeeding food package, no more than 2 pounds of cheese may be substituted for milk. State agencies do not have the option to issue additional amounts of cheese beyond these maximums even with medical documentation. (No more than a total of 4 quarts of milk may be substituted for a combination of cheese, yogurt or tofu for children and women in the pregnant, partially breastfeeding and postpartum food packages. No more than a total of 6 quarts of milk may be substituted for a combination of cheese, yogurt or tofu for women in the fully breastfeeding food package.)

[12] For children and women, yogurt may be substituted for fluid milk at the rate of 1 quart of yogurt per 1 quart of milk; a maximum of 1 quart of milk can be substituted. Additional amounts of yogurt are not authorized. Whole yogurt is the standard yogurt for issuance to 1-year-old children (12 through 23 months). Lowfat or nonfat yogurt may be issued to 1-year-old children (12 months to 23 months) as determined appropriate by the health care provider per medical documentation. Lowfat or nonfat yogurts are the standard yogurt for issuance to children ≥ 24 months of age and women. Whole yogurt may be substituted for lowfat or nonfat yogurt for children ≥ 24 months of age and women as determined appropriate by the health care provider per medical documentation. (No more than a total of 4 quarts of milk may be substituted for a combination of cheese, yogurt or tofu for children and women in the pregnant, partially breastfeeding and postpartum food packages. No more than a total of 6 quarts of milk may be substituted for a combination of cheese, yogurt or tofu for women in the fully breastfeeding food package.)

[13] For children, soy-based beverage and tofu may be substituted for milk as determined appropriate by the health care provider per medical documentation. Soy-based beverage may be substituted for milk on a quart for quart basis up to the total maximum allowance of milk. Tofu may be substituted for milk for children at the rate of 1 pound of tofu per 1 quart of milk. (No more than a total of 4 quarts of milk may be substituted for a combination of cheese, yogurt or tofu for children.) Additional amounts of tofu may be substituted, up to the maximum allowance for fluid milk for children, as determined appropriate by the health care provider per medical documentation.

[14] For women, soy-based beverage may be substituted for milk on a quart for quart basis up to the total maximum monthly allowance of milk. Tofu may be substituted for milk at the rate of 1 pound of tofu per 1 quart of milk. (No more than a total of 4 quarts of milk may be substituted for a combination of cheese, yogurt or tofu for women in the pregnant, partially breastfeeding and postpartum food packages. No more than a total of 6 quarts of milk may be substituted for a combination of cheese, yogurt or tofu for women in the fully breastfeeding food package.) Additional amounts of tofu may be substituted, up to the maximum allowances for fluid milk, as determined appropriate by the health care provider per medical documentation.

[15] 32 dry ounces of infant cereal may be substituted for 36 ounces of breakfast cereal as determined appropriate by the health care provider per medical documentation.

[16] At least one half of the total number of breakfast cereals on the State agency's authorized food list must have whole grain as the primary ingredient and meet labeling requirements for making a health claim as a ''whole grain food with moderate fat content'' as defined in Table 4 of paragraph (e)(12) of this section.

[17] Both fresh fruits and fresh vegetables must be authorized by State agencies. Processed fruits and vegetables, i.e., canned (shelf-stable), frozen, and/or dried fruits and vegetables may also be authorized to offer a wider variety and choice for participants. State agencies may choose to authorize one or more of the following processed fruits and vegetables: canned fruit, canned vegetables, frozen fruit, frozen vegetables, dried fruit, and/or dried vegetables. The cash-value voucher may be redeemed for any eligible fruit and vegetable (refer to Table 4 of paragraph (e)(12) of this section and its footnotes). Except as authorized in paragraph (b)(1)(i) of this section, State agencies may not selectively choose which fruits and vegetables are available to participants. For example, if a State agency chooses to offer dried fruits, it must authorize all WIC-eligible dried fruits.

[18] Children and women whose special dietary needs require the use of pureed foods may receive commercial jarred infant food fruits and vegetables in lieu of the cash-value voucher. Children may receive 128 oz of commercial jarred infant food fruits and vegetables and women may receive 160 oz of commercial jarred infant food fruits and vegetables in lieu of the cash-value voucher. Infant food fruits and vegetables may be substituted for the cash-value voucher as determined appropriate by the health care provider per medical documentation.

[19] The monthly value of the fruit/vegetable cash-value vouchers will be adjusted annually for inflation as described in § 246.16(j).

[20] Whole wheat and/or whole grain bread must be authorized. State agencies have the option to also authorize brown rice, bulgur, oatmeal, whole-grain barley, whole wheat macaroni products, or soft corn or whole wheat tortillas on an equal weight basis.

[21] Canned legumes may be substituted for dry legumes at the rate of 64 oz. (e.g., four 16-oz cans) of canned beans for 1 pound dry beans. In Food Packages V and VII, both beans and peanut butter must be provided. However, when individually tailoring Food Packages V or VII for nutritional reasons (e.g., food allergy, underweight, participant preference), State agencies have the option to authorize the following substitutions: 1 pound dry and 64 oz. canned beans/peas (and no peanut butter); or 2 pounds dry or 128 oz. canned beans/peas (and no peanut butter); or 36 oz. peanut butter (and no beans).

(12) *Minimum requirements and specifications for supplemental foods.* Table 4 describes the minimum requirements and specifications for supplemental foods in all food packages:

TABLE 4—MINIMUM REQUIREMENTS AND SPECIFICATIONS FOR SUPPLEMENTAL FOODS

Categories/foods	Minimum requirements and specifications
WIC FORMULA:	
Infant formula	All authorized infant formulas must: (1) Meet the definition for an infant formula in section 201(z) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(z)) and meet the requirements for an infant formula under section 412 of the Federal Food, Drug and Cosmetic Act, as amended (21 U.S.C. 350a) and the regulations at 21 CFR parts 106 and 107; (2) Be designed for enteral digestion via an oral or tube feeding; (3) Provide at least 10 mg iron per liter (at least 1.5 mg iron/100 kilocalories) at standard dilution; (4) Provide at least 67 kilocalories per 100 milliliters (approximately 20 kilocalories per fluid ounce) at standard dilution. (5) Not require the addition of any ingredients other than water prior to being served in a liquid state.
Exempt infant formula ...	All authorized exempt infant formula must: (1) Meet the definition and requirements for an exempt infant formula under section 412(h) of the Federal Food, Drug, and Cosmetic Act as amended (21 U.S.C. 350a(h)) and the regulations at 21 CFR parts 106 and 107; and (2) Be designed for enteral digestion via an oral or tube feeding.
WIC-eligible nutritionals.[1].	Certain enteral products that are specifically formulated to provide nutritional support for individuals with a qualifying condition, when the use of conventional foods is precluded, restricted, or inadequate. Such WIC-eligible nutritionals must serve the purpose of a food, meal or diet (may be nutritionally complete or incomplete) and provide a source of calories and one or more nutrients; be designed for enteral digestion via an oral or tube feeding; and may not be a conventional food, drug, flavoring, or enzyme.
MILK AND MILK ALTERNATIVES:	

TABLE 4—MINIMUM REQUIREMENTS AND SPECIFICATIONS FOR SUPPLEMENTAL FOODS—Continued

Categories/foods	Minimum requirements and specifications
Cow's milk [2]	Must conform to FDA standard of identity for whole, reduced fat, lowfat, or nonfat milks (21 CFR 131.110). Must be pasteurized. May be flavored or unflavored. May be fluid, shelf-stable, evaporated (21 CFR 131.130), or dry. Dry whole milk must conform to FDA standard of identity (21 CFR 131.147). Nonfat dry milk must conform to FDA standard of identity (21 CFR 131.127). Cultured milks must conform to FDA standard of identity for cultured milk, e.g. cultured buttermilk, kefir cultured milk, acidophilus cultured milk (21 CFR 131.112). Acidified milk must conform to FDA standard of identity for acidified milk, e.g., acidified kefir milk, acidified acidophilus milk or acidified buttermilk (21 CFR 131.111). All reduced fat, lowfat, and nonfat cow's milk types and varieties must contain at least 400 IU of vitamin D per quart (100 IU per cup) and 2000 IU of vitamin A per quart (500 IU per cup).
Goat's milk	Must be pasteurized. May be flavored or unflavored. May be fluid, shelf-stable, evaporated or dry (i.e., powdered). All reduced fat, lowfat, and nonfat goat's milk must contain at least 400 IU of vitamin D per quart (100 IU per cup) and 2000 IU of vitamin A per quart (500 IU per cup).
Cheese	Domestic cheese made from 100 percent pasteurized milk. Must conform to FDA standard of identity (21 CFR part 133); Monterey Jack, Colby, natural Cheddar, Swiss, Brick, Muenster, Provolone, part-skim or whole Mozzarella, pasteurized process American, or blends of any of these cheeses are authorized. Cheeses that are labeled low, free, reduced, less or light in sodium, fat or cholesterol are WIC eligible.
Yogurt (cow's milk)	Yogurt must be pasteurized and conform to FDA standard of identity for whole fat (21 CFR 131.200), lowfat (21 CFR 131.203), or nonfat (21 CFR 131.206); plain or flavored with ≤40 g of total sugars per 1 cup yogurt. Yogurts that are fortified with vitamin A and D and other nutrients may be allowed at the State agency's option. Yogurts sold with accompanying mix-in ingredients such as granola, candy pieces, honey, nuts and similar ingredients are not authorized. Drinkable yogurts are not authorized.
Tofu	Calcium-set tofu prepared with calcium salts (e.g., calcium sulfate). May not contain added fats, sugars, oils, or sodium. Tofu must be calcium-set, i.e., contain calcium salts, but may also contain other coagulants, i.e., magnesium chloride.
Soy-based beverage	Must be fortified to meet the following nutrient levels: 276 mg calcium per cup, 8 g protein per cup, 500 IU vitamin A per cup, 100 IU vitamin D per cup, 24 mg magnesium per cup, 222 mg phosphorus per cup, 349 mg potassium per cup, 0.44 mg riboflavin per cup, and 1.1 mcg vitamin B12 per cup, in accordance with fortification guidelines issued by FDA. May be flavored or unflavored.
JUICE	Must be pasteurized 100% unsweetened fruit juice. Must contain at least 30 mg of vitamin C per 100 mL of juice. Must conform to FDA standard of identity as appropriate (21 CFR part 146) or vegetable juice must conform to FDA standard of identity as appropriate (21 CFR part 156). With the exception of 100% citrus juices, State agencies must verify the vitamin C content of all State-approved juices. Juices that are fortified with other nutrients may be allowed at the State agency's option. Juice may be fresh, from concentrate, frozen, canned, or shelf-stable. Blends of authorized juices are allowed. Vegetable juice may be regular or lower in sodium.
EGGS	Fresh shell domestic hens' eggs or dried eggs mix (must conform to FDA standard of identity in 21 CFR 160.105) or pasteurized liquid whole eggs (must conform to FDA standard of identity in 21 CFR 160.115). Hard boiled eggs, where readily available for purchase in small quantities, may be provided for homeless participants.
BREAKFAST CEREAL (READY-TO-EAT AND INSTANT AND REGULAR HOT CEREALS).	Must contain a minimum of 28 mg iron per 100 g dry cereal. Must contain ≤21.2 g sucrose and other sugars per 100 g dry cereal (≤6 g per dry oz). At least half of the cereals authorized on a State agency's food list must have whole grain as the primary ingredient by weight AND meet labeling requirements for making a health claim as a "whole grain food with moderate fat content".[3]
FRUITS AND VEGETABLES (FRESH AND PROCESSED) [4 5 6 8 9].	Any variety of fresh (as defined by 21 CFR 101.95) whole or cut fruit without added sugars. Any variety of fresh (as defined by 21 CFR 101.95) whole or cut vegetable, except white potatoes, without added sugars, fats, or oils (orange yams and sweet potatoes are allowed). Any variety of canned fruits (must conform to FDA standard of identity as appropriate (21 CFR part 145)); including applesauce, juice pack or water pack without added sugars, fats, oils, or salt (i.e., sodium). The fruit must be listed as the first ingredient. Any variety of frozen fruits without added sugars, fats, oils, or salt (i.e., sodium). Any variety of canned or frozen vegetables, except white potatoes (orange yams and sweet potatoes are allowed); without added sugars, fats, or oils. Vegetable must be listed as the first ingredient. May be regular or lower in sodium. Must conform to FDA standard of identity as appropriate (21 CFR part 155). Any type of dried fruits or dried vegetable, except white potatoes (orange yams and sweet potatoes are allowed); without added sugars, fats, oils, or salt (i.e., sodium). Any type of immature beans, peas, or lentils, fresh or in canned [5] forms. Any type of frozen beans (immature or mature). Beans purchased with the CVV may contain added vegetables and fruits, but may not contain added sugars, fats, oils, or meat as purchased. Canned beans, peas, or lentils may be regular or lower in sodium content. State agencies must allow organic forms of WIC-eligible fruits and vegetables.
WHOLE WHEAT BREAD, WHOLE GRAIN BREAD, AND WHOLE GRAIN OPTIONS:	
Bread	*Whole wheat bread* must conform to FDA standard of identity (21 CFR 136.180). (Includes whole wheat buns and rolls.) "Whole wheat flour" and/or "bromated whole wheat flour" must be the only flours listed in the ingredient list.

TABLE 4—MINIMUM REQUIREMENTS AND SPECIFICATIONS FOR SUPPLEMENTAL FOODS—Continued

Categories/foods	Minimum requirements and specifications
	OR *Whole grain bread* must conform to FDA standard of identity (21 CFR 136.110) (includes whole grain buns and rolls). AND Whole grain must be the primary ingredient by weight in all whole grain bread products. AND Must meet FDA labeling requirements for making a health claim as a ''whole grain food with moderate fat content''.[3]
Whole Grain Options	Brown rice, bulgur, oats, and whole-grain barley without added sugars, fats, oils, or salt (i.e., sodium). May be instant-, quick-, or regular-cooking. Soft corn or whole wheat tortillas. Soft corn tortillas made from ground masa flour (corn flour) using traditional processing methods are WIC-eligible, e.g., whole corn, corn (masa), whole ground corn, corn masa flour, masa harina, and white corn flour. For whole wheat tortillas, ''whole wheat flour'' must be the only flour listed in the ingredient list. Whole wheat macaroni products. Must conform to FDA standard of identity (21 CFR 139.138) and have no added sugars, fats, oils, or salt (i.e., sodium). ''Whole wheat flour'' and/or ''whole durum wheat flour'' must be the only flours listed in the ingredient list. Other shapes and sizes that otherwise meet the FDA standard of identity for whole wheat macaroni (pasta) products (139.138), and have no added sugars, fats, oils, or salt (i.e., sodium), are also authorized (e.g., whole wheat rotini, and whole wheat penne).
FISH (CANNED)[5]	Canned only: Light tuna (must conform to FDA standard of identity (21 CFR 161.190)); Salmon (Pacific salmon must conform to FDA standard of identity (21 CFR 161.170)); Sardines; and Mackerel (N. Atlantic *Scomber scombrus;* Chub Pacific *Scomber japonicas;* Jack Mackerel[10] May be packed in water or oil. Pack may include bones or skin. Added sauces and flavorings, e.g., tomato sauce, mustard, lemon, are authorized at the State agency's option. May be regular or lower in sodium content.
MATURE LEGUMES (DRY BEANS AND PEAS)[7].	Any type of mature dry beans, peas, or lentils in dry-packaged or canned[5] forms. Examples include but are not limited to black beans, black-eyed peas, garbanzo beans (chickpeas), great northern beans, white beans (navy and pea beans), kidney beans, mature lima (''butter beans''), fava and mung beans, pinto beans, soybeans/edamame, split peas, lentils, and refried beans. All categories exclude soups. May not contain added sugars, fats, oils, vegetables, fruits or meat as purchased. Canned legumes may be regular or lower in sodium content.[11] Baked beans may only be provided for participants with limited cooking facilities.[11]
PEANUT BUTTER	Peanut butter and reduced fat peanut butter (must conform to FDA Standard of Identity (21 CFR 164.150)); creamy or chunky, regular or reduced fat, salted or unsalted forms are allowed. Peanut butters with added marshmallows, honey, jelly, chocolate or similar ingredients are not authorized.
INFANT FOODS:	
Infant Cereal	Infant cereal must contain a minimum of 45 mg of iron per 100 g of dry cereal.[12]
Infant Fruits	Any variety of single ingredient commercial infant food fruit without added sugars, starches, or salt (i.e., sodium). Texture may range from strained through diced. The fruit must be listed as the first ingredient.[13]
Infant Vegetables	Any variety of single ingredient commercial infant food vegetables without added sugars, starches, or salt (i.e., sodium). Texture may range from strained through diced. The vegetable must be listed as the first ingredient.[14]
Infant Meat	Any variety of commercial infant food meat or poultry, as a single major ingredient, with added broth or gravy. Added sugars or salt (i.e. sodium) are not allowed. Texture may range from pureed through diced.[15]

Table 4 Footnotes: FDA = Food and Drug Administration of the U.S. Department of Health and Human Services.

[1] The following are not considered a WIC-eligible nutritional: Formulas used solely for the purpose of enhancing nutrient intake, managing body weight, addressing picky eaters or used for a condition other than a qualifying condition (e.g., vitamin pills, weight control products, etc.); medicines or drugs, as defined by the Food, Drug and Cosmetic Act (21 U.S.C. 350a) as amended; enzymes, herbs, or botanicals; oral rehydration fluids or electrolyte solutions; flavoring or thickening agents; and feeding utensils or devices (e.g., feeding tubes, bags, pumps) designed to administer a WIC-eligible formula.

[2] All authorized milks must conform to FDA standards of identity for milks as defined by 21 CFR part 131 and meet WIC's requirements for vitamin fortification as specified in Table 4 of paragraph (e)(12) of this section. Additional authorized milks include, but are not limited to: calcium-fortified, lactose-reduced and lactose-free, organic and UHT pasteurized milks. Other milks are permitted at the State agency's discretion provided that the State agency determines that the milk meets the minimum requirements for authorized milk.

[3] FDA *Health Claim Notification for Whole Grain Foods with Moderate Fat Content* at *http://www.fda.gov/food/ingredientspackaginglabeling/labelingnutrition/ucm073634.htm*

[4] Processed refers to frozen, canned,[5] or dried.

[5] ''Canned'' refers to processed food items in cans or other shelf-stable containers, e.g., jars, pouches.

[6] The following are not authorized: herbs and spices; creamed vegetables or vegetables with added sauces; mixed vegetables containing noodles, nuts or sauce packets, vegetable-grain (pasta or rice) mixtures; fruit-nut mixtures; breaded vegetables; fruits and vegetables for purchase on salad bars; peanuts or other nuts; ornamental and decorative fruits and vegetables such as chili peppers on a string; garlic on a string; gourds; painted pumpkins; fruit baskets and party vegetable trays; decorative blossoms and flowers, and foods containing fruits such as blueberry muffins and other baked goods. Home-canned and home-preserved fruits and vegetables are not authorized.

[7] Mature legumes in dry-packed or canned forms may be purchased with the WIC food instrument only. Immature varieties of fresh or canned beans and frozen beans of any type (immature or mature) may be purchased with the cash-value voucher only. Juices are provided as separate food WIC categories and are not authorized under the fruit and vegetable category.

[8] Excludes white potatoes, mixed vegetables containing white potatoes, dried white potatoes; catsup or other condiments; pickled vegetables; olives; soups; juices; and fruit leathers and fruit roll-ups. Canned tomato sauce, tomato paste, salsa and spaghetti sauce without added sugar, fats, or oils are authorized.

[9] State agencies have the option to allow only lower sodium canned vegetables for purchase with the cash-value voucher.

[10] FDA defines jack mackerel as any of the following six species: Trachurus declivis, trachurus japonicas, trachurur symmetricus, trachurus murphyi, trachurus novaezelandiae, and trachurus lathami in The Seafood List at *http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Seafood/ucm113260.htm*. King mackerel is not authorized.

[11] The following are not authorized in the mature legume category: soups; immature varieties of legumes, such as those used in canned green peas, green beans, snap beans, yellow beans, and wax beans; baked beans with meat, e.g., beans and franks; and beans containing added sugars (with the exception of baked beans), fats, oils, meats, fruits or vegetables.

[12] Infant cereals containing infant formula, milk, fruit, or other non-cereal ingredients are not allowed.

[13] Mixtures with cereal or infant food desserts (e.g., peach cobbler) are not authorized; however, combinations of single ingredients (e.g., apple-banana) and combinations of single ingredients of fruits and/or vegetables (e.g., apples and squash) are allowed.

[14] Combinations of single ingredients (e.g., peas and carrots) and combinations of single ingredients of fruits and/or vegetables (e.g., apples and squash) are allowed. Mixed vegetables with white potato as an ingredient (e.g., mixed vegetables) are authorized. Infant foods containing white potatoes as the primary ingredient are not authorized.

[15] No infant food combinations (e.g., meat and vegetables) or dinners (e.g., spaghetti and meatballs) are allowed.

■ 5. In § 246.12:
■ a. Remove the phrase ''WIC-eligible medical foods'' and add in its place ''WIC-eligible nutritionals'' wherever it appears;
■ b. Amend paragraph (a)(1) by removing the words ''and farmers'' after ''vendors'' in the second sentence and adding in their place the phrase '', farmers and farmers' markets,'';
■ c. Amend paragraphs (f)(2)(ii) and (f)(2)(iv) by removing the word ''vouchermay'' and adding in its place the words ''voucher may'' whenever it appears in these paragraphs;
■ d. Add a new paragraph (f)(4);
■ e. Amend paragraph (g)(3)(i) by removing the words ''varieties of'' in both places that it appears in the second sentence and adding in their place the word ''different'';
■ f. Amend paragraph (h)(3)(i) by removing the word ''vouchersonly'' and adding in its place the words ''vouchers only'';
■ g. Amend paragraph (h)(3)(vii) by adding the words '', or cash-value vouchers'' after the word ''instruments'';
■ h. Revise the heading and the first two sentences of paragraph (h)(3)(viii);
■ i. Amend paragraph (h)(3)(x) by removing the last sentence of the paragraph;
■ j. Redesignate paragraphs (h)(3)(xi) through (h)(3)(xxv) as paragraphs (h)(3)(xii) through (h)(3)(xxvi) and add a new paragraph (h)(3)(xi);
■ k. Amend paragraph (l)(1)(ii)(A) by adding the words '', or cash-value vouchers,'' after the word ''instruments'';
■ l. Revise paragraph (o);
■ m. Amend paragraphs (r)(3) and (t) by adding the phrase '', farmers' markets,'' after the word ''farmer'';
■ n. Amend paragraph (u)(5) by adding the words '', farmers, farmers' markets,'' after the word ''contractors'';
■ o. Revise the heading and introductory text of paragraph (v);
■ p. Amend paragraph (v)(1) by adding the words ''or farmers' market'' after the word ''farmer'';
■ q. Revise paragraph (v)(1)(iv);
■ r. Amend paragraphs (v)(2) through (v)(6) by adding the words ''or farmers' market'' after the word ''farmer'' wherever it occurs;
■ s. Revise paragraph (v)(3);
■ t. Redesignate paragraphs (v)(4) through (v)(6) as paragraphs (v)(5) through (v)(7), and add a new paragraph (v)(4); and
■ u. Add a new paragraph (v)(8).

The revisions and additions read as follows:

§ 246.12 Food delivery systems.

* * * * *

(f) * * *

(4) *Split tender transactions.* The State agency must implement procedures that allow the participant, authorized representative or proxy to pay the difference when a fruit and vegetable purchase exceeds the value of the cash-value vouchers.

* * * * *

(h) * * *

(3) * * *

(viii) *Food instrument and cash-value voucher redemption.* The vendor must submit food instruments and cash-value vouchers for redemption in accordance with the redemption procedures described in the vendor agreement. The vendor may redeem a food instrument or cash-value voucher only within the specified time period. * * *

(xi) *Split tender for cash-value vouchers.* The vendor must allow the participant, authorized representative or proxy to pay the difference when a fruit and vegetable purchase exceeds the value of the cash-value vouchers (also known as a split tender transaction).

* * * * *

(o) *Participant parent/caretaker, proxy, vendor, farmer, farmers' market, and home food delivery contractor complaints.* The State agency must have procedures to document the handling of complaints by participants, parents or caretakers of infant or child participants, proxies, vendors, farmers, farmers' markets, home food delivery contractors, and direct distribution contractors. Complaints of civil rights discrimination must be handled in accordance with § 246.8(b).

* * * * *

(v) *Farmers and farmers' markets.* The State agency may authorize farmers, farmers' markets, and/or roadside stands to accept the cash-value voucher for eligible fruits and vegetables. The State agency must enter into written agreements with all authorized farmers and/or farmers' markets. The agreement must be signed by a representative who has legal authority to obligate the farmer or farmers' market and a representative of the State agency. The agreement must be for a period not to exceed 3 years. Only farmers or farmers' markets authorized by the State agency may redeem the fruit and vegetable cash-value voucher. The State agency must require farmers or farmers' markets to reapply at the expiration of their agreements and must provide farmers or farmers markets with not less than 15 days advance written notice of the expiration of the agreement.

* * * * *

(1) * * *

(iv) Redeem the cash-value voucher in accordance with a procedure established by the State agency. Such procedure must include a requirement for the farmer or farmers' market to allow the participant, authorized representative or proxy to pay the difference when the purchase of fruits and vegetables exceeds the value of the cash-value vouchers (also known as a split tender transaction);

* * * * *

(3) Neither the State agency nor the farmer or farmers' market has an obligation to renew the agreement. The State agency, the farmer, or farmers' market may terminate the agreement for cause after providing advance written notification.

(4) *Farmer agreements for State agencies that do not authorize farmers.* Those State agencies which authorize farmers' markets but not individual farmers shall require authorized farmers' markets to enter into a written agreement with each farmer within the market that is authorized to accept cash-value vouchers. The State agency shall set forth the required terms for the written agreement as defined in § 246.12(v)(1) and (v)(2), and provide a sample agreement for use by the farmers' market.

* * * * *

(8) *Monitoring farmers and farmers' markets.*—(i) The State agency must design and implement a system for monitoring its authorized farmers and farmers' markets for compliance with

program requirements. The State agency must document, at a minimum, the following information for all monitoring visits: name(s) of the farmer, farmers market, or roadside stand; name(s) and signature(s) of the reviewer(s); date of review; and nature of problem(s) detected.

(ii) *Compliance buys.* For compliance buys, the State agency must also document:

(A) The date of the buy;

(B) A description of the farmer (and farmers' market, as appropriate) involved in each transaction;

(C) The types and quantities of items purchased, current retail prices or prices charged other customers, and price charged for each item purchased, if available. Price information may be obtained prior to, during, or subsequent to the compliance buy; and

(D) The final disposition of all items as destroyed, donated, provided to other authorities, or kept as evidence.

■ 6. In § 246.16, revise paragraph (j)(2) to read as follows:

§ 246.16 Distribution of funds.

* * * * *

(j) * * *

(2) *Base value of the fruit and vegetable voucher.* The base year for calculation of the value of the fruit and vegetable voucher is fiscal year 2008. The base value to be used equals:

(i) $8 for children; and

(ii) $10 for women.

* * * * *

■ 7. In § 246.18:

■ a. Revise paragraph (a)(4);

■ b. Amend paragraphs (b), (d), (e), and (f) by adding the phrase ''or farmers' market'' after the word ''farmer'' whenever it appears;

■ c. Revise the first sentence in paragraph (b)(9);

■ d. Amend paragraph (c) introductory text by adding the phrase '', farmer, or farmers' market'' after the word ''vendor'' in the last sentence; and

■ e. Revise paragraph (c)(2);

The revisions and additions read as follows:

§ 246.18 Administrative review of State agency actions.

(a) * * *

(4) *Farmer or farmers' market appeals.*—(i) *Adverse actions.* The State agency shall provide a hearing procedure whereby farmers or farmers' markets adversely affected by certain actions of the State agency may appeal those actions. A farmer or farmers' market may appeal an action of the State agency denying its application to participate, imposing a sanction, or disqualifying it from participation in the program. Expiration of an agreement is not subject to appeal.

(ii) *Effective date of adverse actions against farmers or farmers' markets.* The State agency must make denials of authorization and disqualifications effective on the date of receipt of the notice of adverse action. The State agency must make all other adverse actions effective no earlier than 15 days after the date of the notice of the adverse action and no later than 90 days after the date of the notice of adverse action or, in the case of an adverse action that is subject to administrative review, no later than the date the farmer receives the review decision. The State agency must make all other adverse actions effective no earlier than 15 days after the date of the notice of adverse action and no later than 90 days after the date of the notice of adverse action or, in the case of an adverse action that is subject to an administrative review, no later than the date the farmer or farmers' market receives the review decision.

(b) * * *

(9) Written notification of the review decision, including the basis for the decision, within 90 days from the date of receipt of the request for an administrative review from a vendor, farmer, or farmer's market, and within 60 days from the date of receipt of a local agency's request for an administrative review. * * *

(c) * * *

(2) A decision-maker who is someone other than the person who rendered the initial decision on the action and whose determination is based solely on whether the State agency has correctly applied Federal and State statutes, regulations, policies, and procedures governing the Program, according to the information provided to the vendor, farmer, or farmers' market concerning the cause(s) for the adverse action and the response from the vendor, farmer, or farmers' market.

* * * * *

■ 8. In § 246.23:

■ a. Amend paragraph (a)(1) by removing the words ''or food instruments'' and by adding in its place the phrase ''food instruments, or cash-value vouchers''; and

■ b. Revise paragraph (a)(2).

The revisions read as follows:

§ 246.23 Claims and penalties.

(a) * * *

(2) If FNS determines that any part of the Program funds received by a State agency; or supplemental foods, either purchased or donated commodities; or food instruments or cash-value vouchers, were lost as a result of thefts, embezzlements, or unexplained causes, the State agency shall, on demand by FNS, pay to FNS a sum equal to the amount of the money or the value of the supplemental foods, food instruments, or cash-value vouchers so lost.

* * * * *

Dated: February 20, 2014.

Janey Thornton,

Acting Under Secretary, Food, Nutrition, and Consumer Services.

[FR Doc. 2014–04105 Filed 2–28–14; 8:45 am]

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Part III

Department of Energy

10 CFR Part 431
Energy Conservation Program: Energy Conservation Standards for Commercial Clothes Washers; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket No. EERE–2012–STD–0020]

RIN 1904–AC77

Energy Conservation Program: Energy Conservation Standards for Commercial Clothes Washers

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of proposed rulemaking (NOPR) and public meeting.

SUMMARY: The Energy Policy and Conservation Act of 1975 (EPCA), as amended, prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including commercial clothes washers. EPCA also requires the U.S. Department of Energy (DOE) to determine whether amended standards would be technologically feasible and economically justified, and would save a significant amount of energy. In this notice, DOE proposes to amend the energy conservation standards for commercial clothes washers. The notice also announces a public meeting to receive comment on these proposed standards and associated analyses and results.

DATES: DOE will hold a public meeting on Monday, April 21, 2014 from 9 a.m. to 4 p.m., in Washington, DC. The meeting will also be broadcast as a webinar. See section VII Public Participation for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

DOE will accept comments, data, and information regarding this notice of proposed rulemaking (NOPR) before and after the public meeting, but no later than May 5, 2014. See section VII Public Participation for details.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E–086, 1000 Independence Avenue SW., Washington, DC 20585. To attend, please notify Ms. Brenda Edwards at (202) 586–2945. Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures. Any foreign national wishing to participate in the meeting should advise DOE as soon as possible by contacting Ms. Edwards to initiate the necessary procedures. Please also note that those wishing to bring laptops into the Forrestal Building will be required to obtain a property pass. Visitors should avoid bringing laptops, or allow an extra 45 minutes. Persons can attend the public meeting via webinar. For more information, refer to the Public Participation section near the end of this notice.

Any comments submitted must identify the NOPR for Energy Conservation Standards for commercial clothes washers, and provide docket number EERE–2012–STD–0020 and/or regulatory information number (RIN) number 1904–AC77. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email: CommClothesWashers-2012-STD-0020@ee.doe.gov.* Include the docket number and/or RIN in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a CD. It is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to Office of Energy Efficiency and Renewable Energy through the methods listed above and by email to *Chad_S_Whiteman@omb.eop.gov.*

For detailed instructions on submitting comments and additional information on the rulemaking process, see section VII of this document (Public Participation).

Docket: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at regulations.gov. The docket for this rulemaking can be accessed by searching for the docket at *http://www.regulations.gov/#!docketDetail;D=EERE-2012-BT-STD-0020* and/or Docket No. EERE–2012–BT–STD–0020 at the regulations.gov Web site. All documents in the docket are listed in the regulations.gov index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available. The regulations.gov Web page contains simple instructions on how to access all documents, including public comments, in the docket.

For further information on how to submit a comment, review other public comments and the docket, or participate in the public meeting, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT:

Mr. John Cymbalsky, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202)–586–2192. Email: *commercial_clothes_washers@ee.doe.gov.*

Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, Mailstop GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–7796. Email: *Elizabeth.Kohl@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Summary of the Proposed Rule

Title III of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6291, et seq; ''EPCA''), Public Law 94–163, sets forth a variety of provisions designed to improve energy efficiency. (All references to EPCA refer to the statute as amended through the American Energy Manufacturing Technical Corrections Act (AEMTCA), Public Law 112–210 (Dec. 18, 2012)). Part C of title III, which for editorial reasons was re-designated as Part A–1 upon incorporation into the U.S. Code (42 U.S.C. 6311–6317, as codified), establishes the ''Energy Conservation Program for Certain Industrial Equipment.'' These include commercial clothes washers (CCW), the subject of today's notice. (42 U.S.C. 6311(1)(H)).

Pursuant to EPCA, any new or amended energy conservation standard must be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A) and 6316(a)). Furthermore, the new or amended standard must result in a significant conservation of energy. (42 U.S.C. 6295(o)(3)(B) and 6316(a)). In accordance with these and other statutory provisions discussed in this notice, DOE proposes amended energy conservation standards for commercial clothes washers. The proposed standards, which are expressed for each product class in terms of a minimum modified energy factor (MEF_{J2}) [1] and a maximum integrated water factor (IWF), are shown in Table I.1. These proposed standards, if adopted, would apply to all products listed in Table I.1 and manufactured in, or imported into, the United States on or after the date three years after the publication of the final rule for this rulemaking.

TABLE I.1—PROPOSED ENERGY CONSERVATION STANDARDS FOR COMMERCIAL CLOTHES WASHERS

Product class	Minimum MEF_{J2}*	Maximum IWF†
Top-Loading	1.35	8.8
Front-Loading	2.00	4.1

* MEF_{J2} (appendix J2 modified energy factor) is calculated as the clothes container capacity in cubic feet divided by the sum, expressed in kilowatt-hours (kWh), of: (1) the total weighted per-cycle hot water energy consumption; (2) the total weighted per-cycle machine electrical energy consumption; and (3) the per-cycle energy consumption for removing moisture from a test load.

† IWF (integrated water factor) is calculated as the sum, expressed in gallons per cycle, of the total weighted per-cycle water consumption for all wash cycles divided by the clothes container capacity in cubic feet.

A. Benefits and Costs to Consumers

Table I.2 presents DOE's evaluation of the economic impacts of the proposed standards on consumers of commercial clothes washers, as measured by the average life-cycle cost (LCC) savings and the median payback period. The average LCC savings are positive for all product classes for which consumers are impacted by the proposed standards. The PBPs reflect the very small incremental cost necessary to achieve the proposed standards.

[1] DOE proposes to use the ''MEF_{J2}'' metric to distinguish these new standards from the MEF metric on which the current energy conservation standards are based. MEF is calculated according to the test procedures at 10 CFR part 430, subpart B, appendix J1; whereas MEF_{J2} is defined in 10 CFR 431.154(b)(1) and is equivalent to the MEF calculation in 10 CFR part 430, subpart B, appendix J2. See Section III.C for a comparison of the current standards, measured using appendix J1, with these proposed standards measured using the same appendix. The proposed standards comply with 42 U.S.C. 6295(o)(1).

TABLE I.2—IMPACTS OF PROPOSED STANDARDS ON CONSUMERS OF COMMERCIAL CLOTHES WASHERS: MULTI-FAMILY APPLICATION

Product class	Average LCC savings (2012$)	Median payback period (years)
Front-Loading ...	$285	0.02
Top-Loading	$259	0.00

TABLE I.3—IMPACTS OF PROPOSED STANDARDS ON CONSUMERS OF COMMERCIAL CLOTHES WASHERS: LAUNDROMAT APPLICATION

Product class	Average LCC savings (2012$)	Median payback period (years)
Front-Loading ...	$235	0.01
Top-Loading	$145	0.00

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 (2014 to 2047). Using a real discount rate of 8.6 percent, DOE estimates that the industry net present value (INPV) for manufacturers of commercial clothes washers is $124.2 million in 2012$. Under the proposed standards, DOE expects that manufacturers may lose up to 4.9 percent of their INPV, which is approximately $6.0 million in 2012$. Additionally, based on DOE's interviews with the manufacturers of commercial clothes washers, DOE does not expect any plant closings or significant loss of employment as a result of today's standards.

C. National Benefits [2]

DOE's analyses indicate that the proposed standards would save a significant amount of energy. The lifetime savings for front-loading and top-loading commercial clothes washers purchased in the 30-year period that begins in the year of compliance with amended standards (2018–2047) amount to 0.11 quads. This is equivalent to 0.6% percent of total U.S. commercial energy use in 2012.

The cumulative net present value (NPV) of total consumer costs and savings of the proposed standards for front-loading and top-loading commercial clothes washers ranges from $405 million (at a 7-percent discount rate) to $938 million (at a 3-percent discount rate). This NPV expresses the estimated total value of future operating-cost savings minus the estimated increased product costs for products purchased in 2018–2047.

In addition, the proposed standards would have significant environmental benefits. The energy savings would result in cumulative emission reductions of 5.9 million metric tons (Mt)[3] of carbon dioxide (CO_2), 50.1 thousand tons of methane, 4.4 thousand tons of sulfur dioxide (SO_2), 9.1 thousand tons of nitrogen oxides (NO_X) and 0.01 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.M. Using discount rates appropriate for each set of SCC values, DOE estimates the present monetary value of the CO_2 emissions reduction is between $0.04 billion and $0.56 billion. DOE also estimates the present monetary value of the NO_X emissions reduction, is $4.9 million at a 7-percent discount rate and $11.4 million at a 3-percent discount rate.[5]

Table I.4 summarizes the national economic costs and benefits expected to result from the proposed standards for commercial clothes washers.

TABLE I.4—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF PROPOSED ENERGY CONSERVATION STANDARDS FOR FRONT-LOADING AND TOP-LOADING CCW *

Category	Present value *billion 2012$*	Discount rate (percent)
Benefits		
Operating Cost Savings	0.405	7
	0.938	3
CO_2 Reduction Monetized Value ($11.8/t case) **	0.04	5
CO_2 Reduction Monetized Value ($39.7/t case) **	0.18	3
CO_2 Reduction Monetized Value ($61.2/t case) **	0.29	2.5
CO_2 Reduction Monetized Value ($117/t case) **	0.56	3
NO_X Reduction Monetized Value (at $2,639/ton) **	0.0049	7
	0.0114	3
Total benefits †	0.59	7
	1.13	3
Costs		
Incremental Installed Costs	0.0	7
	0.0	3
Total Net Benefits		
Including Emissions Reduction Monetized Value†	0.59	7
	1.13	3

* This table presents the costs and benefits associated with front-loading and top-loading CCW units shipped in 2018–2047. These results include benefits to consumers which accrue after 2047 from the products purchased in 2018–2047. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule.

[2] All monetary values in this section are expressed in 2012 dollars and are discounted to 2013.

[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) 2013 Reference case, which generally represents current legislation and environmental regulations for which implementing regulations were available as of December 31, 2012.

[5] DOE is currently investigating valuation of avoided Hg and SO_2 emissions.

** The CO_2 values represent global monetized values of the SCC, in 2012$, in 2018 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series used by DOE incorporate an escalation factor. The value for NO_X is the average of the low and high values used in DOE's analysis.

† Total Benefits for both the 3% and 7% cases are derived using the series corresponding to average SCC with 3-percent discount rate.

The benefits and costs of today's proposed standards, for products sold in 2018–2047, can also be expressed in terms of annualized values. The annualized monetary values are the sum of (1) the annualized national economic value of the benefits from consumer operation of products that meet the proposed standards (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), and (2) the annualized monetary value of the benefits of emission reductions, including CO_2 emission reductions.[6]

Although combining the values of operating savings and CO_2 emission reductions provides a useful perspective, two issues should be considered. First, the national operating 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 commercial clothes washers shipped in 2018–2047. The SCC values, on the other hand, reflect the present value of some future climate-related impacts resulting from the emission of one ton of carbon dioxide in each year. These impacts continue well beyond 2100.

Estimates of annualized benefits and costs of the proposed standards are shown in Table I.5. The results under the primary estimate are as follows. Using a 7-percent discount rate for benefits and costs other than CO_2 reduction, for which DOE used a 3-percent discount rate along with the average SCC series that uses a 3-percent discount rate, the cost of the standards proposed in today's rule is $0.02 million per year in increased equipment costs, while the benefits are $31 million per year in reduced equipment operating costs, $9 million in CO_2 reductions, and $0.37 million in reduced NO_X emissions. In this case, the net benefit amounts to $40 million per year. Using a 3-percent discount rate for all benefits and costs and the average SCC series, the cost of the standards proposed in today's rule is $0.02 million per year in increased equipment costs, while the benefits are $46 million per year in reduced operating costs, $9 million in CO_2 reductions, and $0.57 million in reduced NO_X emissions. In this case, the net benefit amounts to $56 million per year.

TABLE I.5—ANNUALIZED BENEFITS AND COSTS OF PROPOSED ENERGY CONSERVATION STANDARDS FOR COMMERCIAL CLOTHES WASHERS

	Discount rate	Primary estimate *	Low net benefits estimate *	High net benefits estimate *
		million 2012$/year		
Benefits				
Operating Cost Savings	7%	31	27	38.
	3%	46	40	60.
CO_2 Reduction Monetized Value ($11.8/t case)*	5%	2	2	3.
CO_2 Reduction Monetized Value ($39.7/t case)*	3%	9	8	11.
CO_2 Reduction Monetized Value ($61.2/t case) *	2.5%	13	12	17.
CO_2 Reduction Monetized Value ($117/t case) *	3%	28	25	34.
NO_X Reduction Monetized Value (at $2,639/ton) **	7%	0.37	0.33	0.45.
	3%	0.57	0.51	0.70.
Total Benefits †	7% plus CO_2 range.	33 to 58	29 to 52	42 to 73.
	7%	40	35	50.
	3% plus CO_2 range.	49 to 75	43 to 66	64 to 95.
	3%	56	49	72.
Costs				
Incremental Product Costs	7%	0.02	0.02	0.02
	3%	0.02	0.03	0.02
Net Benefits				
Total†	7% plus CO_2 range.	33 to 58	29 to 52	42 to 73.
	7%	40	35	50.
	3% plus CO_2 range.	49 to 75	43 to 66	64 to 95.

[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 three and seven 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.4. From the present value, DOE then calculated the fixed annual payment over a 30-year period (2018 through 2047) 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.5—ANNUALIZED BENEFITS AND COSTS OF PROPOSED ENERGY CONSERVATION STANDARDS FOR COMMERCIAL CLOTHES WASHERS—Continued

	Discount rate	Primary estimate *	Low net benefits estimate *	High net benefits estimate *
	3%	56	49	72.

* This table presents the annualized costs and benefits associated with commercial clothes washer equipment shipped in 2018–2047. These results include benefits to consumers which accrue after 2047 from the products purchased in 2018–2047. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule. The Primary, Low Benefits, and High Benefits Estimates utilize projections of energy prices from the AEO2013 Reference case, Low Estimate, and High Estimate, respectively. In addition, incremental product costs reflect a flat rate for projected product price trends in the Primary Estimate, a low decline rate for projected product price trends in the Low Benefits Estimate, and a high decline rate for projected product price trends in the High Benefits Estimate. The methods used to derive projected price trends are explained in section IV.

** The CO_2 values represent global monetized values of the SCC, in 2012$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series used by DOE incorporate an escalation factor. The value for NO_X is the average of the low and high values used in DOE's analysis.

† Total Ben efits for both the 3-percent and 7-percent cases are derived using the series corresponding to average SCC with 3-percent discount rate. In the rows labeled ''7% plus CO_2 range'' and ''3% plus CO_2 range,'' the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

DOE has tentatively concluded that the proposed standards represent the maximum improvement in energy efficiency that is technologically feasible and economically justified, and would result in the significant conservation of energy. DOE further notes that products achieving these standard levels are already commercially available for the product classes covered by today's proposal. Based on the analyses described above, DOE has tentatively concluded that the benefits of the proposed standards to the nation (energy savings, positive NPV of consumer benefits, consumer LCC savings, and emission reductions) would outweigh the burdens (loss of INPV for manufacturers and LCC increases for some consumers).

DOE also considered higher energy efficiency levels as a trial standard level, and is still considering them in this rulemaking. However, DOE has tentatively concluded that the potential burdens of the higher energy efficiency levels would outweigh the projected benefits. Based on consideration of the public comments DOE receives in response to this notice and related information collected and analyzed during the course of this rulemaking effort, DOE may adopt energy efficiency levels presented in this notice that are either higher or lower than the proposed standards, or some combination of level(s) that incorporate the proposed standards in part.

II. Introduction

The following section discusses the statutory authority underlying today's proposal, as well as some of the relevant historical background related to the establishment of standards for commercial clothes washers.

A. Authority

As noted in section I, Title III of EPCA establishes the ''Energy Conservation Program for Certain Industrial Equipment.'' This equipment includes commercial clothes washers, the subject of this rulemaking. (42 U.S.C. 6311(1)(H)).

EPCA established energy conservation standards for commercial clothes washers and directed DOE to conduct two rulemakings to determine whether the established standards should be amended. (42 U.S.C. 6313(e)) DOE published its first final rule amending commercial clothes washer standards on January 8, 2010 (''January 2010 final rule''), which apply to commercial clothes washers manufactured on or after January 8, 2013. The second final rule determining whether standards should be amended must be published by January 1, 2015. Any amended standards would apply to commercial clothes washers manufactured three years after the date on which the final amended standard is published. (42 U.S.C. 6313(e)(2)(B)) This current rulemaking will satisfy the requirement to publish the second final rule by January 1, 2015.

Pursuant to EPCA, DOE's energy conservation program for covered products consists essentially of four parts: (1) Testing; (2) labeling; (3) the establishment of Federal energy conservation standards; and (4) certification and enforcement procedures. 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. 6314(a)(2)) 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. 6314(d)) Similarly, DOE must use these test procedures to determine whether the products comply with standards adopted pursuant to EPCA.

The DOE test procedures for commercial clothes washers is codified at title 10 of the Code of Federal Regulations (CFR) part 430, subpart B, appendix J1 (hereafter, ''appendix J1''). On March 7, 2012, DOE published a final rule amending its test procedures for clothes washers (''March 2012 final rule''). (77 FR 13888) The March 2012 final rule included minor amendments to appendix J1 and also established a new test procedure at appendix J2 (hereafter, ''appendix J2''). Beginning March 7, 2015, manufacturers of commercial clothes washers may use either appendix J1 or appendix J2 to demonstrate compliance with the current standards established by the January 2010 final rule. Manufacturers using appendix J2 would be required to use conversion equations to translate the measured efficiency metrics into equivalent appendix J1 values, as proposed in a separate commercial clothes washer test procedure NOPR published February 11, 2014. (79 FR 8112) [7] The use of appendix J2 would be required to demonstrate compliance with any amended energy conservation standards established as a result of this rulemaking, and the conversion

[7] Additional details regarding the commercial clothes washer test procedure NOPR are available at DOE's rulemaking Web page: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx?ruleid=86*. All rulemaking documents are also available at *www.regulations.gov*, under Docket # EERE–2013–BT–TP–0002.

equations would no longer be used at that time.

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) and 6316(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) and 6316(a)) Moreover, DOE may not prescribe a standard: (1) for certain products, including commercial clothes washers, if no test procedure has been established for the product, or (2) if DOE determines by rule that the proposed standard is not technologically feasible or economically justified. (42 U.S.C. 6295(o)(3)(A)–(B) and 6316(a)) In deciding whether a proposed standard is economically justified, DOE must determine whether the benefits of the standard exceed its burdens. (42 U.S.C. 6295(o)(2)(B)(i) and 6316(a)) 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) and 6316(a))

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) and 6316(a)) 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) and 6316(a))

Further, EPCA, as codified, establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure. (42 U.S.C. 6295(o)(2)(B)(iii) and 6316(a)). DOE conducts the analysis required by 6295(o) to determine economic justification and confirm the results of the rebuttable presumption analysis.

Additionally, EPCA 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) and 6316(a)). In determining whether a performance-related feature justifies a different standard for a group of products, DOE must consider such factors as the utility to the consumer of the feature and other factors DOE deems appropriate. 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) and 6316(a)).

Federal energy conservation requirements generally supersede State laws or regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a)–(c) and 6316(a)) 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) and 6316(a)).

B. Background

1. Current Standards

In a final rule published on January 8, 2010 (''January 2010 final rule''), DOE prescribed the current energy conservation standards for commercial clothes washers manufactured on or after January 8, 2013. The current standards are set forth in Table II.1.

TABLE II.1—CURRENT FEDERAL ENERGY EFFICIENCY STANDARDS FOR COMMERCIAL CLOTHES WASHERS

Product class	Minimum MEF* *cu.ft/kWh/cycle*	Maximum WF† *gal/cu.ft./cycle*
Top-Loading	1.60	8.5
Front-Loading	2.00	5.5

*MEF (appendix J1 modified energy factor) is calculated as the clothes container capacity in cubic feet divided by the sum, expressed in kilowatt-hours (kWh), of: (1) The total weighted per-cycle hot water energy consumption; (2) the total weighted per-cycle machine electrical energy consumption; and (3) the per-cycle energy consumption for removing moisture from a test load.

†WF (water factor) is calculated as the weighted per-cycle water consumption for the cold wash/cold rinse cycle, expressed in gallons per cycle, divided by the clothes container capacity in cubic feet.

2. History of Standards Rulemaking for Commercial Clothes Washers

As described in Section II.A, EPCA established energy conservation standards for commercial clothes washers and directed DOE to conduct two rulemakings to determine whether the established standards should be amended. (42 U.S.C. 6313(e)) DOE published its first final rule amending commercial clothes washer standards on January 8, 2010 (''January 2010 final rule'').

This current rulemaking will satisfy the requirement to publish the second final rule determining whether the standards should be amended by January 1, 2015. DOE published a notice of public meeting and availability of the framework document for this rulemaking, available at *http://www.regulations.gov/#!documentDetail;D=EERE-2012-BT-STD-0020-0001* (''August 2012 notice''). DOE also requested public comment on the document. 77 FR 48108 (August 13, 2012). The framework document is

available at *http://www.regulations.gov/#!documentDetail;D=EERE-2012-BT-STD-0020-0002*. The framework document described the procedural and analytical approaches that DOE anticipated using to evaluate energy conservation standards for commercial clothes washers and identified various issues to resolve during the rulemaking.

On September 24, 2012, DOE held the framework document public meeting and discussed the issues detailed in the framework document. DOE also described the analyses that it planned to conduct during the rulemaking. Through the public meeting, DOE sought feedback from interested parties on these subjects and provided information regarding the rulemaking process that DOE would follow. Interested parties discussed the following major issues at the public meeting: Rulemaking schedule; test procedure revisions; product classes; technology options; efficiency levels; and approaches for each of the analyses performed by DOE as part of the rulemaking process. DOE considered the comments received since publication of the August 2012 notice, including those received at the September 2012 framework public meeting, in developing today's proposed standards for commercial clothes washers.

Following the framework meeting, DOE gathered additional information, held discussions with manufacturers, performed product testing and teardowns, and performed the various analyses described in the framework document, including the engineering, life-cycle cost, payback period, manufacturer impact, and national impact analyses. The results of these analyses are presented in this NOPR.

III. General Discussion

A. General Rulemaking Issues

In the framework document and framework public meeting, DOE discussed using the analyses performed during the previous commercial clothes washer rulemaking in the development of the proposed rule.

The Association of Home Appliances Manufacturers (AHAM) commented that the publishing of the framework document on August 13, 2012 was premature given that the amended standards from the January 2010 final rule would not become mandatory until January 8, 2013. AHAM stated that neither DOE nor stakeholders know what the market will look like once compliance with the new standards is required. AHAM further commented that DOE should issue an advance notice of proposed rulemaking (ANOPR) to seek comments after the new standards effective date of January 8, 2013. AHAM believes doing so would allow stakeholders to meaningfully comment on DOE's proposed analysis prior to the notice of proposed rulemaking. AHAM does not feel it is appropriate for DOE to streamline the rulemaking process by not publishing an ANOPR in this case. (AHAM, No. 6 at pp. 1–3; Whirlpool, No. 7 at p. 1)[8][9] Alliance Laundry Systems (ALS) commented that it understands the EPCA statutory requirements for the timeframe that DOE must follow for this rulemaking, but that this rulemaking is premature in asking for information regarding the market assessment before the January 8, 2013 standards take effect. (ALS, No. 16 at p. 2; ALS, Public Meeting Transcript, No. 12 at p. 41) The National Resources Defense Council and Appliance Standards Awareness Project (NRDC and ASAP) commented that DOE should specify the portions of the 2010 rulemaking analysis that will be reused in the current rulemaking, and to what extent data and methodology will be updated. (NRDC and ASAP, No. 11 at p. 2)

DOE conducted the market and technology assessment, engineering analysis, and manufacturer impact analysis for today's proposal subsequent to the January 8, 2013 effective date of the current commercial clothes washer standards. The information DOE has gathered through product testing, teardowns, and confidential manufacturer interviews since the framework meeting accurately reflect the state of the commercial clothes washer market following the January 2013 product transitions.

B. Product Classes and Scope of Coverage

1. Product Classes

EPCA defines a ''commercial clothes washer'' as a soft-mount front-loading or soft-mount top-loading clothes washer that:

(A) Has a clothes container compartment that:

(i) for horizontal-axis clothes washers, is not more than 3.5 cubic feet; and

(ii) for vertical-axis clothes washers, is not more than 4.0 cubic feet; and

(B) is designed for use in:

(i) applications in which the occupants of more than one household will be using the clothes washer, such as multi-family housing common areas and coin laundries; or

(ii) other commercial applications.

(42 U.S.C. 6311(21))

When evaluating and establishing energy conservation standards, DOE divides covered products into product classes by the type of energy used or by capacity or other performance-related features that justifies a different standard. In making a determination whether a performance-related feature justifies a different standard, DOE must consider such factors as the utility to the consumer of the feature and other factors DOE determines are appropriate. (42 U.S.C. 6295(q) and 6316(a)).

Existing energy conservation standards divide commercial clothes washers into two product classes based on the axis of loading: Top-loading and front-loading. For the reasons explained below, DOE maintained these product class distinctions in the framework document and today's proposal.

AHAM commented that it supports DOE's proposal to retain the two product classes based on the location of access. AHAM agrees that the longer cycle times of front-loading commercial clothes washers versus cycle times for top-loading commercial clothes washers significantly impact consumer utility. (AHAM, No. 6 at p. 4; AHAM, Public Meeting Transcript, No. 12 at p. 46) ALS commented that it also supports continuing with two separate product classes, top-loading and front-loading. (ALS, No. 16 at p. 2)

Pacific Gas and Electric Company, Southern California Gas Company, and San Diego Gas and Electric Company (collectively, the ''California Utilities'') commented that DOE should establish one standard that applies to both top-loading and front-loading commercial clothes washers. The California Utilities believe that the method of loading no longer provides unique utility, and thus should not continue to be treated as a unique ''feature'' warranting separate product classes. Specifically, the California Utilities stated that front-loading clothes washers are now available with cycle times equivalent to top-loading clothes washers, and provided a table listing example cycle times for a selection of top-loading and

[8] A notation in this form provides a reference for information that is in the docket for DOE's rulemaking to develop energy conservation standards for commercial clothes washers (Docket No. EERE–2012–BT–STD–0020), which is maintained at *www.regulations.gov*. This notation indicates that AHAM's statement preceding the reference can be found in document number 6 in the docket, and appears at pages 1–3 of that document.

[9] Whirlpool Corporation submitted a written comment stating that it worked closely with AHAM in the development of AHAM's submitted comments, and that Whirlpool supports and echoes the positions taken by AHAM. Throughout this NOPR, reference to AHAM's written comments (document number 6 in the docket) should be considered reflective of Whirlpool's position as well.

front-loading residential clothes washer models. In addition, the California Utilities believe that even with a single standard, top-loading commercial clothes washers would still be able to meet such a standard using technologically feasible design considerations. The submitted comment includes a table comparing the top-loading efficiency levels considered by DOE during the most recent energy conservation standards rulemaking for residential clothes washers to the front-loading efficiency levels proposed for consideration in this rulemaking. Furthermore, the California Utilities believe that the technologies, design, and operating characteristics of the residential clothes washer market are transferrable to the commercial clothes washer market. They believe that the split incentive between the purchaser of the equipment (e.g., route operator) and those paying the utility bill (e.g., coin-operated laundry owner) creates a split incentive that has created a barrier for motivating the manufacture and sale of higher-efficiency top-loaders, and that a single standard would correct this market inefficiency. (California Utilities, No. 8 at pp. 2–3)

NEEA commented that DOE should reconsider defining a single product class for commercial clothes washers. NEEA stated that in the current market, cycle times are similar for both top-loading and front-loading clothes washers, and as a result, cycle time is no longer a unique utility associated with one method of loading. NEEA also stated that technology to improve the efficiency of top-loading clothes washers has advanced. (NEEA, No. 10 p. 1)

NRDC and ASAP commented that DOE should reconsider the division of commercial clothes washers into separate product classes for top-loading and front-loading machines. NRDC stated that the prior determination of cycle times was based largely on a *Consumer Reports* article on residential clothes washers that contrasted cycle times of 50 to 115 minutes for front-loading clothes washers to 30–85 minutes for top-loading clothes washers. NRDC and ASAP stated that commercial clothes washer manufacturers now offer cycle times on front-loading machines comparable to cycle times on top-loading machines, and provided examples from multiple commercial clothes washer manufacturers. NRDC and ASAP believe that the similarity in cycle times obviates the need for separate product classes. (NRDC and ASAP, No. 11 at pp. 2–3; NRDC, Public Meeting Transcript, No. 12 at pp. 44–46).

In response to these comments, DOE notes that in prior rulemakings for residential clothes washers, DOE has concluded that the axis of loading represents a distinct consumer utility-related feature, and, consequently, established separate product classes for top-loading and front-loading residential clothes washers. 56 FR 22263 (May 14, 1991) and 77 FR 32319 (May 31, 2012). DOE has concluded that the same justification applies to commercial clothes washers.

As noted by commenters, DOE also determined during the previous energy conservation standards rulemaking for commercial clothes washers that the longer cycle times of front-loading commercial clothes washers versus top-loading clothes washers was likely to significantly impact consumer utility and thereby constituted a performance-related utility under the meaning of 42 U.S.C. 6295(q), which warranted separate product classes. 75 FR 1122, 1130–34. As part of the engineering analysis conducted for the current rulemaking, DOE measured total cycle times on a representative sample of top-loading and front-loading commercial clothes washers during appendix J2 testing, as described fully in chapter 5 of the TSD. Top-loading cycle times for the maximum load size ranged from 29–31 minutes, with an average of 30 minutes.[10] Front-loading cycle times for the maximum load size ranged from 30–37 minutes, with an average of 34 minutes. The longer average cycle time of front-loading machines results in fewer possible ''turns'' per day compared to top-loading machines, which is more significant in a laundromat or multi-family laundry setting for consumers waiting on the machine to finish its cycle, as well as laundromat owners and multi-family laundry route operators looking to maximize daily laundry throughput. Therefore, although the magnitude of the difference in cycle times for CCWs is smaller than for residential clothes washers, DOE has determined that the longer average cycle time of front-loading machines warrants consideration of separate product classes.

In addition, DOE research indicates that the technologies, designs, and operating characteristics of the maximum efficiency top-loading residential clothes washers are not transferrable to commercial clothes washers. The standard level proposed for front-loading commercial clothes washers in this NOPR corresponds closely to the max-tech top-loading level considered by DOE during the residential clothes washer rulemaking. Achieving that level of efficiency in a top-loading machine requires design features such as extra-large capacity, a non-agitator ''impeller'' wash plate, spin speed greater than 1,000 rpm, and water recirculation. With regards to capacity, DOE notes that a larger clothes container capacity is considered a detriment to commercial clothes washer buyers because a larger capacity tub may result in fewer wash cycles performed by the end-user customer. In competitive markets, coin-operated laundries may not be able to sustain higher vend fares to compensate for the lower number of ''turns'' per day. In addition, based on discussions with manufacturers, larger tub capacities encourage the over-loading of machines by end-user customers. Regarding the use of non-agitator impeller wash plates, DOE research indicates that this feature also encourages machine overloading in a coin laundry environment, and that this technology is more susceptible to producing poorer wash performance when overloaded compared to a traditional agitator design. Spin speeds greater than 1,000 rpm and water recirculation are also not features that currently exist in the commercial clothes washer market, and DOE research indicates that these features are unlikely to be suitable for commercial clothes washers because of concerns regarding potential impacts on machine reliability as a result of machine overloading or other extreme usage scenarios experienced in a coin-operated laundry environment. Chapter 3 and 4 of the TSD provide a detailed discussion of design options considered for this rulemaking.

For these reasons, DOE concludes that separate product classes are justified for top-loading and front-loading commercial clothes washers based on the criteria established in EPCA. (42 U.S.C. 6295(o)(4) and (q)(1), 6316(a)). Today's proposal thus maintains separate standards for top-loading and front-loading product classes.

C. Test Procedures

1. Appendix J2

The amended standards proposed in this rulemaking are based on energy and water metrics as measured using appendix J2 of 10 CFR part 430. DOE published a test procedure NOPR on February 11, 2014 (''February 2014 TP NOPR'') proposing to amend its test procedures for commercial clothes washers to add equations for translating MEF and water factor (WF) values as

[10] This excludes one outlier top-loading model with a cycle time of 50 minutes.

measured using appendix J2 into their equivalent values as measured using appendix J1. 79 FR 8112. These translation equations would be codified at 10 CFR 429.46 and would be used when using the appendix J2 test procedure to demonstrate compliance with the current commercial clothes washer standards established by the January 2010 final rule, which were based on MEF and WF as measured using Appendix J1. These crosswalk equations would not be used to demonstrate compliance with the proposed amended standards in today's NOPR because the proposed amended standard levels are based metrics as measured using the appendix J2 test procedure.

Table III.1 shows the equivalent appendix J1 and appendix J2 values for the current energy conservation standards for commercial clothes as set forth at 10 CFR 431.156, and the proposed amended energy conservation standards. As required by section 6295(o) of EPCA, the proposed standards do not increase the maximum allowable energy or water use, or decrease the minimum required energy efficiency, of commercial clothes washers.

TABLE III.1—CURRENT AND PROPOSED ENERGY CONSERVATION STANDARDS FOR COMMERCIAL CLOTHES WASHERS, EQUIVALENT APPENDIX J1 AND J2 VALUES

Product class	Minimum energy standards				Maximum water standards			
	Appendix J1		Appendix J2		Appendix J1		Appendix J2	
	Current MEF *	Proposed MEF *	Current MEF_{J2}*	Proposed MEF_{J2}*	Current WF †	Proposed WF †	Current IWF ‡	Proposed IWF ‡
Top-Loading	1.60	1.70	1.15	1.35	8.5	8.4	8.9	8.8
Front-Loading	2.00	2.40	1.65	2.00	5.5	4.0	5.2	4.1

* MEF (appendix J1 modified energy factor) and MEF_{J2} (appendix J2 modified energy factor) are calculated as the clothes container capacity in cubic feet divided by the sum, expressed in kilowatt-hours (kWh), of: (1) the total weighted per-cycle hot water energy consumption; (2) the total weighted per-cycle machine electrical energy consumption; and (3) the per-cycle energy consumption for removing moisture from a test load.

† WF (water factor) is calculated as the weighted per-cycle water consumption for the cold wash/cold rinse cycle, expressed in gallons per cycle, divided by the clothes container capacity in cubic feet.

‡ IWF (integrated water factor) is calculated as the weighted per-cycle water consumption for all wash cycles, expressed in gallons per cycle, divided by the clothes container capacity in cubic feet.

During the framework meeting and through subsequent written comments, interested parties submitted comments regarding these crosswalk equations and other issues including:

- Dryer energy calculations
- Water heating calculations
- Load size usage factors
- Temperature usage factors

DOE has addressed these comments related to the test procedure in the February 2014 TP NOPR. (79 FR 8112)

2. Energy Metric

The amended energy efficiency standards proposed in this rulemaking are based on the MEF_{J2} metric. In the framework document, DOE stated it would consider establishing amended energy efficiency standards for commercial clothes washers on the IMEF metric, which would incorporate standby and off mode power.

AHAM and ALS commented that they do not oppose new standards for commercial clothes washers based on IMEF; however, DOE should not use the same analysis it used for standby and off mode for residential clothes washers. AHAM and ALS stated that residential and commercial clothes washers have different use patterns, and encouraged DOE to conduct studies on consumer usage to determine the appropriate usage patterns for commercial clothes washers, such as time spent in active mode versus standby mode. AHAM and ALS added that commercial clothes washers are used on a more continuous basis than residential clothes washers, and thus, spend more time in active mode and less time in standby mode compared to residential clothes washers. In addition, AHAM stated that the displays on commercial clothes washers must remain activated longer than residential clothes washer displays so that users know that the commercial machine is available for use. Finally, AHAM suggested that the definition of standby mode should be different for commercial clothes washers than for residential clothes washers. (AHAM, No. 6, at p. 3; AHAM, Public Meeting Transcript, No. 12 at pp. 29–30; ALS, No. 16 at p. 1)

The California Utilities support DOE's proposal to develop new standards that take into account standby and off-mode power, stating that they believe such standards would more accurately reflect the total energy consumed by commercial clothes washers. (California Utilities, No. 8 at p. 2) NRDC and ASAP also support establishing new efficiency standards based on the IMEF metric to capture standby and off-mode power. (NRDC and ASAP, No. 11 at p. 2)

As part of its market assessment and engineering analysis for this rulemaking, DOE evaluated the standby and off mode power characteristics of a representative sample of commercial clothes washer spanning a wide range of display types, payment systems, and communication features. Although interested parties generally supported establishing new energy standards based on the IMEF metric, DOE is not proposing amended standards for commercial clothes washers based on an integrated energy metric in today's rule.

3. Water Metric

The amended water efficiency standards proposed in this rulemaking are based on the IWF metric contained in appendix J2. In the framework document, DOE stated it would consider establishing amended water efficiency standards for commercial clothes washers based on the IWF metric, which incorporates water consumption from all the temperature cycles included as part of the energy test cycle in appendix J2. DOE believes that the IWF metric provides a more representative measure of water consumption than the WF metric.

AHAM and ALS stated that they do not oppose DOE's proposal to establish amended water standards based on the IWF metric. ALS added that they already record all the water used by a commercial clothes washer during their DOE tests. (AHAM, No. 6 at p. 3; ALS, No. 16 at p. 1)

The Northwest Energy Efficiency Alliance (NEEA) and NRDC and ASAP support establishing new water efficiency standards based on the IWF metric to capture water consumption from all temperature cycles to reflect typical usage patterns by consumers.

(NEEA, No. 10 at p. 2; NRDC and ASAP, No. 11 at p. 2)

DOE received no comments objecting to the use of the IWF metric. Therefore, for the reasons stated above, the amended water efficiency standards proposed in this rulemaking are based on the IWF metric.

D. 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 430, subpart C, appendix A, section 4(a)(4)(i). For further details on the technology options DOE considered for this rulemaking, see chapter 3 of the NOPR TSD.

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. Section IV of this notice summarizes the results of DOE's screening analysis, particularly the designs DOE considered, those it screened out, and those that are the basis for the TSLs in this rulemaking. For further details on the screening analysis for this rulemaking, see chapter 4 of the NOPR TSD.

2. Maximum Technologically Feasible Levels

When DOE proposes to adopt an amended standard for a type or class of covered product, it must determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for such product. (42 U.S.C. 6295(p)(1)) Accordingly, in the engineering analysis, DOE determined the maximum technologically feasible (''max-tech'') improvements in energy efficiency for commercial clothes washers using the design parameters for the most efficient products available on the market. The max-tech levels that DOE determined for this rulemaking are described in section IV.C.4 and IV.C.5 of this proposed rule. For further details on the engineering analysis for this rulemaking, see chapter 5 of the NOPR TSD.

E. Energy Savings

1. Determination of Savings

For each TSL, DOE projected energy savings from the products that are the subject of this rulemaking purchased in the 30-year period that begins in the year of compliance with amended standards (2018–2047). The savings are measured over the entire lifetime of products purchased in the 30-year period.[11] 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 efficiency standards, and considers market forces and policies that affect demand for more efficient products.

DOE used its national impact analysis (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 of this notice) calculates energy savings in site energy, which is the energy directly consumed by products at the locations where they are used. For electricity, DOE reports national energy savings in terms of the savings in the energy that is used to generate and transmit the site electricity. To calculate this quantity, DOE derives annual conversion factors from the model used to prepare the Energy Information Administration's (EIA) *Annual Energy Outlook* (*AEO*).

DOE also estimates full-fuel-cycle energy savings in its energy conservation standards rulemakings. 76 FR 51282 (Aug. 18, 2011), as amended at 77 FR 49701 (August 17, 2012). The full-fuel-cycle (FFC) metric includes the energy consumed in extracting, processing, and transporting primary fuels (i.e., coal, natural gas, petroleum fuels), and thus presents a more complete picture of the impacts of energy efficiency standards. DOE's approach is based on calculation of an FFC multiplier for each of the energy types used by covered products. For more information on FFC energy savings, see section IV.H.2.

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) are nontrivial, and, therefore, DOE considers them ''significant'' within the meaning of section 325 of EPCA.

F. 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) and 6316(a)) 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 energy conservation 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 industry net present value (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

[11] In previous rulemakings, 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 modified its presentation of national energy savings consistent with the approach used for its national economic analysis.

regulations and other regulatory requirements on manufacturers.

For individual consumers, measures of economic impact include the changes in LCC and payback period (PBP) associated with new or amended standards. These measures are discussed further in the following section. For consumers in the aggregate, DOE also calculates the national net present value of the economic impacts applicable to a particular rulemaking. DOE also evaluates the LCC impacts of potential standards on identifiable subgroups of consumers that may be affected disproportionately by a national standard.

b. Savings in Operating Costs Compared to Increase in Price

EPCA requires DOE to consider the savings in operating costs throughout the estimated average life of the covered product compared to any increase in the price of the covered product that are likely to result from the imposition of the standard. (42 U.S.C. 6295(o)(2)(B)(i)(II) and 6316(a)) DOE conducts this comparison in its LCC and PBP analysis. The LCC is the sum of the purchase price of a product (including its installation) and the operating expense (including energy, maintenance, and repair expenditures) discounted over the lifetime of the product. To account for uncertainty and variability in specific inputs, such as product lifetime and discount rate, DOE uses a distribution of values, with probabilities attached to each value. For its analysis, DOE assumes that consumers will purchase the covered products in the first year of compliance with amended standards.

The LCC savings and the PBP for the considered efficiency levels are calculated relative to a base case that reflects projected market trends in the absence of amended standards. 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.

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) and 6316(a)) As discussed in section IV, DOE uses the NIA spreadsheet to project national energy savings.

d. Lessening of Utility 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 of the considered products. (42 U.S.C. 6295(o)(2)(B)(i)(IV) and 6316(a)) The standards proposed in today's notice will not reduce the utility of the products under consideration in this rulemaking.

e. Impact of Any Lessening of Competition

EPCA directs DOE to consider the impact of any lessening of competition, as determined in writing by the Attorney General, which is likely to result from the imposition of a standard. (42 U.S.C. 6295(o)(2)(B)(i)(V) It also directs the Attorney General to determine the impact, if any, of any lessening of competition likely to result from a proposed standard and to transmit such determination to the Secretary within 60 days of the publication of a proposed rule, together with an analysis of the nature and extent of the impact. (42 U.S.C. 6295(o)(2)(B)(ii)) DOE will transmit a copy of today's proposed rule to the Attorney General with a request that the Department of Justice (DOJ) provide its determination on this issue. DOE will address the Attorney General's determination in the final rule.

f. Need for National Energy Conservation

The energy savings from the proposed standards are likely to provide improvements to the security and reliability of the nation's energy system. Reductions in the demand for electricity also may result in reduced costs for maintaining the reliability of the nation's electricity system. DOE conducts a utility impact analysis to estimate how standards may affect the nation's needed power generation capacity.

The proposed 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 section V of this notice. 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)) DOE did not consider any other factors for today's NOPR.

2. Rebuttable Presumption

As set forth in 42 U.S.C. 6295(o)(2)(B)(iii) and 6316(a), EPCA creates a rebuttable presumption that an energy conservation standard is economically justified if the additional cost to the consumer of a product that meets the standard is less than three times the value of the first year's energy savings resulting from the standard, as calculated under the applicable DOE test procedure. DOE's LCC and PBP analyses generate values used to calculate the effects that proposed energy conservation standards would have on the payback period for consumers. These analyses include, but are not limited to, the 3-year payback period contemplated under the rebuttable-presumption test. In addition, DOE routinely conducts an economic analysis that considers the full range of impacts to consumers, manufacturers, the nation, and the environment, as required under 42 U.S.C. 6295(o)(2)(B)(i). The results of this analysis serve as the basis for DOE's evaluation of the economic justification for a potential standard level (thereby supporting or rebutting the results of any preliminary determination of economic justification). The rebuttable presumption payback calculation is discussed in section IV of this NOPR.

IV. Methodology and Discussion of Related Comments

DOE used four analytical tools to estimate the impact of today's proposed standards. The first tool is a spreadsheet that calculates LCCs and PBPs of potential new energy conservation standards. The second tool includes a model that provides shipments forecasts, and a framework in a spreadsheet that calculates national energy savings and net present value resulting from potential amended energy conservation standards. DOE uses the third spreadsheet tool, the Government Regulatory Impact Model (GRIM), to assess manufacturer impacts.

Additionally, DOE estimated the impacts of energy conservation standards for CCW on utilities and the environment. DOE used a version of EIA's National Energy Modeling System (NEMS) for the utility and environmental analyses. The NEMS model simulates the energy sector of the U.S. economy. EIA uses NEMS to prepare its *Annual Energy Outlook* (*AEO),* a widely known energy forecast for the United States. The version of

NEMS used for appliance standards analysis is called NEMS–BT [12] and is based on the *AEO* version with minor modifications.[13] The NEMS–BT model accounts for the interactions between the various energy supply and demand sectors and the economy as a whole.

A. Market and Technology Assessment

1. Market Assessment

In the framework document, DOE requested information that would contribute to the market assessment for the commercial clothes washers covered in this rulemaking (e.g., current product features and efficiencies, product feature and efficiency trends, and historical product shipments and prices).

AHAM provided commercial clothes washer shipment data and shipment-weighted average efficiency data for 2010 and 2011, disaggregated by product class. AHAM also provided market share efficiency data for 2010 and 2011, disaggregated by product class. (AHAM, No. 13 at pp. 2–4) AHAM commented that the timing of its data submittal was too early to be able to provide shipment data for products complying with the new standards that became effective January 8, 2013. (AHAM, No. 8 at pp. 3–4).

DOE requests information on historical product shipments and market share efficiency data, disaggregated by product class, for 2012 and 2013 as those data become available.

NRDC and ASAP commented that DOE should confirm the split between the coin laundry and multi-family housing sectors of the market, noting that the different operating characteristics of these sub-sectors have significant influence on the life-cycle costs and payback period analysis. (NRDC and ASAP, No. 11 at p. 2)

DOE has incorporated the shipments data from AHAM throughout the NOPR analysis. DOE confirmed through discussions with manufacturers that the split between coin laundry and multi-family housing used for the last rulemaking (15 percent and 85 percent, respectively) remains valid for this rulemaking. The NOPR analysis reflects this breakdown.

2. Technology Assessment

In the framework document, DOE presented a table of design options it believes represent the most viable options for commercial clothes washers to achieve higher efficiencies. DOE requested comment on whether any of the technologies should be removed from consideration, or whether any other technologies not listed in the table should be considered as technology options.

ALS recommended that DOE remove ''ozonated laundering'' from consideration, because testing ALS has performed on ozone laundering indicates it does not replace the need for heated water and detergent to clean clothes. Therefore, ALS believes ozonated laundry does not improve energy efficiency. (ALS, No. 16 at p. 2) As described in greater detail in Chapter 3 and chapter 4 of the TSD, DOE retained ozonated laundering as a design option because it may improve energy efficiency, but eliminated it from consideration as a result of the screening analysis.

The California Utilities recommended that DOE consider all of the design options evaluated in the most recent residential clothes washer standards rulemaking. The commenters believe that all such design options are likely to be applicable and transferrable to commercial clothes washers. (California Utilities, No. 8 at p. 4) As described in the framework document, DOE eliminated from consideration those design options from the prior commercial clothes washer and residential clothes washer rulemakings that DOE has determined would provide negligible, if any, energy savings. DOE also eliminated technologies that it determined were not relevant to the commercial clothes washer market. Chapter 3 and chapter 4 of the TSD provide detailed information regarding DOE's analysis of each design option.

NRDC and ASAP suggested that DOE add temperature-differentiated pricing controls to the list of technology options that manufacturers can use to reduce energy consumption in machine operation. The commenters noted that this feature is already being offered by Whirlpool and Alliance Laundry Systems. NRDC and ASAP stated that temperature-differentiated pricing offers launderers the incentive to opt for lower temperature settings than they might otherwise select under undifferentiated pricing. Such controls would allow a machine's owner to pass through a share of the resulting hot water energy savings to the end user, thus incentivizing energy savings. NRDC and ASAP suggested that the test procedure for commercial clothes washers could allow credit for inclusion of such a feature without altering the mechanics of the test procedure itself. (NRDC, Public Meeting Transcript, No. 12 at p. 47–48; NRDC and ASAP, No. 11 at p. 3)

Temperature-differentiated pricing offers the potential to incentive energy savings by providing favorable vend pricing for lower-temperature settings. DOE's market analysis confirmed the availability of this feature on multiple clothes washer models from multiple manufacturers. DOE has therefore added temperature-differentiated pricing controls to the list of technology options for consideration. DOE does not have any information, however, regarding the degree to which this feature changes the temperature selection frequencies of end users. Therefore, as described in further detail in Chapter 5 of the TSD, DOE was not able to consider this technology for further evaluation in its engineering analysis.

B. Screening Analysis

Following the development of the initial list of design options, DOE conducts a screening analysis of each design option based on the following factors: (1) Technological feasibility; (2) practicability to manufacture, install and service; (3) adverse impacts on product utility or product availability; and (4) adverse impacts on health or safety. (10 CFR part 430, subpart C, appendix A, section 4(a)(3) and (4).)

DOE did not receive any comments objecting to the proposed design options based on these screening criteria. DOE did, however, receive general comments regarding the impacts of higher efficiency levels on product utility, which DOE addressed as part of its engineering analysis.

C. Engineering Analysis

1. General Approach

The purpose of the engineering analysis is to characterize the relationship between the incremental manufacturing cost and efficiency improvements of commercial clothes washers. DOE used this cost-efficiency relationship as input to the PBP, LCC, and NES analyses. As proposed in the framework document, DOE conducted the engineering analysis for this rulemaking using the efficiency-level approach supplemented with a design-option approach. Using the efficiency-level approach, DOE examined the aggregated incremental increases in manufacturer selling price at each of the

[12] BT stands for DOE's Building Technologies Program.

[13] The EIA allows 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 name ''NEMS–BT'' refers to the model as used here. 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*.

efficiency levels analyzed. DOE also conducted a reverse-engineering analysis, including testing and teardowns of models at each efficiency level, to identify the incremental cost and efficiency improvement associated with each design option or design option combination, supplementing the efficiency-level approach with a design-option approach as needed. Chapter 5 of the TSD contains a detailed discussion of the engineering analysis methodology.

ALS commented that it supports DOE's proposal to use an efficiency level approach supplemented by a design option approach as needed. (ALS, No. 16 at p. 4)

AHAM commented that it believes DOE erroneously stated in the framework document that it would measure the energy and water consumption of representative units at each efficiency level under consideration using DOE's test procedure at appendix J1. (AHAM, No. 6 at p. 6; AHAM, Public Meeting Transcript, No. 12 at p. 52) DOE intended to reference both appendix J1 and appendix J2 in this instance. DOE performed energy and water consumption testing using both test procedures, which enabled DOE to translate the appendix J1-based efficiency levels into equivalent levels based on appendix J2. DOE used the appendix J2 energy and water consumption data for its engineering analysis and all ''downstream'' analyses, including the LCC, PBP, and NES.

2. Appendix J2 Efficiency Level Translations

In the framework document, DOE proposed baseline and higher efficiency levels based on the current metrics MEF and WF, which are determined according to the appendix J1 test procedure. As discussed in prior sections, DOE has proposed amended standards for commercial clothes washers in terms of MEF_{J2} and IWF as measured using appendix J2. DOE performed testing on a representative sample of commercial clothes washer models to determine, for each baseline and higher efficiency level considered in the analysis, the equivalent appendix J2 efficiency levels corresponding to each appendix J1 efficiency level. Chapter 5 of the TSD describes the methodology DOE used to perform the translations between appendix J1 MEF/WF values and appendix J2 MEF/IWF values.

3. Baseline Efficiency Levels

DOE proposed in the framework document to use the amended energy conservation standards effective January 8, 2013 to characterize the baseline models for both the top-loading and front-loading product classes.

ALS commented that it supports using the 2013 minimum efficiency levels as the baseline levels for this rulemaking. (ALS, No. 16 at p. 2) DOE did not receive any comments objecting to the proposed baseline efficiency levels. Therefore, as proposed, DOE used the January 8, 2013 amended energy conservation standards as the baseline efficiency levels for this rulemaking.

4. Front-Loading Higher Efficiency Levels

In the framework document, DOE proposed analyzing the higher efficiency levels shown in Table IV.1 for the front-loading product class. The efficiency levels presented in the framework document were based on MEF and WF as measured using appendix J1. Table IV.1 also provides the equivalent levels based on MEF_{J2} and IWF as measured using appendix J2 test procedure. DOE invited comment on the appropriateness of these front-loading efficiency levels.

TABLE IV.1—FRONT-LOADING EFFICIENCY LEVELS

Level	Efficiency level source	Appendix J1 metrics		Appendix J2 metrics	
		MEF	WF	MEF_{J2}	IWF
Baseline	DOE Standard	2.00	5.5	1.65	5.2
1	CEE Tier 2	2.20	4.5	1.80	4.5
2	CEE Tier 3	2.40	4.0	2.00	4.1
3	Maximum Available	2.60	3.7	2.20	3.9

AHAM commented that rinsing performance could become a concern at some of the levels DOE has proposed, noting that every manufacturer would have its own opinion at which level, if any, this would occur. AHAM stated that measuring the impact of the proposed levels on cleaning and rinsing performance may be difficult because currently no test procedures are available to link cleaning and rinsing performance with the energy performance measured in DOE's test procedure. (AHAM, No. 6 at pp. 4–5)

ALS commented that it strongly opposes any consideration of higher efficiency levels for front-loading commercial clothes washers. ALS stated that its tests on competitive front-loading products with more stringent efficiency levels have shown that with large load sizes, the clothing in the center of the load does not get wetted by water during the wash portion of the cycle. ALS believes it would not be appropriate for DOE to propose stricter standards that would create this kind of result in a front-loading commercial clothes washer. (ALS, No. 16 at p. 3)

The California Utilities suggested that DOE include two additional front-loading efficiency levels corresponding to the top two efficiency levels considered during the most recent residential clothes washer rulemaking: 2.60 MEF/3.8 WF and 2.89 MEF/3.7 WF, as measured using appendix J1.

NRDC commented that while DOE proposed the ''maximum available'' efficiency level in the framework document, DOE did not indicate the maximum efficiency level that is technologically feasible (*i.e.,* the ''max tech'' level). (NRDC, Public Meeting Transcript, No. 12 at p. 55)

DOE notes that it developed its list of front-loading efficiency levels based on a review of commercial clothes washer products currently on the market. DOE confirmed through its market assessment that products are available for purchase at each of the identified efficiency levels. DOE performed appendix J1 and appendix J2 testing on a representative sample of commercial clothes washer models at each proposed efficiency level. To investigate concerns regarding potential impacts on cleaning performance, rinsing performance, and solid particle removal, DOE performed additional testing on each model using AHAM's HLW–1–2010 test method: Performance Evaluation Procedures for Household Clothes Washers (hereafter, ''AHAM HLW–1–2010''). Specifically,

DOE performed the soil/stain removal, rinsing effectiveness, and sand removal tests provided in HLW–1–2010. DOE's testing indicated that front-loading commercial clothes washers are available on the market at the proposed amended standard level that provide equivalent washing, rinsing, and solid particle removal as current baseline units. Chapter 5 of the TSD describes these test results in greater detail.

Regarding the higher efficiency levels considered in the residential clothes washer rulemaking, DOE notes that the 2.60 MEF/3.8 WF efficiency level suggested by the commenter corresponds closely with the maximum level proposed by DOE, 2.60 MEF/3.7 WF. DOE does not believe that the more stringent level of 2.89 MEF/3.7 WF would be appropriate for consideration in this commercial clothes washer rulemaking. First, no commercial clothes washer models are currently available on the market at that efficiency level. Second, some of the design options that would be required to achieve that efficiency level could negatively wash basket size and cycle time. Most notably, achieving the highest efficiency levels in the front-loading residential clothes washer market requires large-capacity wash baskets greater than 3.9 cubic feet and cycle times of 50 minutes or longer. DOE notes that EPCA's product coverage definition of a front-loading commercial clothes washer specifies a maximum capacity of 3.5 cubic feet, so machines with the larger capacity wash baskets would not be considered covered equipment subject to DOE's energy conservation standards. (42 U.S.C. 6311(21)) In addition, as noted previously, a larger clothes container capacity is considered a detriment to commercial clothes washer owners because a larger capacity wash tub may result in fewer wash cycles performed by the end-user customer. In competitive markets, coin-operated laundries may not be able to sustain higher vend fares to compensate for the lower number of turns per day. Furthermore, cycle times of 50 minutes would constitute a substantial increase over the current 34 minute average cycle time as measured by DOE. Longer cycle times decrease the number of possible turns per day on a given clothes washer, which is more significant in a laundromat or multi-family laundry setting for consumers waiting on the machine to finish its cycle, as well as laundromat owners and multi-family laundry route operators looking to maximize daily laundry throughput.

Based on the results of its market and technology assessment and engineering analysis, DOE has tentatively determined that the maximum available efficiency level identified in the framework document represents the maximum efficiency level that is technologically feasible for front-loading commercial clothes washers.

5. Top-Loading Higher Efficiency Levels

In the framework document, DOE stated that it was unaware at the time of any top-loading commercial clothes washers that exceeded the January 8, 2013 baseline efficiency level of 1.60 MEF/8.5 WF. Therefore, DOE did not specify any higher efficiency levels for top-loading commercial clothes washers in the framework document. DOE also stated, however, that should manufacturers develop models above the baseline efficiency level, or should working prototypes above the baseline efficiency level become available, DOE would consider incorporating additional efficiency levels in its analysis.

Since the publishing of the framework document, DOE has become aware of multiple top-loading clothes washers on the market, from multiple manufacturers, at higher efficiency levels than the baseline level represented by the January 8, 2013 amended standards. Accordingly, DOE analyzed the higher efficiency levels shown in Table IV.2 for the top-loading product class. Table IV.2 shows the efficiency levels in terms of MEF and WF as measured using appendix J1, as well as MEF_{J2} and IWF as measured using appendix J2.

TABLE IV.2—TOP-LOADING EFFICIENCY LEVELS

Level	Efficiency level source	Appendix J1 metrics		Appendix J2 metrics	
		MEF	WF	MEF_{J2}	IWF
Baseline	DOE Standard	1.60	8.5	1.15	8.9
1	Gap Fill	1.70	8.4	1.35	8.8
3	Maximum Available	1.85	6.9	1.55	6.9

AHAM commented that more efficient standard levels for top-loading commercial clothes washers are not justified, believing that standards more stringent than the current level could create performance concerns. AHAM stated that as hot water and water levels are reduced, cleaning and rinse performance will suffer and may no longer meet consumer expectations at standard levels beyond the January 2013 levels. AHAM also expressed concern that amended standards could require changes in the spin speed, heavier lids, and door locks, and that such changes could negatively impact consumer and end-user utility. AHAM noted, for example, that consumers may find it more difficult to use a clothes washer with a heavier lid or may not be able to add clothing mid-cycle due to door locking. (AHAM, No. 6 at pp. 4–5)

ALS opposes any consideration of higher efficiency levels for top-loading commercial clothes washers. At the time of its comment submittal, ALS was not aware of any top-loading products that exceed the January 2013 standard level. ALS stated that not enough time has elapsed to evaluate consumer response or acceptability resulting from deploying new top-loading models at the January 2013 standard level. Accordingly, ALS believes the appropriate max-tech level for top-loading commercial clothes washers is the 2013 DOE minimum standard. ALS stated that it had opposed DOE's decision during the prior rulemaking to establish the amended standard level at the max-tech level, and that it had commented that removing hot water from the wash cycle to achieve the proposed max-tech level would reduce cleaning performance and negatively impact utility. ALS further commented that ''hot'' water is commonly recognized as 120 degrees Fahrenheit and above; yet, according to ALS, the max-tech model from the prior rulemaking provides 112 degrees wash water, which is commonly recognized as ''warm''. ALS believes that further increasing the top-loading standard level would further decrease consumer utility. (ALS, No. 16 at pp. 3–4)

The California Utilities suggested that DOE analyze higher efficiency levels for top-loading commercial clothes washers corresponding to the higher efficiency

levels that DOE had analyzed during the most recent residential clothes washer rulemaking. The California Utilities recommended levels ranging from 1.72MEF/8.0WF to 2.47MEF/3.6WF at the max-tech level, as measured using appendix J1. (California Utilities, No. 8 at p. 4)

NEEA commented that top-loading clothes washer technology has advanced, but that it is not clear that the marketplace has incorporated the newest technologies. NEEA recommended that DOE review the max-tech level for top-loading commercial clothes washers. (NEEA, No. 10 at p. 2)

NRDC and ASAP commented that the absence of products on the market at a particular efficiency level above the baseline level does not necessarily mean that efficiency levels above the baseline are not technologically feasible. NRDC and ASAP added that should DOE retain separate product classes for top-loading and front-loading commercial clothes washers, DOE must identify a max-tech level for the top-loading product class, noting that technology options may exist for improving efficiency that have not yet been incorporated into current products. (NRDC and ASAP, No. 11 at p. 4)

DOE developed its list of top-loading efficiency levels based on a review of commercial clothes washer products currently on the market. DOE gathered information through product testing and teardowns since the framework meeting that reflect the state of the commercial clothes washer market following the January 2013 product transitions.

DOE confirmed through its market assessment that products are available for purchase at each of the identified efficiency levels. DOE performed appendix J1 and appendix J2 testing on a representative sample of top-loading commercial clothes washer models at each proposed efficiency level. To investigate concerns regarding potential impacts on cleaning performance, rinsing performance, and solid particle removal, DOE performed additional testing on each model using AHAM's HLW–1–2010 test method. DOE testing indicated that top-loading commercial clothes washers are available on the market at the proposed amended standard level that provide equivalent washing performance, rinsing performance, and solid particle removal as current baseline units. Chapter 5 of the TSD describes these test results in greater detail. Regarding potential consumer utility impacts associated with door locks, DOE's market analysis indicates that top-loading models without door locks are currently available on the market at the proposed amended standard level.

Regarding the higher efficiency levels considered in the residential clothes washer rulemaking, DOE does not believe that the more stringent levels above the identified maximum available level would be appropriate for consideration in this commercial clothes washer rulemaking, for many of the same reasons described previously for the front-loading efficiency levels. First, no commercial clothes washer models are currently available on the market above 1.85MEF/6.9WF, as measured using appendix J1. Second, some of the design options that would be required to achieve those higher efficiency levels could be perceived by the machine owners and/or end users as negatively impacting wash basket size. Most notably, achieving the highest efficiency levels in the residential clothes washer market requires implementing large-capacity wash baskets greater than 4.3 cubic feet. DOE notes that EPCA's product coverage definition of a top-loading commercial clothes washer specifies a maximum capacity of 4.0 cubic feet, so units with the larger-capacity wash baskets would not be covered equipment subject to DOE's energy conservation standards. (42 U.S.C. 6311(21)) In addition, as noted previously, a larger clothes container capacity is considered a detriment to commercial clothes washer owners because a larger-capacity tub may result in fewer wash cycles performed by the end-user customer. Furthermore, the max-tech residential clothes washers lack an agitator and instead use a circular wash plate that requires different loading instructions than clothes washers with traditional agitators. Manufacturers typically instruct users not to load garments directly over the center of the wash plate, so that the center of the wash plate remains visible when loaded. It is unlikely that such specialized loading instructions would be implementable in a commercial laundry environment such that the wash performance of the unit would be maintained.

Based on the results of its market and technology assessment and engineering analysis, DOE has determined that the maximum available efficiency level identified in Table IV.2 represents the maximum efficiency level that is technologically feasible for top-loading commercial clothes washers.

6. Impacts on Cleaning Performance

As mentioned in the discussion of front-loading and top-loading higher efficiency levels, DOE conducted performance testing to quantitatively evaluate potential impacts on cleaning performance, rinsing performance, and solid particle removal as a result of higher standard levels. As described in greater detail in Chapter 5 of the TSD, DOE tested a representative sample of commercial clothes washers at each efficiency level using AHAM's HLW–1–2010 test procedure. For each clothes washer, DOE tested the maximum load size specified in appendix J2, rounded to the nearest pound, using the warm wash/cold rinse cycle. Manufacturers indicated that the maximum load size is particularly relevant to commercial clothes washer owners and operators because end-users often overload the machines in order to limit their total laundry cost. DOE notes that the warm wash/cold rinse temperature selection has the highest usage factor in appendix J2. The test results indicate that units meeting the proposed new standard levels are capable of providing washing performance, rinsing performance, and solid particle removal results equivalent to current baseline products.

ALS commented that no industry test method currently exists for measuring the cleaning performance of commercial clothes washers, nor has the industry agreed upon an acceptable range of performance characteristics. ALS acknowledged AHAM's HLW–1 Performance Evaluation Procedures for Household Clothes Washers, but stated that it may not be fully appropriate for measuring the performance of commercial clothes washers. (ALS, No. 16 at p. 4)

DOE consulted with a number of manufacturers who indicated that AHAM HLW–1–2010 would be the most appropriate test method to determine relative cleaning performance across different commercial clothes washer models. DOE recognizes that AHAM HLW–1–2010 is typically used to measure the performance of residential clothes washers, but given the similarities in physical construction, DOE believes the test procedure is appropriate for commercial clothes washers. DOE also acknowledges that the commercial clothes washer industry has not agreed upon acceptable ranges of performance characteristics; therefore, DOE's test results should be used for relative comparison purposes only.

D. Markups Analysis

The markups analysis develops appropriate markups in the distribution chain to convert the estimates of manufacturer selling price derived in the engineering analysis to customer prices. (''Customer'' refers to purchasers of the equipment being regulated.) DOE

calculates overall baseline and incremental markups based on the equipment markups at each step in the distribution chain. The incremental markup relates the change in the manufacturer sales price of higher efficiency models (the incremental cost increase) to the change in the customer price.

For the three key CCW market segments—laundromats, private multi-family housing, and large institutions—data indicate that an overwhelming majority of commercial clothes washers are sold through either distributors or route operators. For today's NOPR, DOE used two distribution channels used in the 2010 Final Rule—manufacturer to distributor to owner/lessee, and manufacturer to route operator to owner/lessee. For purposes of developing the markups for commercial clothes washers, DOE estimated that the markups and the resulting consumer equipment prices determined for the distribution channel involving distributors would be representative of the prices paid by customers acquiring their equipment from route operators.

DOE based the distributor markups for commercial clothes washers on financial data for the sector Machinery, Equipment and Supplies Merchant Wholesalers from the 2007 U.S. Census Business Expenses Survey (BES), which is the most recent available survey.[14] This sector includes the subsector Laundry Machinery, Equipment, and Supplies, Commercial, Merchant Wholesalers, which specifically sells commercial clothes washers. DOE calculated overall baseline and incremental markups based on the equipment markups at the intermediate step in the distribution chain. The incremental markup relates the change in the manufacturer sales price of higher efficiency models (the incremental cost increase) to the change in the customer price. Chapter 6 of the NOPR TSD provides further detail on the estimation of markups.

E. Energy and Water Use Analysis

The energy and water use analysis provides estimates of the annual energy and water consumption of commercial clothes washer units at the considered efficiency levels. DOE uses these values in the LCC and PBP analyses and in the NIA. DOE developed energy and water consumption estimates for all equipment classes analyzed in the engineering analysis. The analysis seeks to capture the range of CCW use in the field.

The framework document outlined DOE's intention to base the energy and water use analysis on the energy and water use per cycle and the number of cycles per year.

The test procedure uses a single value for number of cycles, which is based on residential use. For the energy and water use analysis, DOE established an appropriate range of usage specific to CCW in the field. Because the predominant applications of CCWs are in multi-family buildings and laundromats, DOE focused on these two building applications to determine appropriate values for number of CCW cycles per year.

NRDC and ASAP commented that DOE should include all major product categories in its analysis for this rulemaking. The commenters noted that ''other commercial applications'' in the statutory definition of commercial clothes washers include washers used for on-premise laundry. Further, the commenters stated that the on-premise laundry category (such as in the hospitality industry) was largely ignored in the technical analysis for the January 2010 final rule. The commenters added that while the total unit count may be smaller than coin laundries and multi-housing laundry, this subgroup may have distinctive usage factors that will influence total energy and water use for covered commercial clothes washers. (NRDC and ASAP, No. 11 at p. 1)

DOE acknowledges that the ''other commercial applications'' category in the statutory definition would include applications other than coin-operated laundry and multi-family housing laundry. However, DOE is not aware of any data indicating the prevalence of covered products in other applications such on-premise laundries or the hospitality industry. Furthermore, DOE is not aware of any data indicating how the usage patterns of such products would compare to the usage patterns of coin-operated and multi-housing laundries. Therefore, DOE has no information on which to base a separate analysis for on-premise laundry usage. Further, discussions with manufacturers have supported DOE's understanding that applications other than coin-operated laundries and multi-family housing laundries constitute a small minority of installations of covered commercial clothes washers. For these reasons, DOE's analysis for this NOPR focuses on the coin-operated laundry and multi-housing laundry applications, which represent the large majority of commercial clothes washer usage.

ALS suggested that DOE seek stakeholder input on new sources for data that can assist in characterizing the cycles per year for CCWs. (ALS, No. 97 at p. 5) DOE included all available studies on CCW usage to establish representative usage. DOE welcomes information on data sources other than those mentioned in today's NOPR.

For the NOPR analysis, DOE relied on several research studies to arrive at a range of annual use cycles. The average values are 1,074 and 1,483 for multi-family and laundromat applications, respectively. The data sources that informed these usage numbers include Multi-Housing Laundry Association (MLA) and the Coin Laundry Association (CLA), Southern California Edison, and San Diego Gas and Electric, as well as research sponsored by the MLA and the CLA. Chapter 7 of the NOPR TSD describes these sources in detail.[15]

To calculate the energy and water use per cycle, DOE used the new Appendix J2 test procedure, as described in the paragraphs that follow. (77 FR 13888, Mar. 7, 2012). Based on the known MEF_{J2}, IWF, and remaining moisture content (RMC) of the washer, the test procedure provides algorithms to derive energy and water use per cycle. The energy use analysis for today's NOPR consists of three related parts—the machine energy use, the dryer energy use and the water heating energy use.

DOE determined the per-cycle machine energy use from the tests results of the considered models, performed using the current DOE test procedure (77 FR 13888, Mar. 7, 2012).

DOE determined the per-cycle clothes drying energy use by using remaining moisture content (RMC) values contained in the cost/efficiency data set developed in the engineering analysis. The energy required to remove moisture from clothes, i.e., the dryer energy, is a significant component of total clothes washer energy consumption. The equation used to determine this energy component is as described in the current DOE test procedure.

DOE determined the per-cycle water-heating energy use by first determining the total per-cycle energy use (the clothes container volume divided by the MEF_{J2}) and then subtracting from it the per-cycle clothes-drying and machine energy.

Southern Company noted the importance of water heating energy and

[14] U.S. Census Bureau, *Economic Census, Business Expenses Survey, Wholesale Trade, Machinery, Equipment and Supplies Merchant Wholesalers,* 2007. (Last accessed February, 2013.)

[15] DOE did not rely on the Commercial Building Energy Consumption Survey (CBECS) conducted by DOE's Energy Information Administration (EIA) because energy and water consumption is not specified for buildings identified with laundry facilities in the CBECS dataset.

dryer energy in the consideration of CCW energy use, and raised concerns about the validity of the parameters specified in the test procedure. Regarding water heating energy, Southern Company stated that the assumed efficiency in the 2010 final rule DOE of 100% for electric water heaters and 75% for gas water heaters was reasonable, but the values should be updated as the weighted average efficiency of installed water heaters changes over time. (Southern, No. 9 at p. 1) DOE research indicates that the efficiency of the stock of commercial water heaters is changing very slowly, so for today's NOPR it used the same efficiencies as in the 2010 final rule.

Regarding dryer energy, Southern Company stated that energy use for drying clothes is highly dependent on consumer behavior, and noted that commercial dryers are usually equipped with a timer and do not have moisture sensors. Southern also questioned the value used for variable DEF, the nominal energy required for a clothes dryer to remove moisture from clothes. It stated that the currently used DEF of 0.5 kWh per pound appears to assume perfect operation and efficiency of drying. They recommend DOE consider adjustments to the assumed benefits of reduced clothing moisture for dryer operation. (Southern, No. 9 at p. 2)

DOE's current approach for quantifying reduction in dryer energy use from an increase in CCW efficiency is based on the existing test procedure for residential clothes washers. DOE acknowledges that operating conditions for commercial dryers may differ from the conditions of residential dryers, but DOE did not find any data to support changing the dryer energy use calculation. However, in response to comments received, DOE considered a sensitivity in the LCC and PBP analysis in which the reduction in dryer energy use is half of what is assumed in the test procedure.

Southern Company also stated that it is aware of a small soon-to-be-completed study conducted by the Electric Power Research Institute that found no measurable savings for high efficiency equipment for direct energy use by residential washers and dryers. (Southern, No. 9 at p. 2) DOE attempted to obtain the study on observed energy savings from washers in the field, but EPRI indicated that the study was available only to EPRI members. Thus, DOE was not able to evaluate the findings. In addition, DOE has concerns regarding both the sample size and the applicability of a study of residential equipment to the commercial equipment that is the subject of this analysis.

F. Life-Cycle Cost and Payback Period Analysis

The purpose of the LCC and PBP analysis is to analyze the effects of potential amended energy conservation standards on customers of commercial clothes washers by determining how a potential amended standard affects their operating expenses (usually decreased) and their total installed costs (usually increased).

The LCC is the total customer expense over the life of the equipment, consisting of equipment and installation costs plus operating costs over the lifetime of the equipment (expenses for energy use, maintenance, and repair). DOE discounts future operating costs to the time of purchase using customer discount rates. The PBP is the estimated amount of time (in years) it takes customers to recover the increased total installed cost (including equipment and installation costs) of a more efficient type of equipment through lower operating costs. DOE calculates the PBP by dividing the change in total installed cost (normally higher) due to a standard by the change in annual operating cost (normally lower) that results from the standard.

For any given efficiency level, DOE measures the PBP and the change in LCC relative to an estimate of the base-case efficiency distribution. The base-case estimate reflects the market in the absence of amended energy conservation standards, including the market for equipment that exceeds the current energy conservation standards.

DOE typically develops a consumer sample for determining PBPs and LCC impacts. Because EIA's Commercial Building Energy Consumption Survey (CBECS) does not provide the necessary data to develop one for CCWs, DOE established the variability and uncertainty in energy and water use by defining the uncertainty and variability in the use (cycles per day) of the equipment. The variability in energy and water pricing was characterized by regional differences in energy and water prices.

DOE expresses the LCC and PBP results as the number of units experiencing economic impacts of different magnitudes. DOE models both the uncertainty and the variability in the inputs to the LCC and PBP analysis using Monte Carlo simulation and probability distributions.[16] As a result, the LCC and PBP results are displayed as distributions of impacts compared to the base case conditions.

DOE conducted LCC and PBP analysis separately for two applications in each of the equipment classes: Laundromats and multi-family buildings. These applications have different usage characteristics.

Inputs to the LCC and PBP analysis are categorized as: (1) Inputs for establishing the total installed cost and (2) inputs for calculating the operating expense. The following sections contain brief discussions of comments on the inputs and key assumptions of DOE's LCC and PBP analysis and explain how DOE took these comments into consideration.

1. Equipment Costs

To calculate the equipment prices faced by CCW purchasers, DOE multiplied the manufacturing costs developed from the engineering analysis by the supply chain markups it developed (along with sales taxes).

For projecting future CCW prices, AHAM stated that DOE should not rely on experience curves for the same reasons that it expressed in comments for the microwave oven rulemaking. (AHAM, No. 19 at p. 5) To develop an equipment price trend for the NOPR, DOE examined the commercial laundry and dry-cleaning machinery PPI for the period 1993–2012. This index, adjusted for inflation, shows a rising trend. However, the inflation adjusted trend for household laundry equipment (which more closely matches CCW units because the considered products in this rulemaking are mostly residential-style units and exclude the larger commercial laundry equipment) shows a long-term declining trend.[17] Given the uncertainty, DOE decided to use a constant price for the default case for CCW units. For the NIA, DOE also analyzed the sensitivity of results to alternative price forecasts. (See section IV.X)

In the previous CCW rulemaking, DOE based the LCC analysis on the assumption that any increase in the cost of a more efficient unit that is leased gets passed on to the building owners through the contracting arrangements between route operators and building

[16] The Monte Carlo process statistically captures input variability and distribution without testing all possible input combinations. Therefore, while some atypical situations may not be captured in the analysis, DOE believes the analysis captures an adequate range of situations in which small, large, and very large air-cooled commercial package air conditioning and heating equipment operate.

[17] 2012–04 Direct Final Rule Technical Support Document—Appendix 8–E. Estimation of Equipment Price Trends for Residential Clothes Washers. *http://www.regulations.gov/#!documentDetail;D=EERE-2008-BT-STD-0019-0047.*

owners. NRDC recommended that DOE seek information on contracting arrangements between route operators and building owners. (NRDC, No. 12 at p. 81) DOE was unable to obtain information about contracting arrangements between route operators and building owners. The assumption that any increase in the cost of a more efficient unit that is leased gets passed on is consistent with what one would expect in a competitive business environment. To the extent that costs are not passed on, the LCC savings for building owners from higher-efficiency CCWs would be larger than indicated in today's NOPR.

2. Installation Costs

Installation costs include labor, overhead, and any miscellaneous materials and parts. For today's NOPR, DOE used data from the RS Means Mechanical Cost Data, 2013 on labor requirements to estimate installation costs for CCWs. DOE estimates that installation costs do not increase with equipment efficiency.

3. Unit Energy Consumption

The calculation of annual per-unit energy consumption at each considered efficiency level is described above in section IV.E.

4. Energy and Water Prices

DOE used commercial sector energy and water prices for both multi-family and laundromat applications. DOE assumes that common area laundry facilities are mainly found in large multi-family buildings that receive commercial energy and water rates.

a. Energy Prices

DOE derived average electricity and natural gas prices for 27 geographic areas. DOE estimated commercial electricity prices for each of the 27 states and group of states based on 2012 data from EIA Form 861, Annual Electric Power Industry Report.[18] DOE first estimated an average commercial price for each utility, and then calculated an average price for each area by weighting each utility with customers in an area by the number of commercial customers served in that area.

DOE estimated average commercial natural gas prices in each of the 27 geographic areas based on 2012 data from the EIA publication Natural Gas Monthly.[19] DOE calculated an average natural gas price for each area by first calculating the average prices for each state, and then calculating a regional price by weighting each state in a region by its population.

To estimate the trends in electricity and natural gas prices, DOE used the price forecasts in *AEO 2013*. To arrive at prices in future years, DOE multiplied the average prices described above by the forecast of annual average changes in national-average commercial electricity and natural gas prices. Because the AEO forecasts prices only to 2040, DOE used the average rate of change during 2025–2040 to estimate the price trends beyond 2040.

The spreadsheet tools used to conduct the LCC and PBP analysis allow users to select either the AEO's high-growth case or low-growth case price forecasts to estimate the sensitivity of the LCC and PBP to different energy price forecasts.

b. Water and Wastewater Prices

DOE obtained commercial water and wastewater price data from the Water and Wastewater Rate Survey conducted by Raftelis Financial Consultants (RFC) and the American Water Works Association (AWWA).[20] NRDC and ASAP suggested that DOE use the most recent AWWA/Raftelis survey for calculating water and wastewater prices. (NRDC, No. 11 at p. 4) DOE obtained the water and wastewater price data from the 2012 Water and Wastewater Rate Survey, the most recent survey conducted by RFC and AWWA. The survey covers approximately 290 water utilities and 214 wastewater utilities from 44 states and the District of Columbia, with water and wastewater utilities analyzed separately. The samples that DOE obtained of the water and waste water utilities are not large enough to calculate regional prices for all 27 states and group of states. Hence, DOE calculated average values at the Census region level (Northeast, South, Midwest, and West) by weighting each state in a region by its population.

To estimate the future trend for water and wastewater prices, DOE used data on the historic trend in the national water price index (U.S. city average) provided by the Bureau of Labor Statistics (BLS), adjusted for inflation. Generally, DOE extrapolated a future trend based on the linear growth from 1970 to 2012. However, using the linear fit would have resulted in a price decline in the near-term, which does not seem plausible because historically, water prices have not declined in the country. Therefore, rather than use the extrapolated trend to forecast the near-term trend after 2012, DOE pinned the annual price to the value in 2012 until 2020. Beyond 2020, DOE used the extrapolated trend to forecast prices out to 2047.

5. Repair and Maintenance Costs

Repair costs are associated with repairing or replacing components that have failed in the appliance; maintenance costs are associated with maintaining the operation of the equipment. For the January 2010 Final Rule, DOE included increased repair costs for higher efficiency CCWs based on an algorithm developed by DOE for central air conditioners and heat. This algorithm calculates annualized repair and maintenance costs by dividing half of the equipment retail price over the equipment lifetime. DOE requested industry input to estimate changes in repair and maintenance costs with an increase in efficiency of CCW units. AHAM stated that higher efficiency levels could impact the maintenance and repair costs for CCW units. (AHAM, No. 6 at p. 5) Since DOE did not receive any new inputs from manufacturers or national route operators specific to repair and maintenance costs, it continued with the approach used in the January 2010 Final Rule for today's NOPR. This approach does show rising maintenance and repair costs as efficiency increases.

6. Lifetime

Equipment lifetime is the age at which the equipment is retired from service. For the 2010 Final Rule, DOE used a variety of sources to establish low, average, and high estimates for equipment lifetime in years. DOE characterized CCW lifetime with a Weibull probability distribution. ALS suggested that DOE should expand its sources (including route operators) for determining the average lifetime of CCW units for multi-family and laundry applications. (ALS, No. 12 at p. 2) DOE utilized the contact list submitted during the 2010 Final Rule to reach out to national route operators to seek information on various inputs to the analysis, including lifetime of the units, but was unable to obtain information from them. For this NOPR, DOE updated its data sources (as described in chapter 8 of the NOPR TSD), and found the same average CCW lifetimes (11.3 years for multi-family building applications and 7.1 years for laundromat applications) as used in the 2010 Final Rule. DOE used the same lifetime for each equipment class.

[18] *http://www.eia.gov/electricity/data/eia861/.*

[19] *http://www.eia.gov/naturalgas/monthly/.*

[20] Raftelis Financial Consultants, Inc. 2012 RFC/AWWA Water and Wastewater Rate Survey. 2013. Charlotte, NC, Kansas City, MO, and Pasadena, CA. *www.raftelis.com/ratessurvey.html.*

7. Discount Rate

The discount rate is the rate at which future expenditures are discounted to estimate their present value. The cost of capital is commonly used to estimate the present value of cash flows to be derived from a typical company project or investment. Most companies use both debt and equity capital to fund investments, so the cost of capital is the weighted-average cost to the firm of equity and debt financing. DOE uses the capital asset pricing model (CAPM) to calculate the equity capital component, and financial data sources to calculate the cost of debt financing.

For the 2010 Final Rule, DOE estimated the weighted-average cost of capital of publicly traded firms in the key sectors that purchase CCWs (i.e., personal services, educational services, hotels, and R.E.I.T—building and apartment complex owners). For the current rulemaking, DOE updated its data sources for calculating this cost. More details regarding DOE's estimates of customer discount rates are provided in chapter 8 of the NOPR TSD.

8. Base Case Efficiency Distribution

For the LCC and PBP analysis, DOE analyzes higher efficiency levels relative to a baseline efficiency level. Some consumers, however, may already purchase equipment with efficiencies greater than the baseline equipment levels. To accurately estimate the percentage of consumers that would be affected by a particular standard level, DOE estimates the distribution of equipment efficiencies that consumers are expected to purchase under the base case (i.e., the case without amended energy efficiency standards). DOE refers to this distribution of equipment energy efficiencies as a base-case efficiency distribution.

For today's NOPR, DOE utilized the shipment weighted efficiency distributions for 2010–2011 submitted by AHAM to establish the base-case efficiency distributions. Because the data are not sufficient to capture any definite trend in efficiency, DOE used the 2011 distribution to represent the market in the compliance year (2018). NRDC and ASAP stated that Energy Star unit shipment data should be used in considering efficiency trends. (NRDC, No. 11 at p. 4) DOE found that the Energy Star shipments data matched closely with the data submitted by AHAM. Table IV.3 presents the market shares of the efficiency levels in the base case for CCWs. See chapter 8 of the TSD for further details on the development of CCW base-case market shares.

TABLE IV.3—COMMERCIAL CLOTHES WASHERS: BASE CASE EFFICIENCY DISTRIBUTION

Standard level	Top-loading			Front-loading			
	MEF_{J2}	IWF	Market share (percent)	Standard level	MEF_{J2}	IWF	Market share (percent)
Baseline	1.15	8.9	99.5	Baseline	1.65	5.2	28
1	1.35	8.8	0.3	1	1.80	4.5	34
2	1.55	6.9	0.3	2	2.00	4.1	38
				3	2.20	3.9	0

9. Compliance Date

DOE calculated the LCC and PBP for all customers as if each were to purchase new equipment in the year that compliance with amended standards is required. EPCA, as amended, directs DOE to publish a final rule amending the standard for the products covered by today's NOPR by January 1, 2015. Any amended standards would apply to commercial clothes washers manufactured three years after the date on which the final amended standard is published. (42 U.S.C. 6313(e)(2)(B)) Therefore, for purposes of its analysis, DOE used 2018 as the first year of compliance with amended standards.

10. Payback Period Inputs

The payback period is the amount of time it takes the consumer to recover the additional installed cost of more efficient equipment, compared to baseline equipment, through energy cost savings. Payback periods are expressed in years. Payback periods that exceed the life of the product mean that the increased total installed cost is not recovered in reduced operating expenses.

The inputs to the PBP calculation are the total installed cost of the product to the customer for each efficiency level and the average annual operating expenditures for each efficiency level. The PBP calculation uses the same inputs as the LCC analysis, except that discount rates are not needed.

11. Rebuttable-Presumption Payback Period

EPCA 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 (and, as applicable, water) 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 considered efficiency level, DOE determines the value of the first year's energy savings by calculating the quantity of those savings in accordance with the applicable DOE test procedure, and multiplying that amount by the average energy price forecast for the year in which compliance with the amended standards would be required.

G. Shipments Analysis

DOE uses projections of product shipments to calculate the national impacts of standards on energy use, NPV, and future manufacturer cash flows. DOE develops shipment projections based on historical data and an analysis of key market drivers for each product. Historical shipments data are used to build up an equipment stock and also to calibrate the shipments model.

In projecting CCW shipments, DOE accounted for three market segments: (1) New construction; (2) existing buildings (i.e., replacing failed equipment); and (3) retired units not replaced. DOE used the non-replacement market segment to calibrate the shipments model to historical shipments data.

Based on historical CCW price and shipments data, DOE determined that the considered standards would be unlikely to affect CCW shipments.

Table IV.4 summarizes the approach and data DOE used to derive the inputs to the shipments analysis for today's NOPR. DOE projected CCW shipments (for both equipment classes) for the new construction and replacement markets,

and also accounted for non-replacement of retired units. DOE then allocated shipments to each of the two equipment classes based on the current market share of each class. Based on data submitted by AHAM, DOE estimated that top-loading washers comprise 64 percent of the market while front-loading washers comprise 36 percent. DOE implemented change in the market share for the projection period based on the historical trend that shows a gradual market shift towards front-loading units, with the market stabilizing at 52 percent and 48 percent for top-loading and front-loading by 2047.

TABLE IV.4—APPROACH AND DATA USED TO DERIVE THE INPUTS TO THE SHIPMENTS ANALYSIS

Inputs	Approach
Number of Equipment Classes	Two: top-loading washers and front-loading washers. Shipments forecasts established for all CCWs and then disaggregated into the two equipment classes based on the market share of top- and front-loading washers.
New Construction Shipments	Determined by multiplying multi-housing forecasts by forecasted saturation of CCWs for new multi-housing. Multi-housing forecasts with *AEO 2013.* Verified frozen saturations with data from the U.S. Census Bureau's *American Housing Survey* (AHS) for 1997–2011.
Replacements	Determined by tracking total equipment 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.
Retired Units not Replaced (*i.e.,* non-replacements).	Used to calibrate shipments model to historical shipments data. Froze the percentage of non-replacements at 31.6 percent for the period 2012–2047 to account for the increased saturation rate of in-unit washers in the multi-family stock between 2000 and 2011 timeframe shown by the AHS.
Historical Shipments	Data sources include AHAM data submittal, *Appliance Magazine,* and U.S. Bureau of Economic Analysis' quantity index data for commercial laundry. Relative market shares of the two equipment applications, common-area laundry facilities in multi-family housing and laundromats, estimated to be 85 and 15 percent, respectively.

DOE implemented a cross-price elasticity to capture the response to a change in price of one equipment class on the demand of the other equipment class. Due to insufficient data on CCW units, DOE was not able to estimate cross-price impacts on the market share of top-loading and front-loading commercial clothes washers and instead relied on its analysis performed for the 2012 residential clothes washers rulemaking.[21] The regression results suggest that a 10% increase in the price of front-loading washers would lead to a 10.7% decrease in top-loading washers' market share, holding other variables constant and measured as changes from the reference case using average values for each variable. In this case, the front-loading cross-price impact (percent change in top-loading market share over percent change in front-loading price) is 1.07. The results indicate that a 20% price increase for top-loading washers would yield a 21.49 percent increase in front-loading market share. Thus, in this example, the top-loading washer cross-price impact is also 1.07. For further details on this estimation, please refer to chapter 9 of the NOPR TSD.

1. Shipments by Market Segment

For the new construction market, DOE assumed shipments are driven solely by multi-family construction starts. Implicit in this assumption is the fact that a certain percentage of multi-family residents will need to wash their laundry in either a common-area laundry facility (within the multi-family building) or a laundromat.

For existing buildings replacing broken equipment, the shipments model uses a stock accounting framework. Given the equipment entering the stock in each year and a retirement function based on the lifetime distribution developed in the LCC analysis, the model predicts how many units reach the end of their lifetime in each year. DOE typically refers to new shipments intended to replace retired units as ''replacement'' shipments. Such shipments are usually the largest part of total shipments.

Historical data show a rise in shipments in the 2nd half of the 1990s followed by a significant drop in 1999–2002, and a slower decline since then. DOE believes that a large part of the decline was due to growth of in-unit washers in multi-family housing (possibly due to conversions of rental property to condominiums), leading to non-replacement of failed commercial clothes washers in common-area laundry facilities.[22] To account for the decline and to reconcile the historical shipments with the accounting model, DOE assumed that every retired unit is not replaced. Starting in 1999 and extending to 2011, DOE estimated the share of retired units that were not replaced (as discussed in chapter 9 of the NOPR TSD).

H. National Impact Analysis

The NIA assesses the national energy savings (NES) and the national NPV of total customer costs and savings that would be expected to result from amended standards at specific efficiency levels.

DOE used an MS Excel spreadsheet model to calculate the energy savings and the national customer costs and savings from each TSL.[23] The NIA calculations are based on the annual energy consumption and total installed cost data from the energy use analysis and the LCC analysis. DOE projected the lifetime energy savings, energy cost savings, equipment costs, and NPV of customer benefits for each equipment class for equipment sold from 2018 through 2047.

DOE evaluated the impacts of potential amended standards for front-loading and top-loading CCW by comparing base-case projections with standards-case projections. The base-case projections characterize energy use and customer costs for each equipment

[21] See chapter 9 in Direct Final Rule Technical Support Document. *http://www.regulations.gov/#!documentDetail;D=EERE-2008-BT-STD-0019-0047.*

[22] Data from the American Housing Survey as well as RECS indicate that there has been growth of in-unit washer saturation in the multi-family housing stock over the last 10–15 years. See chapter 9 of the NOPR TSD for further discussion.

[23] DOE's use of MS Excel as the basis for the spreadsheet models provides interested parties with access to the models within a familiar context. In addition, the TSD and other documentation that DOE provides during the rulemaking help explain the models and how to use them, and interested parties can review DOE's analyses by changing various input quantities within the spreadsheet.

class in the absence of amended energy conservation standards.

Table IV.5 briefly describes the key inputs for the NIA. The sections following provide further details, as does chapter 10 of the NOPR TSD.

TABLE IV.5—INPUTS FOR THE NATIONAL IMPACT ANALYSIS

Input	Description
Shipments	Annual shipments from shipments model.
Compliance date	January 1, 2018.
Base case efficiency	Based on the current market distribution of efficiencies, with the option of a frozen, 1%, and 2% growth in efficiency.
Standards case efficiency	Based on a ''Roll up'' scenario to establish a 2018 shipment weighted efficiency.
Annual energy and water consumption per unit	Calculated for each efficiency level and equipment class based on inputs from the energy and water use analysis.
Total installed cost per unit	Calculated equipment prices by efficiency level using manufacturer selling prices and weighted-average overall markup values. Installation costs vary in direct proportion to the weight of the equipment.
Electricity and water expense per unit	Annual energy use for each equipment class is multiplied by the corresponding average energy and water and wastewater price.
Escalation of electricity and water prices	*AEO 2013* forecasts (to 2040) and extrapolation beyond 2040 for electricity and gas prices. BLS's historical Consumer Price Index for water for projecting the prices beyond 2020.
Electricity site-to-primary energy conversion	A time series conversion factor; includes electric generation, transmission, and distribution losses.
Discount rates	3% and 7% real.
Present year	2013.

1. Efficiency Trends

A key component of DOE's estimates of NES and NPV is the equipment energy and water efficiencies forecasted over time for the base case and for each of the standards cases. For the base case, DOE considered the lack of change in the historical trends and assumed that efficiency would remain constant at the 2018 levels derived in the LCC and PBP analysis. DOE provides a 1% and 2% efficiency growth rates as options for sensitivities.

To estimate the impact that standards would have in the year compliance becomes required, DOE used a ''roll-up'' scenario, which assumes that equipment efficiencies in the base case that do not meet the standard level under consideration would ''roll up'' to meet the new standard level and equipment shipments at efficiencies above the standard level under consideration are not affected. In each standards case, the efficiency distributions remain constant at the 2018 levels for the remainder of the shipments forecast period.

2. National Energy and Water Savings

For each year in the forecast period, DOE calculates the national energy and water savings for each standard level by multiplying the shipments of front-loading and top-loading by the per-unit annual energy and water savings. Cumulative energy and water savings are the sum of the annual energy and water savings over the lifetime of all equipment shipped during 2018–2047.

The annual energy consumption per unit depends directly on equipment efficiency. DOE used the shipment-weighted energy and water efficiencies associated with the base case and each standards case, in combination with the annual energy and water use data, to estimate the shipment-weighted average annual per-unit energy and water 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. DOE calculates the total annual site energy savings for a given standards case by subtracting total energy use in the standards case from total energy use in the base case. Note that shipments are the same in the standards cases as in the base case.

DOE converted the site electricity consumption and savings to primary energy (power sector energy consumption) using annual conversion factors derived from the *AEO 2013* version of the NEMS. Cumulative primary energy and water savings are the sum of the national energy and water savings for each year in which equipment shipped during 2018–2047 continue to operate.

DOE has historically presented national energy savings in terms of primary energy savings. In response to the recommendations of a committee on ''Point-of-Use and Full-Fuel-Cycle Measurement Approaches to Energy Efficiency Standards'' appointed by the National Academy of Science, DOE announced its intention to use full-fuel-cycle (FFC) measures of energy use and greenhouse gas and other emissions in the national impact analyses and emissions analyses included in future energy conservation standards rulemakings. 76 FR 51281 (August 18, 2011). While DOE stated in that notice that it intended to use the Greenhouse Gases, Regulated Emissions, and Energy Use in Transportation (GREET) model to conduct the analysis, it also said it would review alternative methods, including the use of EIA's National Energy Modeling System (NEMS). After evaluating both models and the approaches discussed in the August 18, 2011 notice, DOE published a statement of amended policy in the **Federal Register** in which DOE explained its determination that NEMS is a more appropriate tool for this specific use. 77 FR 49701 (August 17, 2012). Therefore, DOE is using NEMS to conduct FFC analyses. The approach used for today's NOPR, and the FFC multipliers that were applied, are described in appendix 10–A of the NOPR TSD.

3. Net Present Value of Customer Benefit

The inputs for determining the NPV of the total costs and benefits experienced by customers of the considered equipment are: (1) Total annual installed cost; (2) total annual savings in operating costs; and (3) a discount factor. DOE calculates the lifetime net savings for equipment shipped each year as the difference between the base case and each standards case in total savings in lifetime operating costs and total

increases in installed costs. DOE calculates lifetime operating cost savings over the life of each front-loading and top-loading CCW unit shipped during the forecast period.

a. Total Annual Installed Cost

The total installed cost includes both the equipment price and the installation cost. For each equipment class, DOE calculated equipment prices by efficiency level using manufacturer selling prices and weighted-average overall markup values (weights based on shares of the distribution channels used). Because DOE calculated the total installed cost as a function of equipment efficiency, it was able to determine annual total installed costs based on the annual shipment-weighted efficiency levels determined in the shipments model.

As noted in section IV.F.1, DOE assumed no change in front-loading and top-loading CCW equipment prices over the analysis period. However, DOE conducted sensitivity analyses using alternative price trends: one in which prices decline after 2013, and one in which prices rise. These price trends, and the NPV results from the associated sensitivity cases, are described in appendix 10–B of the NOPR TSD.

b. Total Annual Operating Cost Savings

The per-unit energy and water savings were derived as described in section IV.H.2. To calculate future electricity and natural gas prices, DOE applied the projected trend in national-average commercial electricity and natural gas price from the *AEO 2013* Reference case, which extends to 2040, to the prices derived in the LCC and PBP analysis. DOE used the trend from 2025 to 2040 to extrapolate beyond 2040. To calculate future water prices, DOE applied the historical price trend based on the consumer price index of water, published by the Bureau of Labor Statistics.

In addition, DOE analyzed scenarios that used the energy price projections in the *AEO 2013* Low Economic Growth and High Economic Growth cases. These cases have higher and lower energy price trends compared to the Reference case. These price trends, and the NPV results from the associated cases, are described in appendix 10–C of the NOPR TSD.

DOE estimated that annual maintenance costs (including minor repairs) do not vary with efficiency within each equipment class, so they do not figure into the annual operating cost savings for a given standards case. In addition, as noted previously, DOE developed annualized repair costs using the approach described in Section IV.F.5.

In calculating the NPV, DOE multiplies the net dollar savings in future years by a discount factor to determine their present value. DOE estimates the NPV 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.[24] The discount rates for the determination of NPV are in contrast to the discount rates used in the LCC analysis, which are designed to reflect a consumer's perspective. The 7-percent real value is an estimate of the average before-tax rate of return to private capital in the U.S. economy. The 3-percent real value represents the ''social rate of time preference,'' which is the rate at which society discounts future consumption flows to their present value.

I. Customer Subgroup Analysis

In analyzing the potential impacts of new or amended standards, DOE evaluates impacts on identifiable groups (i.e., subgroups) of customers that may be disproportionately affected by a national standard. For the NOPR, DOE evaluated impacts on a small business subgroup using the LCC spreadsheet model. The customer subgroup analysis is discussed in detail in chapter 11 of the NOPR TSD.

J. Manufacturer Impact Analysis

1. Overview

DOE performed an MIA to estimate the impacts of amended energy conservation standards on manufacturers of commercial clothes washers. The MIA has both quantitative and qualitative aspects and includes analyses of forecasted industry cash flows, the INPV, investments in research and development (R&D) and manufacturing capital, and domestic manufacturing employment. Additionally, the MIA seeks to determine how amended energy conservation standards might affect manufacturing capacity, and competition, as well as how standards contribute to overall regulatory burden. Finally, the MIA serves to identify any disproportionate impacts on manufacturer subgroups.

The quantitative part of the MIA relies primarily on the Government Regulatory Impact Model (GRIM), an industry cash flow model with inputs specific to this rulemaking. The key GRIM inputs include data on the industry cost structure, unit production costs, product shipments, manufacturer markups, and investments in R&D and manufacturing capital required to produce compliant products. The key GRIM outputs are the INPV, which is the sum of industry annual cash flows over the analysis period, discounted using the industry weighted average cost of capital, and the impact to domestic manufacturing employment. The model estimates the impacts of amended energy conservation standards on a given industry by comparing changes in INPV and domestic manufacturing employment between a base case and the various TSLs in the standards case. To capture the uncertainty relating to manufacturer pricing strategy following amended standards, the GRIM estimates a range of possible impacts under different markup scenarios.

The qualitative part of the MIA addresses manufacturer characteristics and market trends. Specifically, the MIA considers such factors as manufacturing capacity, competition within the industry, the cumulative impact of other regulations, and impacts on manufacturer subgroups. The complete MIA is outlined in chapter 12 of the NOPR TSD.

DOE conducted the MIA for this rulemaking in three phases. In Phase 1 of the MIA, DOE prepared a profile of the commercial clothes washer manufacturing industry. DOE used public sources of information to derive preliminary financial inputs for the GRIM (*e.g.,* revenues; materials, labor, overhead, and depreciation expenses; selling, general, and administrative expenses (SG&A); and R&D expenses). Sources of data used in this initial characterization of the commercial clothes washer manufacturing industry included company filings of form 10–K from the Securities and Exchange Commission (SEC), corporate annual reports, the U.S. Census Bureau's Economic Census, and reports from Dun & Bradstreet.

In Phase 2 of the MIA, DOE prepared an industry cash flow analysis to quantify the impacts of new and amended energy conservation standards. The GRIM uses several factors to determine a series of annual cash flows starting with the announcement of the standard and extending over a 30-year period following the effective date of the standard. These factors include annual expected revenues, costs of sales, SG&A and R&D expenses, taxes, and capital expenditures. In general, energy conservation standards can affect

[24] OMB Circular A–4, section E (Sept. 17, 2003). Available at: *http://www.whitehouse.gov/omb/circulars_a004_a-4.*

manufacturer cash flow in three distinct ways: (1) Create a need for increased investment; (2) raise production costs per unit; and (3) alter revenue due to higher per-unit prices and changes in sales volumes.

In Phase 3 of the MIA, DOE interviewed representative manufacturers. During these interviews, DOE discussed engineering, manufacturing, procurement, and financial topics to validate assumptions used in the GRIM and to identify key issues or concerns. See section IV.J.4 for a description of the key issues raised by manufacturers during the interviews. As part of Phase 3, DOE also evaluated subgroups of manufacturers that may be disproportionately impacted by amended standards or that may not be accurately represented by the average cost assumptions used to develop the industry cash flow analysis. In addition to small business manufacturers, such manufacturer subgroups may include low volume manufacturers (LVMs), niche players, and/or manufacturers exhibiting a cost structure that largely differs from the industry average. DOE identified two subgroups for which average cost assumptions may not hold: small businesses and LVMs.

Based on the size standards published by the SBA and available at *http://www.sba.gov/content/table-small-business-size-standards*, to be categorized as a small business manufacturer of commercial clothes washers under North American Industry Classification System (NAICS) 333318, ''Other commercial and service industry machinery manufacturing,'' a commercial laundry equipment manufacturer and its affiliates may employ a maximum of 1000 employees. The 1000-employee threshold includes all employees in a business's parent company and any other subsidiaries. Using this classification in conjunction with a search of industry databases and the SBA member directory, DOE did not identify any manufacturers of commercial clothes washers that qualify as small businesses.

Unlike small business manufacturers, there is no employment limit associated with LVMs. Instead, LVMs are characterized by their low overall production volumes relative to their competitors, often associated with specialization within a singular industry. In the industry characterization from Phase 1, DOE identified two manufacturers that represent over 90 percent of commercial clothes washer shipments.[25] DOE categorized one of these manufacturers as a LVM because of the concentration of its business in commercial clothes washers relative to its competitors. In 2012, the LVM derived 98 percent of its revenues from the sale of laundry equipment and service parts, while, for its main competitor, this percentage was 30 percent. Within the washer segment, DOE estimates that the LVM derived 88 percent of its washer equipment revenues from the sale of commercial clothes washers covered by this rulemaking. Because the commercial clothes washer industry itself is characterized by low total shipments, with less than 200,000 units sold annually in the U.S., the concentration of this manufacturer's business in this industry qualifies them as an LVM. Where the LVM operates at a much smaller scale and does not manufacture products across a broad range of industries, this rulemaking could have disproportionate impacts on the LVM compared to its large, diversified competitors. Accordingly, DOE performed an in-depth analysis of the issues relating to the commercial clothes washer LVM. The manufacturer subgroup analysis is discussed in greater detail in Chapter 12 of the NOPR TSD and in section V.B.2.d of this notice.

2. Government Regulatory Impact Model

DOE uses the GRIM to quantify the changes in industry cash flows resulting from amended energy conservation standards. The GRIM uses manufacturer costs, markups, shipments, and industry financial information to arrive at a series of base-case annual cash flows absent new or amended standards, beginning with the present year, 2013, and continuing through 2047. The GRIM then models changes in costs, investments, shipments, and manufacturer margins that may result from new or amended energy conservation standards and compares these results against those in the base-case forecast of annual cash flows. The primary quantitative output of the GRIM is the INPV, which DOE calculates by summing the stream of annual discounted cash flows over the full analysis period. For manufacturers of commercial clothes washers, DOE used a real discount rate of 8.6 percent, the weighted average cost of capital derived from industry financials and modified based on feedback received during confidential interviews with manufacturers.

The GRIM calculates cash flows using standard accounting principles and compares changes in INPV between the base case and the various TSLs. The difference in INPV between the base case and a standards case represents the financial impact of the amended standard on manufacturers at that particular TSL. As discussed previously, DOE collected the necessary information to develop key GRIM inputs from a number of sources, including publicly available data and interviews with manufacturers (described in the next section). The GRIM results are shown in section V.B.2.a. Additional details about the GRIM can be found in chapter 12 of the NOPR TSD.

a. Government Regulatory Impact Model Key Inputs

Manufacturer Production Costs

Manufacturing a higher efficiency product is typically more expensive than manufacturing a baseline product due to the use of more complex and typically more costly components. The changes in the MPCs of the analyzed products can affect the revenues, gross margins, and cash flow of the industry, making product cost data key GRIM inputs for DOE's analysis. For each efficiency level of each equipment class, DOE used the MPCs developed in the engineering analysis, as described in section IV.A.2 and further detailed in chapter 5 of the NOPR TSD. Additionally, DOE used information from its teardown analysis, described in section IV.C to disaggregate the MPCs into material and labor costs. These cost breakdowns and equipment markups were validated with manufacturers during manufacturer interviews.

Base-Case Shipments Forecast

The GRIM estimates manufacturer revenues based on total unit shipment forecasts and the distribution of shipments by efficiency level. Changes in sales volumes and efficiency mix over time can significantly affect manufacturer finances. For this analysis, the GRIM uses the NIA's annual shipment forecasts derived from the shipments analysis from 2013, the base year, to 2047, the end of the analysis period. See chapter 9 of the NOPR TSD for additional details.

Standards-Case Shipments Forecast

For each standards case, the GRIM assumes that shipments of products below the projected minimum standard levels would roll up to the standard efficiency levels in response to an increase in energy conservation standards. The GRIM also assumes that demand for high-efficiency equipment is a function of price, and is independent of the standard level. Additionally, the standards case shipments forecast includes a partial shift of shipments from one equipment class to another depending on the standard level, reflecting positive cross-

price elasticity of demand, as one equipment class becomes relatively more expensive than the other to produce and for consumers to purchase. A decrease in shipments offsets the relative increase in costs to produce at a given TSL for a given equipment class. See Chapter 9 of the NOPR TSD for additional details.

Product and Capital Conversion Costs

Amended energy conservation standards may cause manufacturers to incur one-time conversion costs to bring their production facilities and product designs into compliance with the new standards. For the purpose of the MIA, DOE classified these one-time conversion costs into two major groups: (1) Product conversion and (2) capital conversion costs. Product conversion costs are investments in research, development, testing, and marketing, focused on making product designs comply with the new energy conservation standard. Capital conversion expenditures are investments in property, plant, and equipment to adapt or change existing production facilities so that new product designs can be fabricated and assembled.

Stranded Assets

If new or amended energy conservation standards require investment in new manufacturing capital, there also exists the possibility that they will render existing manufacturing capital obsolete. If this obsolete manufacturing capital is not fully depreciated at the time new or amended standards go into effect, this would result in the stranding of these assets, and would necessitate the expensing of the residual un-depreciated value.

DOE used multiple sources of data to evaluate the level of product and capital conversion costs and stranded assets manufacturers would likely face to comply with amended energy conservation standards. DOE used manufacturer interviews to gather data on the level of investment anticipated at each proposed efficiency level and validated these assumptions using estimates of capital requirements derived from the product teardown analysis and engineering model described in section IV.C. These estimates were then aggregated and scaled to derive total industry estimates of product and capital conversion costs and to protect confidential information.

In general, DOE assumes that all conversion-related investments occur between the year the final rule is published and the year by which manufacturers must comply with the new or amended standards. The investment figures used in the GRIM can be found in section V.B.2 of this notice. For additional information on the estimated product conversion and capital conversion costs, see chapter 12 of the NOPR TSD.

b. Government Regulatory Impact Model Scenarios

Markup Scenarios

As discussed in section IV.D, MSPs include direct manufacturing production costs (*i.e.,* labor, material, overhead, and depreciation estimated in DOE's MPCs) and all non-production costs (*i.e.,* SG&A, R&D, and interest), along with profit. To calculate the MSPs in the GRIM, DOE applied manufacturer markups to the MPCs estimated in the engineering analysis. Modifying these markups in the standards case yields different sets of impacts on manufacturers. For the MIA, DOE modeled two standards-case markup scenarios to represent the uncertainty regarding the potential impacts on prices and profitability for manufacturers following the implementation of amended energy conservation standards: (1) A preservation of gross margin [26] (percentage) scenario; and (2) a preservation of operating profits (in absolute dollars) scenario. These scenarios lead to different markups values that, when applied to the MPCs, result in varying revenue and cash flow impacts.

Under the preservation of gross margin percentage scenario, DOE applied a single, uniform ''gross margin percentage'' markup across all efficiency levels. As production costs increase with efficiency, this scenario implies that the absolute dollar markup will increase as well. Based on publicly available financial information for manufacturers of commercial clothes washers and comments from manufacturer interviews, DOE assumed the industry average markup on production costs to be 1.285. Because this markup scenario assumes that manufacturers would be able to maintain their gross margin percentage as production costs increase in response to an amended energy conservation standard, it represents a lower bound of industry impacts (higher industry profitability) under an amended energy conservation standard.

In the preservation of operating profits (in absolute dollars) scenario, manufacturer markups are calibrated so that operating profits (in absolute dollars) in the year after the compliance date of the amended energy conservation standard is the same as in the base case. Under this scenario, as the cost of production goes up, manufacturers are generally required to reduce the markups on their minimally compliant products to maintain a cost competitive offering. The implicit assumption behind this scenario is that the industry can only maintain operating profits after compliance with the amended standard is required. Therefore, gross margin (as a percentage) shrinks in the standards cases. This markup scenario represents an upper bound of industry impacts (lower profitability) under an amended energy conservation standard.

3. Discussion of Comments

At the Framework public meeting, AHAM commented that DOE should interview the customers of commercial clothes washer manufacturers, as customers will have valuable information on issues including the impact of higher efficiency standards on end user utility and whether standards will increase maintenance and repair costs (AHAM, No. 13 at pp. 5). Because commercial clothes washer customers have direct access to the end user, these customers may have information concerning consumer usage patterns and utility, as well as maintenance and repair costs. DOE attempted to contact, but did not receive any affirmative responses, from national route operators and trade groups representing multi-housing laundry providers and coin laundry owners, all of whom purchase CCWs. DOE will continue to solicit feedback from route operators prior to publishing the final rule.

4. Manufacturer Interviews

To inform the MIA, DOE interviewed manufacturers with an estimated combined market share of 95 percent. The information gathered during these interviews enabled DOE to tailor the GRIM to reflect the unique financial characteristics of the commercial clothes washer industry. These interviews provided information that DOE used to evaluate the impacts of amended energy conservation standards on manufacturer cash flows, manufacturing capacities, and employment levels.

During the interviews, DOE asked manufacturers to describe their major

[26] ''Gross margin'' is defined as revenues minus cost of goods sold. On a unit basis, gross margin is selling price minus manufacturer production cost. In the GRIMs, markups determine the gross margin because various markups are applied to the manufacturer production costs to reach manufacturer selling price.

concerns about this rulemaking. The following sections describe the most significant issues identified by manufacturers. DOE also includes additional concerns in chapter 12 of the NOPR TSD.

a. Impacts to Cleaning Performance

All of the manufacturers interviewed expressed concerns that future energy conservation standards would have an adverse impact on cleaning performance and reliability. One manufacturer asserted that products currently considered to be at the max-tech efficiency level are not truly commercial products. Another manufacturer noted that reaching the max-tech level would require higher spin speeds, which could decrease the reliability of the product. Two manufacturers expressed concerns that the max-tech level for top loaders pushes the boundary of acceptable water level in terms of both cleaning performance and market acceptance. The lower water level of max-tech products would necessitate lighter loads in order to maintain cleaning performance. A lighter load size requirement would contradict consumer tendencies to overload machines. As discussed in section IV.C.6, and further in chapter 5 of the TSD, DOE has determined that the proposed standards would not negatively impact the cleaning performance of commercial clothes washers.

b. Consumer Behavior

All manufacturers noted that energy efficiency efforts are inherently less effective in the commercial clothes washer market than in markets for residential appliances, including residential clothes washers. They attributed this to the usage patterns of commercial clothes washer end users, reflecting the fact that end users: (1) Do not own the machines, and (2) pay by the load to use machines. Such usage patterns include tendencies to put too much detergent into machines (leading to ''suds lock'', a condition where the clothes washer is unable to achieve full spin speed due to the friction caused by detergent suds in gap between the inner wash basket and outer wash tub), overfilling machines with oversized loads, choosing to use hot water when it is unnecessary to do so, and washing clothes twice to counteract the effect of having used too much detergent.

Platform changes and reduced water levels of higher efficiency products exacerbate these issues. One manufacturer noted that there is a steep learning curve for end users relating to adaptation to low-water machines. For instance, end users should be using high efficiency detergents in recommended quantities, yet are unlikely to do so. Concerns that machines are not functioning properly leads to increased service calls. Another manufacturer noted that end user dissatisfaction with high efficiency products may drive the need for selectable cycle modifiers, which would allow end users to choose less efficient settings to reach an acceptable level of cleaning performance to resolve the performance issues caused by incorrect use of the machines. Selectable modifiers would undermine the energy savings otherwise achievable with higher efficiency machines.

As discussed in section IV.C.6, and further in chapter 5 of the TSD, DOE has determined that the proposed standards would not negatively impact the cleaning performance of commercial clothes washers. Furthermore, DOE has determined that the proposed standards would not require significant design (platform) changes to either top-loading or front-loading CCWs, and thus would not require changes in user operation compared to current baseline products. Therefore, the consumer behaviors noted by commenters would not be exacerbated by the proposed amended standards. In addition, DOE notes that since viable products are readily available at the proposed standard levels, the use of optional selectable cycle modifiers will not be necessary to achieve acceptable levels of cleaning performance.

c. Disproportionate Impacts

Several manufacturers expressed concerns relating to competitive impacts caused by future energy conservation standards. One manufacturer specifically noted that a genuine and comprehensive approach to redesigning products to meet DOE standards will result in a competitive disadvantage relative to other manufacturers. As this company's revenue is so closely tied to commercial clothes washers, they predict that any increase in standards will impact their business disproportionately. For a detailed discussion of the manufacturer subgroup analysis, see chapter 12 of the NOPR TSD.

d. Market Model Challenges

The majority of the manufacturers interviewed emphasized that the profit structure of the commercial clothes washer market fundamentally opposes increased levels of product efficiency, and that an amended conservation standard would negatively impact the profits of manufacturers' customers, in addition to their own.

Commercial clothes washer manufacturers sell their products to either route-operators, distributors, or both. Route-operators lease the machines to multi-family housing unit owners under 5- to 15-year contract agreements, and typically provide a 1–2 day service guarantee on their machines. Distributors sell commercial clothes washers to owners of laundromats.

The profits of both route-operators and laundromat owners are driven by throughput, which is maximized by small capacity machines with short cycle times (less than 35 minutes). In addition to maximizing throughput, one manufacturer noted that consistency of cycle times (at approximately 32 minutes) is necessary for ensuring the correct number of washers and dryers in a given premise or laundromat.

Thus, commercial clothes washer manufacturers are constrained by capacity and cycle time limits in any efforts to further increase the efficiency of their machines. Also, due to the length of route-operators lease contracts with their customers, if energy efficiency improvements necessitate an increase in manufacturing selling price, any required replacement of units before lease contracts are expired will likely squeeze route-operators' profits, as they will not be able to pass-through increased unit costs to lessees. One manufacturer noted that in instances where route-operators and laundromat owners are able to pass-through the costs of energy efficiency improvements, this will negatively impact end users who are often the least able to bear increased costs, as users of commercial laundry machines tend to be from lower income consumer subgroups.

Finally, several manufacturers asserted that higher efficiency machines require more complex designs and hence more time and money to repair. Additionally, efficiency changes, such as reduced water levels, are likely to be ill-received by end users and will lead to increases in service calls and failures. Both outcomes will again potentially cut into route-operator and laundromat owner profits.

As discussed in section IV.C and chapter 5 of the TSD, DOE has determined that the proposed standard levels would not require any major changes in the design complexity of CCWs. Wash basket size and cycle time under the proposed standards will remain within the acceptable ranges described by manufacturers. Section IV.F.5. describes DOE's approach for considering changes in repair and

maintenance costs as a result of amended standards.

K. Emissions Analysis

In the emissions analysis, DOE estimated the reduction in power sector emissions of carbon dioxide (CO_2), nitrogen oxides (NO_X), sulfur dioxide (SO_2), and mercury (Hg) from potential energy conservation standards for commercial clothes washers. In addition, DOE estimates emissions impacts in production activities (extracting, processing, and transporting fuels) that provide the energy inputs to power plants. These are referred to as ''upstream'' emissions. Together, these emissions account for the full-fuel-cycle (FFC). In accordance with DOE's FFC Statement of Policy (76 FR 51282 (Aug. 18, 2011)),[27] the FFC analysis includes impacts on emissions of methane (CH_4) and nitrous oxide (N_2O), both of which are recognized as greenhouse gases.

DOE primarily conducted the emissions analysis using emissions factors for CO_2 and most of the other gases derived from data in the Energy Information Agency's (EIA's) *Annual Energy Outlook 2013* (*AEO 2013*). Combustion emissions of CH_4 and N_2O were estimated using emissions intensity factors published by the Environmental Protection Agency (EPA), GHG Emissions Factors Hub.[28] Site emissions of CO_2 and NO_X (from gas water heaters) were estimated using emissions intensity factors from an EPA publication.[29] DOE developed separate emissions factors for power sector emissions and upstream emissions. The method that DOE used to derive emissions factors is described in chapter 13 of the NOPR TSD.

For CH_4 and N_2O, DOE calculated emissions reduction in tons and also in terms of units of carbon dioxide equivalent (CO_2eq). Gases are converted to CO_2eq by multiplying the physical units by the gas' global warming potential (GWP) over a 100-year time horizon. Based on the Fourth Assessment Report of the Intergovernmental Panel on Climate Change,[30] DOE used GWP values of 25 for CH_4 and 298 for N_2O.

EIA prepares the *Annual Energy Outlook* using the National Energy Modeling System (NEMS). Each annual version of NEMS incorporates the projected impacts of existing air quality regulations on emissions. *AEO 2013* generally represents current legislation and environmental regulations, including recent government actions, for which implementing regulations were available as of December 31, 2012.

SO_2 emissions from affected electric generating units (EGUs) are subject to nationwide and regional emissions cap-and-trade programs. Title IV of the Clean Air Act sets an annual emissions cap on SO_2 for affected EGUs in the 48 contiguous states and the District of Columbia (DC). SO_2 emissions from 28 eastern states and D.C. were also limited under the Clean Air Interstate Rule (CAIR; 70 FR 25162 (May 12, 2005)), which created an allowance-based trading program that operates along with the Title IV program. CAIR was remanded to the U.S. Environmental Protection Agency (EPA) by the U.S. Court of Appeals for the District of Columbia Circuit but it remained in effect. 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 (August 8, 2011). On August 21, 2012, the D.C. Circuit issued a decision to vacate CSAPR. See *EME Homer City Generation, LP* v. *EPA,* No. 11–1302, 2012 WL 3570721 at *24 (D.C. Cir. Aug. 21, 2012). The court ordered EPA to continue administering CAIR. The *AEO 2013* emissions factors used for today's NOPR assumes that CAIR remains a binding regulation through 2040.

The attainment of emissions caps is typically flexible among EGUs and is enforced through the use of emissions allowances and tradable permits. Under existing EPA regulations, any excess SO_2 emissions allowances resulting from the lower electricity demand caused by the adoption of an efficiency standard could be used to permit offsetting increases in SO_2 emissions by any regulated EGU. In past rulemakings, DOE recognized that there was uncertainty about the effects of efficiency standards on SO_2 emissions covered by the existing cap-and-trade system, but it concluded that negligible reductions in power sector SO_2 emissions would occur as a result of standards.

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 2013* 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 established by CAIR, so it is unlikely that excess SO_2 emissions allowances resulting from the lower electricity demand would be needed or used to permit offsetting increases in SO_2 emissions by any regulated EGU. Therefore, DOE believes that efficiency standards will reduce SO_2 emissions in 2015 and beyond.

CAIR established 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 CAIR because excess NO_X emissions allowances resulting from the lower electricity demand could be used to permit offsetting increases in NO_X emissions. However, standards would be expected to reduce NO_X emissions in the states not affected by the caps, so DOE estimated NO_X emissions reductions from the standards considered in today's NOPR for these states.

The MATS limit mercury emissions from power plants, but they do not include emissions caps and, as such, DOE's energy conservation standards would likely reduce Hg emissions. DOE estimated mercury emissions reduction using emissions factors based on *AEO 2013,* which incorporates the MATS.

[27] DOE's FFC was amended in 2012 for reasons unrelated to the inclusion of CH_4 and N_2O. 77 FR 49701 (Aug. 17, 2012).

[28] *http://www.epa.gov/climateleadership/guidance/ghg-emissions.html.*

[29] U.S. Environmental Protection Agency, Compilation of Air Pollutant Emission Factors, AP–42, Fifth Edition, Volume I: Stationary Point and Area Sources. 1998. *http://www.epa.gov/ttn/chief/ap42/index.html.*

[30] Forster, P., V. Ramaswamy, P. Artaxo, T. Berntsen, R. Betts, D.W. Fahey, J. Haywood, J. Lean, D.C. Lowe, G. Myhre, J. Nganga, R. Prinn,G. Raga, M. Schulz and R. Van Dorland. 2007: Changes in Atmospheric Constituents and in Radiative Forcing. In *Climate Change 2007: The Physical Science Basis.* Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change. S. Solomon, D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M.Tignor and H.L. Miller, Editors. 2007. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA. p. 212.

L. Monetizing Carbon Dioxide and Other Emissions Impacts

As part of the development of this proposed rule, DOE considered the estimated monetary benefits from the reduced emissions of CO_2 and NO_X that are expected to result from each of the TSLs considered. To make this calculation similar to the calculation of the NPV of consumer benefit, DOE considered the reduced emissions expected to result over the lifetime of equipment 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 NOPR, DOE is relying on a set of values for the social cost of carbon (SCC) that was developed by an interagency process. A summary of the basis for these values is provided below, and a more detailed description of the methodologies used is provided as an appendix to chapter 14 of the NOPR TSD.

1. Social Cost of Carbon

The SCC is an estimate of the monetized damages associated with an incremental increase in carbon emissions in a given year. It is intended to include (but is not limited to) changes in net agricultural productivity, human health, property damages from increased flood risk, and the value of ecosystem services. Estimates of the SCC are provided in dollars per metric ton of 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.[31] 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.[32] 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

[31] 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).

[32] 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).

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.

In 2010, the interagency group selected four sets of SCC values for use in regulatory analyses.[33] Three sets of values are based on the average SCC from three integrated assessment models, at discount rates of 2.5 percent, 3 percent, and 5 percent. The fourth set, which represents the 95th-percentile SCC estimate across all three models at a 3-percent discount rate, is included to represent higher-than-expected impacts from climate change further out in the tails of the SCC distribution. The values grow in real terms over time. Additionally, the interagency group determined that a range of values from 7 percent to 23 percent should be used to adjust the global SCC to calculate domestic effects, although preference is given to consideration of the global benefits of reducing CO_2 emissions. Table IV.6 presents the values in the 2010 interagency group report, which is reproduced in appendix 14–A of the NOPR TSD.

TABLE IV.6—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.[34] Table IV.7 shows the updated sets of SCC estimates from the 2013 interagency update in five-year increments from 2010 to 2050. Appendix 14–B of the NOPR TSD provides the full set of values. The central value that emerges is the average SCC across models at 3-percent discount rate. However, for purposes of capturing the uncertainties involved in regulatory impact analysis, the interagency group emphasizes the importance of including all four sets of SCC values.

[33] *Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866.* Interagency Working Group on Social Cost of Carbon, United States Government, February 2010. *http://www.whitehouse.gov/sites/default/files/omb/inforeg/for-agencies/Social-Cost-of-Carbon-for-RIA.pdf.*

[34] *Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866.* Interagency Working Group on Social Cost of Carbon, United States Government. May 2013; revised November 2013. *http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/technical-update-social-cost-of-carbon-for-regulator-impact-analysis.pdf.*

TABLE IV.7—ANNUAL SCC VALUES FROM 2013 INTERAGENCY UPDATE, 2010–2050

[In 2007 dollars per metric ton CO_2]

Year	Discount rate %			
	5	3	2.5	3
	Average	Average	Average	95th Percentile
2010	11	32	51	89
2015	11	37	57	109
2020	12	43	64	128
2025	14	47	69	143
2030	16	52	75	159
2035	19	56	80	175
2040	21	61	86	191
2045	24	66	92	206
2050	26	71	97	220

NRDC and ASAP indicated that DOE's current approach to monetizing carbon underestimates the benefits. (NRDC and ASAP, No. 11 at p.5) The range of SCC estimates used by DOE has been closely reviewed by the interagency group and was updated in 2013. The range includes a set of values that represents the 95th-percentile SCC estimate across all three models at a 3-percent discount rate, which was included to represent higher-than-expected impacts from climate change further out in the tails of the SCC distribution. DOE acknowledges that the estimates will continue to evolve over time as the science and economic understanding of climate change and its impact on society improves.

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 resulting from today's rule, DOE used the values from the 2013 interagency report, adjusted to 2012$ using the Gross Domestic Product price deflator. For each of the four SCC cases specified, the values used for emissions in 2015 were $11.8, $39.7, $61.2, and $117 per metric ton avoided (values expressed in 2012$). DOE derived values after 2050 using the relevant growth rates for the 2040–2050 period in the interagency update.

DOE multiplied the CO_2 emissions reduction estimated for each year by the SCC value for that year in each of the four cases. To calculate a present value of the stream of monetary values, DOE discounted the values in each of the four cases using the specific discount rate that had been used to obtain the SCC values in each case.

2. Valuation of Other Emissions Reductions

As noted above, DOE has taken into account how new or amended energy conservation standards would reduce NO_X emissions in those 22 states not affected by the CAIR. DOE estimated the monetized value of NO_X emissions reductions resulting from each of the TSLs considered for today's NOPR based on estimates found in the relevant scientific literature. Estimates of monetary value for reducing NO_X from stationary sources range from $468 to $4,809 per ton in 2012$.[35] DOE calculated monetary benefits using a medium value for NO_X emissions of $2,639 per short ton (in 2012$), 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. Utility Impact Analysis

The utility impact analysis estimates several effects on the power generation industry that would result from the adoption of new or amended energy conservation standards. In the utility impact analysis, DOE analyzes the changes in installed electricity capacity and generation that would result for each trial standard level. The utility impact analysis uses a variant of NEMS,[36] which is a public domain, multi-sectored, partial equilibrium model of the U.S. energy sector. DOE uses a variant of this model, referred to as NEMS–BT,[37] to account for selected utility impacts of new or amended energy conservation standards. DOE's analysis consists of a comparison between model results for the most recent *AEO* Reference Case and for cases in which energy use is decremented to reflect the impact of potential standards. The energy savings inputs associated with each TSL come from the NIA. Chapter 15 of the NOPR TSD describes the utility impact analysis in further detail.

N. Employment Impact Analysis

Employment impacts from new or amended energy conservation standards include direct and indirect impacts. Direct employment impacts are any changes in the number of employees of

[35] 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.

[36] For more information on NEMS, refer to the U.S. Department of Energy, Energy Information Administration documentation. A useful summary is *National Energy Modeling System: An Overview 2003,* DOE/EIA–0581(2003) (March, 2003).

[37] DOE/EIA approves use of the name NEMS to describe only an official version of the model without any modification to code or data. Because this analysis entails some minor code modifications and the model is run under various policy scenarios that are variations on DOE/EIA assumptions, DOE refers to it by the name ''NEMS–BT'' (''BT'' is DOE's Building Technologies Program, under whose aegis this work has been performed).

manufacturers of the equipment subject to standards; the MIA addresses those impacts. Indirect employment impacts are changes in national employment that occur due to the shift in expenditures and capital investment caused by the purchase and operation of more efficient equipment. Indirect employment impacts from standards consist of the jobs created or eliminated in the national economy, other than in the manufacturing sector being regulated, due to: (1) Reduced spending by end users on energy; (2) reduced spending on new energy supply by the utility industry; (3) increased consumer spending on the purchase of new equipment; and (4) the effects of those three factors throughout the economy.

One method for assessing the possible effects on the demand for labor of such shifts in economic activity is to compare sector employment statistics developed by the Labor Department's Bureau of Labor Statistics (BLS). BLS regularly publishes its estimates of the number of jobs per million dollars of economic activity in different sectors of the economy, as well as the jobs created elsewhere in the economy by this same economic activity. Data from BLS indicate that expenditures in the utility sector generally create fewer jobs (both directly and indirectly) than expenditures in other sectors of the economy. There are many reasons for these differences, including wage differences and the fact that the utility sector is more capital-intensive and less labor-intensive than other sectors. Energy conservation standards have the effect of reducing consumer utility bills. Because reduced consumer expenditures for energy likely lead to increased expenditures in other sectors of the economy, the general effect of efficiency standards is to shift economic activity from a less labor-intensive sector (i.e., the utility sector) to more labor-intensive sectors (e.g., the retail and service sectors). Thus, based on the BLS data alone, DOE believes net national employment may increase because of shifts in economic activity resulting from amended standards.

For the standard levels considered in the NOPR, 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). ImSET is a special-purpose version of the ''U.S. Benchmark National Input-Output'' (I–O) model, which was designed to estimate the national employment and income effects of energy-saving technologies. The ImSET software includes a computer-based I–O model having structural coefficients that characterize economic flows among the 187 sectors. ImSET's national economic I–O structure is based on a 2002 U.S. benchmark table, specially aggregated to the 187 sectors most relevant to industrial, commercial, and residential building energy use. DOE notes that ImSET is not a general equilibrium forecasting model, and understands the uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Because ImSET does not incorporate price changes, the employment effects predicted by ImSET may over-estimate actual job impacts over the long run. For the NOPR, DOE used ImSET only to estimate short-term employment impacts.

For more details on the employment impact analysis, see chapter 16 of the NOPR TSD.

V. Analytical Results

A. Trial Standard Levels

At the NOPR stage, DOE develops Trial Standard Levels (TSLs) for consideration. TSLs are formed by grouping different efficiency levels, which are potential standard levels for each equipment class. Table V.1 presents the TSLs analyzed and the corresponding efficiency level for each CCW equipment class. TSL 3 is comprised of the max-tech efficiency levels. TSL 2 is comprised of efficiency level 2 for front-loading CCWs and efficiency level 1 for top-loading CCWs. TSL 1 is comprised of efficiency level 1 for each equipment class.

TABLE V.1—SUMMARY OF TSLS FOR FRONT-LOADING AND TOP-LOADING COMMERCIAL CLOTHES WASHERS

Equipment class	TSL 1	TSL 2	TSL 3
	Efficiency Level *		
Front Loading CCW Units	1	2	3
Top Loading CCW Units	1	1	2

* For the MEF_{J2} and IWF that correspond to efficiency levels 1 through 3, see Table IV.3.

B. Economic Justification and Energy Savings

As discussed in section II.A, EPCA provides seven factors to be evaluated in determining whether a more stringent standard for front-loading and top-loading commercial clothes washers is economically justified. (42 U.S.C. 6313(a)(6)(B)(ii)) The following sections discuss how DOE addresses each of those factors in this rulemaking.

1. Economic Impacts on Individual Customers

DOE analyzed the economic impacts on front-loading and top-loading commercial clothes washers customers by looking at the effects potential standards would have on the LCC and PBP. DOE also examined the impacts of potential standards on customer subgroups. These analyses are discussed below.

a. Life-Cycle Cost and Payback Period

To evaluate the net economic impact of standards on front-loading and top-loading CCW customers, DOE conducted LCC and PBP analyses for each TSL. Section IV.F of this notice discusses the inputs DOE used for calculating the LCC and PBP.

For each representative unit, the key outputs of the LCC analysis are a mean LCC savings and a median PBP relative to the base case, as well as the fraction of customers for which the LCC will decrease (net benefit), increase (net cost), or exhibit no change (no impact) relative to the base case. No impacts occur when the base-case efficiency equals or exceeds the efficiency at a given TSL. Table V.2 through Table V.5 show the key results for each representative unit.

TABLE V.2—SUMMARY LIFE-CYCLE COST AND PAYBACK PERIOD RESULTS FOR FRONT-LOADING, MULTI-FAMILY APPLICATION COMMERCIAL CLOTHES WASHER UNITS

Trial standard level	1	2	3
Efficiency Level	1	2	3
MEF_{J2}/IWF	1.80/4.50	2.00/4.10	2.20/3.90
Total Installed Cost ($)	1853.19	1853.69	1884.93
Mean LCC Savings ($)	229	285	8
Customers with LCC Increase (Cost) (%)*	0	0	46
Customers with LCC Decrease (Benefit) (%)*	27	61	53
Customers with No Change in LCC (%)*	73	39	0
Median PBP (Years)	0.0	0.0	3.8

* Rounding may cause some items to not total 100 percent.

TABLE V.3—SUMMARY LIFE-CYCLE COST AND PAYBACK PERIOD RESULTS FOR FRONT-LOADING, LAUNDROMAT APPLICATION COMMERCIAL CLOTHES WASHER UNITS

Trial standard level	1	2	3
Efficiency Level	1	2	3
MEF_{J2}/IWF	1.80/4.50	2.00/4.10	2.20/3.90
Total Installed Cost ($)	1853.19	1853.69	1884.93
Mean LCC Savings ($)†	198	235	(19)
Customers with LCC Increase (Cost) (%)*	0	0	72
Customers with LCC Decrease (Benefit) (%)*	27	61	28
Customers with No Change in LCC (%)*	73	39	0
Median PBP (Years)	0.0	0.0	8.0

* Rounding may cause some items to not total 100 percent.
† Values in parentheses are negative values.

TABLE V.4—SUMMARY LIFE-CYCLE COST AND PAYBACK PERIOD RESULTS FOR TOP-LOADING, MULTI-FAMILY APPLICATION COMMERCIAL CLOTHES WASHER UNITS

Trial standard level	1	2	3
Efficiency Level	1	1	2
MEF_{J2}/IWF	1.35/8.80	1.35/8.80	1.55/6.90
Total Installed Cost ($)	1251.06	1251.06	1313.40
Mean LCC Savings ($)	259	259	813
Customers with LCC Increase (Cost) (%)*	0	0	0
Customers with LCC Decrease (Benefit) (%)*	99	99	100
Customers with No Change in LCC (%)*	1	1	0
Median PBP (Years)	0.0	0.0	0.6

* Rounding may cause some items to not total 100 percent.

TABLE V.5—SUMMARY LIFE-CYCLE COST AND PAYBACK PERIOD RESULTS FOR TOP-LOADING, LAUNDROMAT APPLICATION COMMERCIAL CLOTHES WASHER UNITS

Trial standard level	1	2	3
Efficiency Level	1	1	2
MEF_{J2}/IWF	1.35/8.80	1.35/8.80	1.55/6.90
Total Installed Cost ($)	1251.06	1251.06	1313.40
Mean LCC Savings ($)	145	145	654
Customers with LCC Increase (Cost) (%)*	0	0	0
Customers with LCC Decrease (Benefit) (%)*	99	99	100
Customers with No Change in LCC (%)*	1	1	0
Median PBP (Years)	0.0	0.0	0.6

* Rounding may cause some items to not total 100 percent.

b. Customer Subgroup Analysis

In the customer subgroup analysis, DOE estimated the impacts of the considered TSLs on small business customers. The LCC savings and payback periods for small business customers are similar to the impacts for all customers. Chapter 11 of the NOPR TSD presents detailed results of the customer subgroup analysis.

c. Rebuttable Presumption Payback

As discussed in section III.E.2, EPCA establishes a rebuttable presumption that an energy conservation standard is economically justified if the increased purchase cost for equipment that meets the standard is less than three times the value of the first-year energy savings resulting from the standard. DOE calculated a rebuttable-presumption PBP for each TSL.

DOE based the calculations on average usage profiles. As a result, DOE

calculated a single rebuttable-presumption payback value, and not a distribution of PBPs, for each TSL. Table V.6 and Table V.7 show the rebuttable-presumption PBPs for the considered TSLs. In addition to the rebuttable presumption analysis, however, DOE routinely conducts an economic analysis that considers the full range of impacts to the customer, manufacturer, nation, and environment, as required by EPCA. The results of that analysis serve as the basis for DOE to evaluate the economic justification for a potential standard level (thereby supporting or rebutting the results of any three-year PBP analysis). Section V.C addresses how DOE considered the range of impacts to select today's proposed standards.

TABLE V.6—REBUTTABLE-PRESUMPTION PAYBACK PERIODS (YEARS) FOR FRONT-LOADING AND TOP-LOADING COMMERCIAL CLOTHES WASHER UNITS: MULTI-FAMILY APPLICATION

Trial standard level	1	2	3
Efficiency Level	FL: EL1 TL:EL1	FL: EL2 TL:EL1	FL: EL3 TL:EL2
Front Loading CCW Units	0.00	0.04	8.77
Top Loading CCW Units	0.0	0.0	2.3

TABLE V.7—REBUTTABLE-PRESUMPTION PAYBACK PERIODS (YEARS) FOR FRONT-LOADING AND TOP-LOADING COMMERCIAL CLOTHES WASHER UNITS: LAUNDROMAT APPLICATION

Trial standard level	1	2	3
Efficiency Level	FL: EL1 TL:EL1	FL: EL2 TL:EL1	FL: EL3 TL:EL2
Front Loading CCW Units	0.00	0.05	11.19
Top Loading CCW Units	0.00	0.00	2.73

2. Economic Impacts on Manufacturers

DOE performed an MIA to estimate the impact of new energy conservation standards on commercial clothes washer manufacturers. The following section describes the expected impacts on manufacturers at each TSL. Chapter 12 of the NOPR TSD explains the analysis in further detail.

a. Industry Cash-Flow Analysis Results

The following tables depict the financial impacts (represented by changes in INPV) of amended energy conservation standards on manufacturers of commercial clothes washers as well as the conversion costs that DOE estimates manufacturers would incur for each equipment class at each TSL. To evaluate the range of cash flow impacts on the commercial clothes washer manufacturing industry, DOE used two different markup assumptions to model scenarios that correspond to the range of anticipated market responses to amended energy conservation standards.

To assess the lower (less severe) end of the range of potential impacts, DOE modeled a preservation of gross margin percentage markup scenario, in which a uniform ''gross margin percentage'' markup is applied across all efficiency levels. In this scenario, DOE assumed that a manufacturer's absolute dollar markup would increase as production costs increase in the amended energy conservation standards case. Manufacturers have indicated that it is optimistic to assume that they would be able to maintain the same gross margin percentage markup as their production costs increase in response to a new or amended energy conservation standard, particularly at higher TSLs.

To assess the higher (more severe) end of the range of potential impacts, DOE modeled the preservation of operating profit (in absolute dollars) markup scenario, which assumes that manufacturers would not be able to preserve the same overall gross margin, but instead cut their markup for marginally compliant products to maintain a cost competitive product offering and keep the same overall level of operating profit as in the base case. The two tables below show the range of potential INPV impacts for manufacturers of commercial clothes washers. The first table reflects the lower bound of impacts (higher profitability) and the second represents the upper bound of impacts (lower profitability).

Each scenario results in a unique set of cash flows and corresponding industry values at each TSL. In the following discussion, the INPV results refer to the sum of discounted cash flows through 2047, the difference in INPV between the base case and each standards case, and the total industry conversion costs required for each standards case.

TABLE V.8—MANUFACTURER IMPACT ANALYSIS UNDER THE PRESERVATION OF GROSS MARGIN PERCENTAGE MARKUP SCENARIO

	Units	Base case	Trial standard level		
			1	2	3
INPV	2012$ Millions	$124.2	118.3	118.2	33.0
Change in INPV	2012$ Millions		(5.9)	(6.0)	(91.2)
	(%)		(4.7)	(4.9)	(73.4)
Product Conversion Costs	2012$ Millions		9.9	10.2	62.4
Capital Conversion Costs	2012$ Millions				63.1

TABLE V.8—MANUFACTURER IMPACT ANALYSIS UNDER THE PRESERVATION OF GROSS MARGIN PERCENTAGE MARKUP SCENARIO—Continued

	Units	Base case	Trial standard level		
			1	2	3
Total Conversion Costs	2012$ Millions		9.9	10.2	126.6

* Values in parentheses are negative values.

TABLE V.9—MANUFACTURER IMPACT ANALYSIS UNDER THE PRESERVATION OF OPERATING PROFIT IN ABSOLUTE DOLLARS MARKUP SCENARIO

	Units	Base case	Trial standard level		
			1	2	3
INPV	2012$ Millions	$124.2	118.3	118.2	28.8
Change in INPV	2012$ Millions		(5.9)	(6.0)	(95.4)
	(%)		(4.7)	(4.9)	(76.8)
Product Conversion Costs	2012$ Millions		9.9	10.2	62.4
Capital Conversion Costs	2012$ Millions				63.1
Total Conversion Costs	2012$ Millions		9.9	10.2	126.6

* Values in parentheses are negative values.

Beyond impacts on INPV, DOE includes a comparison of free cash flow between the base case and the standards case at each TSL in the year before amended standards take effect to provide perspective on the short-run cash flow impacts in the discussion of the results below.

At TSL 1, DOE estimates the impact on INPV for manufacturers of commercial clothes washers to be $5.9 million, or a change in INPV of −4.7 percent under either markup scenario. At this TSL, industry free cash flow is estimated to decrease by approximately 30.2 percent to $6.3 million, compared to the base-case value of $9.1 million in the year before the compliance date (2017).

TSL 1 represents an improvement in MEF_{J2} (as determined using appendix J2) from the baseline level of 1.65 to 1.80 (ft^3/kWh/cycle) for front-loading equipment and an improvement in MEF_{J2} from the baseline level of 1.15 to 1.35 (ft^3/kWh/cycle) for top-loading equipment. The identical results for the two markup scenarios at TSL 1 occur because for both equipment classes, the baseline MPCs and the MPCs at TSL 1 are the same. For front-loading equipment, this is because the 1.8 MEF_{J2} (as determined using appendix J2) products (on which the EL 1 standard is based) are the lowest efficiency front-loading equipment available on the market. As such, TSL 1 would have no impact on the front-loading market. Similarly, the design options associated with EL 1 for top-loading equipment relate to control changes and different cycle options, rather than material changes to the equipment itself. While there are product conversion costs associated with the research and development needed to make these changes, there are no changes in the per unit production costs. Given these conditions, the impacts on INPV at TSL 1 can be attributed solely to the $9.9 million in product conversion costs for top-loading equipment.

At TSL 2, DOE estimates the impact on INPV for manufacturers of commercial clothes washers to be $6.0 million, or a change in INPV of −4.9 percent under either markup scenario. At this TSL, industry free cash flow is estimated to decrease by approximately 31.2 percent to $6.2 million, compared to the base-case value of $9.1 million in the year before the compliance date (2017).

TSL 2 represents an improvement in MEF_{J2} from the baseline level of 1.65 to 2.00 (ft^3/kWh/cycle) for front-loading equipment and an improvement in MEF_{J2} from the baseline level of 1.15 to 1.35 (ft^3/kWh/cycle) for top-loading equipment. Much like TSL 1, the identical results for the two markup scenarios at TSL 2 occur because the baseline MPCs and the MPCs at TSL 2 are very close for front-loading equipment, and the same for top-loading equipment. For front-loading equipment, this is because the 2.0 MEF_{J2} EL (as determined using appendix J2) requires only minor changes to baseline equipment needed to enable slightly faster spin speeds. The standard level for top-loading equipment at TSL 2 is the same at TSL 1, and again relates to control changes and different cycle options, rather than material changes to the equipment. Because there are no substantive changes to MPCs for either equipment class, much as in TSL 1, nearly all of the impacts on INPV at TSL 2 can be attributed to the $10.2 million in product conversion costs.

At TSL 3, DOE estimates impacts on INPV for manufacturers of commercial clothes washers to range from −$91.2 million to −$95.4 million, or a change in INPV of −73.4 percent to −76.8 percent. At this TSL, industry free cash flow is estimated to decrease by over 500 percent to −$36.8 million, compared to the base-case value of $9.1 million in the year before the compliance date (2017).

TSL 3 represents an improvement in MEF_{J2} from the baseline level of 1.65 to 2.20 (ft^3/kWh/cycle) for equipment class 1 and an improvement in MEF_{J2} from the baseline level of 1.15 to 1.55 (ft^3/kWh/cycle) for equipment class 2. Unlike TSL 1 and TSL 2, the efficiency levels specified at TSL 3 would require substantial redesigns of products in both equipment classes. The design options proposed at these efficiency levels include switching to direct-drive motors, hung suspension, non-traditional agitation, and increasing the tub capacity—all of which require major platform overhauls and significant changes to manufacturing capital. These design options do not contribute to substantially different MPCs, but the conversion costs associated with product development and testing, as well as the investments in manufacturing capital including

retooling of tubs and agitators significantly impact the INPV.

b. Impacts on Direct Employment

DOE used the GRIM to estimate the domestic labor expenditures and number of domestic production workers in the base case and at each TSL from 2013 to 2047. DOE used statistical data from the most recent U.S Census Bureau's ''Annual Survey of Manufactures,'' the results of the engineering analysis, and interviews with manufacturers to determine the inputs necessary to calculate industry-wide labor expenditures and domestic employment levels. Labor expenditures for the manufacture of a product are a function of the labor intensity of the product, the sales volume, and an assumption that wages in real terms remain constant.

DOE notes that the MIA's analysis detailing impacts on employment focuses specifically on the production workers manufacturing the covered products in question, rather than a manufacturer's broader operations. Thus, the estimated number of impacted employees in the MIA is separate from the total number of employees used to determine whether a manufacturer is a small business for purposes of analysis under the Regulatory Flexibility Act.

The estimates of production workers in this section cover only those up to and including the line-supervisor level directly involved in fabricating and assembling a product within the original equipment manufacturer (OEM) facility. In addition, workers that perform services closely associated with production operations are included. Employees above the working-supervisor level are excluded from the count of production workers. Thus, the labor associated with non-production functions (*e.g.,* factory supervision, advertisement, sales) is explicitly not covered.[38] In addition, DOE's estimates account for production workers that manufacture only the specific products covered by this rulemaking. For example, a worker on a clothes dryer production line would not be included in the estimate of the number of commercial clothes washer production workers. Finally, this analysis also does not factor in the dependence by some manufacturers on production volume to make their operations viable. For example, should a major line of business cease or move, a production facility may no longer have the manufacturing scale to obtain volume discounts on its purchases nor be able to justify maintaining major capital equipment. Thus, the impact on a manufacturing facility due to a line closure may affect more employees than just the production workers, but as stated previously, this analysis focuses on the production workers impacted directly. The aforementioned scenarios, however, are considered relative to employment impacts specific to the LVM at the end of this section.

In the GRIM, DOE used the labor content of each product and the manufacturing production costs from the engineering analysis to estimate the annual labor expenditures in the commercial clothes washer manufacturing industry. DOE used information gained through interviews with manufacturers to estimate the portion of the total labor expenditures that is attributable to domestic labor.

The employment impacts shown in Table V.10 represent the potential production employment that could result following amended energy conservation standards. These are independent of the employment impacts from the broader U.S. economy, which are documented in chapter 16 of the NOPR TSD.

DOE estimates that in the absence of amended energy conservation standards, there would be 334 domestic production workers involved in manufacturing commercial clothes washers in 2018. Table V.10 shows the range of the impacts of potential amended energy conservation standards on U.S. production workers in the commercial clothes washer manufacturing industry. The upper end of the results in this table estimates the total potential increase in the number of production workers after amended energy conservation standards. To calculate the total potential increase, DOE assumed that manufacturers continue to produce the same scope of covered products in domestic production facilities and domestic production is not shifted to lower-labor-cost countries. Because there is a risk of manufacturers evaluating sourcing decisions in response to amended energy conservation standards, the lower end of the range of employment results in Table V.10 includes the estimated total number of U.S. production workers in the industry who could lose their jobs if all existing production were moved outside of the United States.

TABLE V.10—CHANGE IN TOTAL NUMBER OF DOMESTIC PRODUCTION EMPLOYEES IN 2018 IN THE CCW INDUSTRY

	Base case	TSL 1	TSL 2	TSL 3
Total Number of Domestic Production Workers in 2018	334	334	334	364
Potential Changes in Domestic Production Workers in 2018*		0–(334)	0–(334)	30–(364)

Because production employment expenditures are assumed to be a fixed percentage of Cost of Goods Sold (COGS) and the MPCs typically increase with more efficient products, labor tracks the increased prices in the GRIM. As efficiency of washers increases, so does the complexity of the machines, generally requiring more labor to produce. As previously discussed, for TSL 1, there is no change in MPCs from the base case, and, for TSL 2, there is a small increase in MPCs for front-loaders that would be offset by a shift in shipments from front-loaders to top-loaders. As a result, DOE expects that there would be no employment impacts among domestic commercial clothes washer manufacturers for TSL 1 and TSL 2. For TSL 3, the GRIM predicts an increase in domestic employment following amended standards based on the increase in complexity and relative price of the equipment.

Using the U.S. Census Bureau's 2010 Annual Survey of Manufactures [39] and interviews with manufacturers, DOE estimates that approximately 83 percent of commercial clothes washers are currently produced domestically. In the

[38] The 2010 ASM provides the following definition: ''The 'production workers' number includes workers (up through the line-supervisor level) engaged in fabricating, processing, assembling, inspecting, receiving, storing, handling, packing, warehousing, shipping (but not delivering), maintenance, repair, janitorial and guard services, product development, auxiliary production for plant's own use (*e.g.,* power plant), recordkeeping, and other services closely associated with these production operations at the establishment covered by the report. Employees above the working-supervisor level are excluded from this item.''

[39] The 2010 Annual Survey of Manufacturers is available at: *http://www.census.gov/mcd/asmhome.html.*

commercial clothes washer industry, 100 percent of top-loaders are manufactured domestically, while a much larger share of front-loaders are produced abroad. As illustrated in Table V.10, the actual impacts on domestic employment after standards would be different than estimated if any U.S. manufacturer decided to shift remaining U.S. production to lower-cost countries. The proposed standard could result in losing all 334 production workers if all U.S. manufacturers source standards-compliant washers or shift U.S. production abroad. However, feedback from manufacturers during NOPR interviews supports the notion that top-loading commercial clothes washers will continue to be produced domestically following amended energy conservation standards, unless the max-tech level is chosen.

c. Impacts on Manufacturing Capacity

According to the majority of commercial clothes washer manufacturers, new energy conservation standards could potentially impact manufacturers' production capacity depending on the efficiency level required. For TSL 1 and TSL 2, 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. Available information indicates that manufacturers will be able to maintain manufacturing capacity levels and continue to meet market demand under new energy conservation standards as long as manufacturers continue to offer top-loading and front-loading washers.

However, a very high efficiency standard for top-loading clothes washers could cause certain manufacturers to abandon further domestic production of top-loading clothes washers after the effective date, and choose instead to relocate manufacturing abroad or to source from a foreign manufacturer, which could lead to a permanently lower production capacity within the commercial clothes washer industry.

d. Impacts on Subgroups of Manufacturers

Using average cost assumptions to develop an industry cash flow estimate is not adequate for assessing differential impacts among subgroups of manufacturers. Small manufacturers, niche players, or manufacturers exhibiting a cost structure that differs significantly from the industry average could be affected differently. DOE used the results of the industry characterization to group manufacturers exhibiting similar characteristics.

As outlined earlier, one LVM of commercial clothes washers would be disproportionately affected by any energy efficiency regulation in the commercial clothes washer industry. This business is focused on one specific market segment and is at least ten times smaller than its diversified competitors. Due to this combination of market concentration and size, this LVM is at risk of material harm to its business, depending on the TSL chosen.

The commercial clothes washer LVM indicated that it could not manufacture top-loading or front-loading washers at the proposed max-tech level (MEF_{J2} of 1.55 and 2.20, respectively, as determined using appendix J2) with its existing manufacturing capital and platform constraints. If DOE were to set the standard at the max-tech level, the LVM believes that a ''green field'' design for front-loaders would likely be required. For top-loaders, the LVM asserts that it does not have the technology to reach the max-tech level, and it would be forced to develop an entirely new business model, possibly ceasing commercial clothes washer production altogether, sourcing from abroad, shifting production abroad, or some combination thereof, which could cause employment impacts in the commercial clothes washer industry. If the LVM no longer offers top-loading washers, it would likely cease commercial clothes washer production altogether, resulting in significant impacts to the industry. Currently, the LVM's top-loading washers account for more than half of the company's commercial clothes washer revenues and three-quarters of its commercial clothes washer shipments. To shift all top-loading commercial clothes washers to front-loading washers at current production volumes would require substantial investments that the company may not be able to justify. In addition, the LVM derives an estimated 88 percent of its clothes washer revenue from commercial clothes washers, so its sales in the residential clothes washer market would be too low to justify continuing any top-loading clothes washer manufacturing. Further detail and separate analysis of impacts on the LVM are found in chapter 12 of the NOPR TSD.

e. Cumulative Regulatory Burden

One aspect of assessing manufacturer burden is the cumulative impact of multiple DOE standards and the regulatory actions of other Federal agencies and states that affect the manufacturers of a covered product or equipment. While any one regulation may not impose a significant burden on manufacturers, the combined effects of several existing or impending regulations may have serious consequences for some manufacturers, groups of manufacturers, or an entire industry.

Companies that produce a wider range of regulated products may be faced with more capital and product development expenditures than their competitors. This can prompt those companies to exit the market or reduce their product offerings, potentially reducing competition. Smaller companies can be especially affected, since they have lower sales volumes over which to amortize the costs of compliance with new regulations.

In addition to DOE's energy conservation regulations for commercial clothes washers, several other existing regulations apply to these products and other equipment produced by the same manufacturers. The most significant of these additional regulations include several additional existing or proposed Federal and State energy conservation and environmental standards, consumer product safety standards, the Green Chemistry law in California, and standards impacting commercial clothes washer suppliers such as the Conflict Minerals directive contained within the Dodd-Frank Act of 2010.

Most manufacturers interviewed also sell products to other countries with energy conservation and standby standards. Manufacturers may incur a substantial cost to the extent that there are overlapping testing and certification requirements in other markets besides the United States. Because DOE has authority to set standards on products sold in the United States, DOE accounts only for domestic compliance costs in its analysis of cumulative regulatory burdens impacting commercial clothes washer manufacturers. For more details, see chapter 12 of the NOPR TSD.

3. National Impact Analysis

Projections of shipments are an important part of the NIA. As discussed in section IV.G, The market shares of the equipment classes are somewhat sensitive to the installed cost of new equipment. DOE applied a cross-price elasticity to estimate how the market would shift between front-loading and top-loading units in response to a change in price of the unit.

Table V.11presents the estimated cumulative shipments in 2018–2047 in the base case and under each TSL. Because DOE found CCW units to be relatively price inelastic, DOE estimated that the potential standards would not affect total shipments.

TABLE V.11—PROJECTED CUMULATIVE SHIPMENTS OF FRONT- AND TOP-LOADING COMMERCIAL CLOTHES WASHER UNITS IN 2018–2047

[Million units]

	Base case	TSL1 FL: EL1 TL:EL1	TSL2 FL: EL2 TL:EL1	TSL3 Max Tech FL: EL3 TL:EL2
Front Loading	2.813	2.813	2.812	2.900
Top Loading	3.465	3.465	3.466	3.379
Total	6.278	6.278	6.278	6.278

a. Significance of Energy Savings

For each TSL, DOE projected energy savings for front-loading and top-loading commercial clothes washer unit purchased in the 30-year period that begins in the year of anticipated compliance with amended standards (2018–2047). The savings are measured over the entire lifetime of equipment 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.12 presents the estimated primary energy savings for each considered TSL, and Table V.13 presents the estimated FFC energy savings for each TSL. The approach for estimating national energy savings is further described in section IV.H.

TABLE V.12—CUMULATIVE PRIMARY ENERGY SAVINGS FOR FRONT-LOADING AND TOP-LOADING COMMERCIAL CLOTHES WASHERS TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2018–2047

Equipment class	Trial standard level		
	1	2	3
	quads		
Front Loading CCW Units	0.007	0.023	0.005
Top Loading CCW Units	0.086	0.085	0.163
Total All Classes	0.092	0.109	0.168

TABLE V.13—CUMULATIVE FULL-FUEL-CYCLE ENERGY SAVINGS FOR FRONT-LOADING AND TOP-LOADING COMMERCIAL CLOTHES WASHERS TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2018–2047

Equipment class	Trial standard level		
	1	2	3
	quads		
Front Loading CCW Units	0.007	0.025	0.005
Top Loading CCW Units	0.090	0.090	0.170
Total All Classes	0.097	0.114	0.175

For this rulemaking, DOE undertook a sensitivity analysis using nine instead of 30 years of equipment shipments. The choice of a nine-year period is a proxy for the timeline in EPCA for the review of certain energy conservation standards and potential revision of and compliance with such revised standards.[40] This timeframe may not be statistically relevant with regard to the equipment lifetime, equipment manufacturing cycles or other factors specific to front-loading and top-loading commercial clothes washer equipment. 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 commercial clothes washers purchased in 2018–2026.

[40] EPCA requires DOE to review its standards at least once every 6 years, and requires, for certain products, a 3-year period after any new standard is promulgated before compliance is required, except that in no case may any new standards be required within 6 years of the compliance date of the previous standards. While adding a 6-year review to the 3-year compliance period adds up to 9 years, DOE notes that it may undertake reviews at any time within the 6 year period and that the 3-year compliance date may yield to the 6-year backstop. A 9-year analysis period may not be appropriate given the variability that occurs in the timing of standards reviews and the fact that for some consumer products, the compliance period is 5 years rather than 3 years.

TABLE V.14—CUMULATIVE PRIMARY ENERGY SAVINGS FOR FRONT-LOADING AND TOP-LOADING COMMERCIAL CLOTHES WASHERS TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2018–2026

Equipment class	Trial standard level		
	1	2	3
	quads		
Front Loading CCW Units	0.002	0.006	0.001
Top Loading CCW Units	0.024	0.024	0.046
Total All Classes	0.026	0.030	0.047

b. Net Present Value of Customer Costs and Benefits

DOE estimated the cumulative NPV of the total costs and savings for customers that would result from the TSLs considered for CCWs. In accordance with OMB's guidelines on regulatory analysis,[41] DOE calculated the NPV using both a 7-percent and a 3-percent real discount rate. The 7-percent rate is an estimate of the average before-tax rate of return on private capital in the U.S. economy, and reflects the returns on real estate and small business capital as well as corporate capital. This discount rate approximates the opportunity cost of capital in the private sector. The 3-percent rate reflects the potential effects of standards on private consumption (*e.g.,* through higher prices for equipment and reduced purchases of energy). This rate represents the rate at which society discounts future consumption flows to their present value. It can be approximated by the real rate of return on long-term government debt (*i.e.,* yield on United States Treasury notes), which has averaged about 3 percent for the past 30 years.

Table V.15 shows the customer NPV results for each TSL considered for CCWs. In each case, the impacts cover the lifetime of equipment purchased in 2018–2047.

TABLE V.15—NET PRESENT VALUE OF CUSTOMER BENEFITS FOR FRONT-LOADING AND TOP-LOADING COMMERCIAL CLOTHES WASHERS TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2018–2047

Equipment class	Discount rate %	Trial standard level		
		1	2	3
		billion 2012$		
Front Loading CCW Units	3	0.120	0.344	-0.132
Top Loading CCW Units		0.596	0.594	2.131
Total All Classes		0.716	0.938	1.999
Front Loading CCW Units	7	0.051	0.145	-0.060
Top Loading CCW Units		0.261	0.260	0.910
Total All Classes		0.311	0.405	0.850

The NPV results based on the nine-year analytical period discussed in section V.B.3.a are presented in Table V.16. The impacts are counted over the lifetime of equipment purchased in 2018–2026. As mentioned previously, this information is presented for informational purposes only and is not indicative of any change in DOE's analytical methodology or decision criteria.

TABLE V.16—NET PRESENT VALUE OF CUSTOMER BENEFITS FOR FRONT-LOADING AND TOP-LOADING COMMERCIAL CLOTHES WASHERS TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2018–2026 †

Equipment class	Discount rate %	Trial standard level		
		1	2	3
		billion 2012$		
Front Loading CCW Units	3	0.04	0.11	(0.04)
Top Loading CCW Units		0.21	0.21	0.71
Total All Classes		0.24	0.31	0.67
Front Loading CCW Units	7	0.02	0.06	(0.03)
Top Loading CCW Units		0.13	0.12	0.42

[41] OMB Circular A–4, section E (Sept. 17, 2003). Available at: *http://www.whitehouse.gov/omb/circulars_a004_a-4.*

TABLE V.16—NET PRESENT VALUE OF CUSTOMER BENEFITS FOR FRONT-LOADING AND TOP-LOADING COMMERCIAL CLOTHES WASHERS TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2018–2026 †—Continued

Equipment class	Discount rate %	Trial standard level		
		1	2	3
Total All Classes		0.15	0.19	0.40

† Values in parentheses are negative values.

c. Indirect Impacts on Employment

DOE expects energy conservation standards for front-loading and top-loading commercial clothes washers to reduce energy costs for equipment owners, and the resulting net savings to be redirected to other forms of economic activity. Those shifts in spending and economic activity could affect the demand for labor. As described in section IV.N, DOE used an input/output model of the U.S. economy to estimate indirect employment impacts of the TSLs that DOE considered in this rulemaking. DOE understands that there are uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Therefore, DOE generated results for near-term time frames, where these uncertainties are reduced.

The results suggest that the proposed standards are likely to have negligible impact on the net demand for labor in the economy. The net change in jobs is so small that it would be imperceptible in national labor statistics and might be offset by other, unanticipated effects on employment. Chapter 16 of the NOPR TSD presents detailed results.

4. Impact on Utility

As discussed in section IV.C, DOE has determined that the standards it is proposing today will not lessen the utility of front-loading and top-loading commercial clothes washers.

5. Impact of Any Lessening of Competition

DOE considers any lessening of competition likely to result from amended 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, together with an analysis of the nature and extent of such impact.

To assist the Attorney General in making such determination, DOE will provide DOJ with copies of this NOPR and the TSD for review. DOE will consider DOJ's comments on the proposed rule in preparing the final rule, and DOE will publish and respond to DOJ's comments in that document.

6. Need of the Nation to Conserve Energy

Enhanced energy efficiency, where economically justified, improves the nation's energy security, strengthens the economy, and reduces the environmental impacts or costs of energy production. Reduced electricity demand due to energy conservation standards is also likely to reduce the cost of maintaining the reliability of the electricity system, particularly during peak-load periods. As a measure of this reduced demand, chapter 15 in the NOPR TSD presents the estimated reduction in generating capacity for the TSLs that DOE considered in this rulemaking.

Energy savings from standards for front-loading and top-loading commercial clothes washers could also produce environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases. Table V.17 provides DOE's estimate of cumulative emissions reductions projected to result from the TSLs considered in this rulemaking. DOE reports annual emissions reductions for each TSL in chapter 13 of the NOPR TSD.

TABLE V.17—CUMULATIVE EMISSIONS REDUCTION ESTIMATED FOR FRONT-LOADING AND TOP-LOADING COMMERCIAL CLOTHES WASHERS TRIAL STANDARD LEVELS

	Trial standard level		
	1	2	3
Power Sector and Site Emissions *			
CO_2 (million metric tons)	4.5	5.4	8.2
SO_2 (thousand tons)	4.0	4.3	8.6
NO_X (thousand tons)	1.2	1.7	1.2
Hg (tons)	0.00	0.01	0.01
N_2O (thousand tons)	0.07	0.07	0.14
CH_4 (thousand tons)	0.40	0.44	0.83
Upstream Emissions			
CO_2 (million metric tons)	0.4	0.5	0.7
SO_2 (thousand tons)	0.04	0.04	0.08
NO_X (thousand tons)	6.0	7.4	10.0
Hg (tons)	0.00	0.00	0.00
N_2O (thousand tons)	0.002	0.002	0.004
CH_4 (thousand tons)	40.4	49.7	65.3
Total Emissions			
CO_2 (million metric tons)	5.0	5.9	8.8
SO_2 (thousand tons)	4.0	4.4	8.7

TABLE V.17—CUMULATIVE EMISSIONS REDUCTION ESTIMATED FOR FRONT-LOADING AND TOP-LOADING COMMERCIAL CLOTHES WASHERS TRIAL STANDARD LEVELS—Continued

	Trial standard level		
	1	2	3
NO_X (thousand tons)	7.3	9.1	11.1
Hg (tons)	0.00	0.01	0.01
N_2O (thousand tons)	0.07	0.08	0.15
N_2O (thousand tons CO_2eq) **	20.4	22.6	43.2
CH_4 (thousand tons)	40.8	50.1	66.2
CH_4 (thousand tons CO_2eq) **	1019.1	1253.4	1654.1

* Includes site emissions from gas water heaters.
** CO_2eq is the quantity of CO_2 that would have the same global warming potential (GWP).

As part of the analysis for this rule, DOE estimated monetary benefits likely to result from the reduced emissions of CO_2 and NO_X that DOE estimated for each of the TSLs considered. As discussed in section IV.L, DOE used the most recent values for the SCC developed by an interagency process. The four sets of SCC values resulting from that process (expressed in 2012$) are represented by $11.8/metric ton (the average value from a distribution that uses a 5-percent discount rate), $39.7/metric ton (the average value from a distribution that uses a 3-percent discount rate), $61.2/metric ton (the average value from a distribution that uses a 2.5-percent discount rate), and $117/metric ton (the 95th-percentile value from a distribution that uses a 3-percent discount rate). These values correspond to the value of emission reductions in 2015; the values for later years are higher due to increasing damages as the projected magnitude of climate change increases.

Table V.18 presents the global value of CO_2 emissions reductions at each TSL. For each of the four cases, DOE calculated a present value of the stream of annual values using the same discount rate as was used in the studies upon which the dollar-per-ton values are based. DOE calculated domestic values as a range from 7 percent to 23 percent of the global values, and these results are presented in chapter 14 of the NOPR TSD.

TABLE V.18—ESTIMATES OF PRESENT VALUE OF CO_2 EMISSIONS REDUCTION UNDER FRONT-LOADING AND TOP-LOADING COMMERCIAL CLOTHES WASHERS TRIAL STANDARD LEVELS

TSL	SCC Case *			
	5% discount rate, average *	3% discount rate, average *	2.5% discount rate, average *	3% discount rate, 95th percentile *
	Million 2012$			
Power Sector and Site Emissions				
1	30.06	139.38	221.96	430.59
2	35.45	164.70	262.39	508.93
3	54.38	251.50	400.32	776.76
Upstream Emissions				
1	2.652	12.450	19.876	38.514
2	3.219	15.136	24.170	46.828
3	4.434	20.818	33.234	64.399
Total Emissions				
1	32.71	151.83	241.83	469.10
2	38.67	179.84	286.56	555.76
3	58.81	272.31	433.55	841.16

* For each of the four cases, the corresponding global SCC value for emissions in 2015 is $11.8, $39.7, $61.2, and $117 per metric ton (2012$).

DOE is well aware that scientific and economic knowledge about the contribution of CO_2 and other greenhouse gas (GHG) emissions to changes in the future global climate and the potential resulting damages to the world economy continues to evolve rapidly. Thus, any value placed on reducing CO_2 emissions in this rulemaking is subject to change. DOE, together with other Federal agencies, will continue to review various methodologies for estimating the monetary value of reductions in CO_2 and other GHG emissions. This ongoing review will consider the comments on this subject that are part of the public record for this and other rulemakings, as well as other methodological assumptions and issues. However, consistent with DOE's legal obligations, and taking into account the uncertainty involved with this particular issue, DOE has included in this proposed rule the most recent values and analyses resulting from the interagency process.

DOE also estimated the cumulative monetary value of the economic benefits associated with NO_X emissions reductions anticipated to result from

amended standards for Front-loading and Top-loading CCWs. The dollar-per-ton values that DOE used are discussed in section IV.L. Table V.19 presents the cumulative present values for each TSL calculated using seven-percent and three-percent discount rates.

TABLE V.19—ESTIMATES OF PRESENT VALUE OF NO_X EMISSIONS REDUCTION UNDER FRONT-LOADING AND TOP-LOADING COMMERCIAL CLOTHES WASHERS TRIAL STANDARD LEVELS

TSL	3% discount rate	7% discount rate
	Million 2012$	
Power Sector and Site Emissions		
1	1.18	0.26
2	1.77	0.50
3	0.63	−0.30
Upstream Emissions		
1	7.93	3.60
2	9.66	4.36
3	13.07	5.93
Upstream Emissions		
1	9.10	3.85
2	11.43	4.86
3	13.71	5.63

7. Summary of National Economic Impacts

The NPV of the monetized benefits associated with emissions reductions can be viewed as a complement to the NPV of the customer savings calculated for each TSL considered in this rulemaking. Table V.20 presents the NPV values that result from adding the estimates of the potential economic benefits resulting from reduced CO_2 and NO_X emissions in each of four valuation scenarios to the NPV of customer savings calculated for each TSL considered in this rulemaking, at both a seven-percent and three-percent discount rate. The CO_2 values used in the columns of each table correspond to the four sets of SCC values discussed above.

TABLE V.20—NET PRESENT VALUE OF CUSTOMER SAVINGS COMBINED WITH PRESENT VALUE OF MONETIZED BENEFITS FROM CO_2 AND NO_X EMISSIONS REDUCTIONS

TSL	Customer NPV at 3% discount rate added with:			
	SCC Case $11.8/metric ton CO_2*	SCC Case $39.7/metric ton CO_2*	SCC Case $61.2/metric ton CO_2*	SCC Case $117/metric ton CO_2*
	Billion 2012$			
1	0.8	0.9	1.0	1.2
2	1.0	1.1	1.2	1.5
3	2.1	2.3	2.4	2.9

TSL	Customer NPV at 7% Discount Rate added with:			
	SCC Case $11.8/metric ton CO_2*	SCC Case $39.7/metric ton CO_2*	SCC Case $61.2/metric ton CO_2*	SCC Case $117/metric ton CO_2*
	Billion 2012$			
1	0.3	0.5	0.6	0.8
2	0.4	0.6	0.7	1.0
3	0.9	1.1	1.3	1.7

*These label values represent the global SCC in 2015, in 2012$. For NO_X emissions, each case uses the medium value, which corresponds to $2,639 per ton.

Although adding the value of customer 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. customer monetary savings that occur as a result of market transactions, while the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and the SCC are performed with different methods that use different time frames for analysis. The national operating cost savings is measured for the lifetime of equipment shipped in 2018–2047. The SCC values, on the other hand, reflect the present value of future climate-related impacts resulting from the emission of one metric ton of CO_2 in each year. These impacts continue well beyond 2100.

8. 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. 6313(a)(6)(B)(ii)(VII)) No other factors were considered in this analysis.

C. Proposed Standards

When considering proposed standards, the new or amended energy conservation standard that DOE adopts for any type (or class) of covered equipment shall be designed to achieve the maximum improvement in energy efficiency that the Secretary of Energy determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A) and 6316(a)) In determining whether a standard is economically justified, the Secretary must determine whether the benefits of the standard exceed its burdens to the greatest extent practicable, considering the seven statutory factors discussed previously. (42 U.S.C. 6295(o)(2)(B)(i) and 6316(a)) The new or amended standard must also ''result in significant conservation of energy.'' (42 U.S.C. 6295(o)(3)(B) and 6316(a))

For today's NOPR, DOE 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 technologically feasible, economically justified and saves a significant amount of energy.

To aid the reader in understanding the benefits and/or burdens of each TSL, tables in this section summarize the quantitative analytical results for each TSL, based on the assumptions and methodology discussed herein. The efficiency levels contained in each TSL are described in section V.A. In addition to the quantitative results presented in the tables, DOE also considers other burdens and benefits that affect economic justification. These include the impacts on identifiable subgroups of customers who may be disproportionately affected by a national standard (see section V.B.1.b), and impacts on employment. DOE discusses the impacts on employment in front-loading and top-loading commercial clothes washer equipment manufacturing in section V.B.2, and discusses the indirect employment impacts in section V.B.3.c.

1. Benefits and Burdens of Trial Standard Levels Considered for Front-Loading and Top-Loading Commercial Clothes Washers

Table V.21 and Table V.22 summarize the quantitative impacts estimated for each TSL for front-loading and top-loading commercial clothes washers.

TABLE V.21—SUMMARY OF ANALYTICAL RESULTS FOR FRONT-LOADING AND TOP-LOADING COMMERCIAL CLOTHES WASHERS: NATIONAL IMPACTS

Category	TSL 1	TSL 2	TSL 3
National FFC Energy Savings *quads*			
	0.097	0.114	0.175
NPV of Customer Benefits *2012$ billion*			
3% discount rate	0.72	0.94	2.00
7% discount rate	0.31	0.40	0.85
Cumulative Emissions Reduction (Total FFC Emissions)			
CO_2 *million metric tons*	4.94	5.87	8.84
NO_X *thousand tons*	7.26	9.10	11.14
Hg *tons*	0.00	0.01	0.01
N_2O *thousand tons*	0.07	0.08	0.15
N_2O *thousand tons* CO_2eq*	20.37	22.57	43.25
CH_4 *thousand tons*	40.77	50.14	66.16
CH_4 *thousand tons* CO_2eq*	1,019	1,253	1,654
SO_2 *thousand tons*	3.99	4.36	8.69
Value of Emissions Reduction (Total FFC Emissions)			
CO_2 *2012$ million***	32.7 to 469.1	38.7 to 555.8	58.8 to 841.2
NO_X—3% discount rate *2012$ million*	9.1	11.43	13.71
NO_X—7% discount rate *2012$ million*	3.85	4.86	5.63

* CO_2eq is the quantity of CO_2 that would have the same global warming potential (GWP).
** Range of the economic value of CO_2 reductions is based on estimates of the global benefit of reduced CO_2 emissions.

TABLE V.22—SUMMARY OF ANALYTICAL RESULTS FOR FRONT-LOADING AND TOP-LOADING COMMERCIAL CLOTHES WASHERS: MANUFACTURER AND CONSUMER IMPACTS

Category	TSL 1	TSL 2	TSL 3
Manufacturer Impacts.			
Change in Industry NPV (*2012$ million)* †	(5.9)	(6.0)	(91.2) to (95.4)
Change in Industry NPV *(%)*†	(4.7)	(4.90)	(73.4) to (76.8)
Customer Mean LCC Savings *2012$*			
Front-Loading, Multi-family	229	285	8

TABLE V.22—SUMMARY OF ANALYTICAL RESULTS FOR FRONT-LOADING AND TOP-LOADING COMMERCIAL CLOTHES WASHERS: MANUFACTURER AND CONSUMER IMPACTS—Continued

Category	TSL 1	TSL 2	TSL 3
Front-Loading, Laundromat †	198	235	(19)
Top-Loading, Multi-family	259	259	813
Top-Loading, Laundromat	145	145	654
Weighted Average *	235	257	464
Customer Median PBP years			
Front-Loading, Multi-family	0.0	0.0	3.8
Front-Loading, Laundromat	0.0	0.0	8.0
Top-Loading, Multi-family	0.0	0.0	0.6
Top-Loading, Laundromat	0.0	0.0	0.6
Weighted Average *	0.0	0.0	2.2
Front-Loading, Multi-Family			
Customers with Net Cost %	0	0	46
Customers with Net Benefit %	27	61	53
Customers with No Impact %	73	39	0
Front-Loading, Laundromat			
Customers with Net Cost %	0	0	72
Customers with Net Benefit %	27	61	28
Customers with No Impact %	73	39	0
Top-Loading, Multi-Family			
Customers with Net Cost %	0	0	0
Customers with Net Benefit %	99	99	100
Customers with No Impact %	1	1	0
Top-Loading, Laundromat			
Customers with Net Cost %	0	0	0
Customers with Net Benefit %	99	99	100
Customers with No Impact %	1	1	0

* Weighted by shares of each equipment class in total projected shipments in 2018.
† Values in parentheses are negative values.

First, DOE considered TSL 3, the most efficient level (max tech), which would save an estimated total of 0.17 quads of energy, an amount DOE considers significant. TSL 3 has an estimated NPV of customer benefit of $0.85 billion using a 7 percent discount rate, and $1.99 billion using a 3 percent discount rate.

The cumulative emissions reductions at TSL 3 are 8.8 million metric tons of CO_2, 11.1 thousand tons of NO_X, 8.7 thousand tons of SO_2, and 0.01 tons of Hg. The estimated monetary value of the CO_2 emissions reductions at TSL 3 ranges from $59 million to $841 million.

At TSL 3, the average LCC savings is $8 and −$19 for multi-family and laundromat applications for front-loading CCW units, and $813 and $654 for multi-family and laundromat applications for top-loading CCW units. The median PBP is 4 and 8 years for multi-family and laundromat applications for front-loading CCW units, and 0.6 years for both applications for top-loading CCW units. The share of customers experiencing a net LCC benefit is 53 percent and 28 percent for multi-family and laundromat applications for front-loading CCW units, and 99.8 percent for both applications for top-loading CCW units.

At TSL 3, the projected change in INPV ranges from a decrease of $91.2 million to a decrease of $95.4 million, equivalent to 73.4 percent and 76.8 percent, respectively. Products that meet the efficiency standards specified by this TSL are forecast to represent only 12 percent of shipments in the year leading up to amended standards. As such, manufacturers would have to redesign nearly all products by the 2018 compliance date to meet demand. Redesigning all units to meet the current max-tech efficiency levels would require considerable capital and equipment conversion expenditures. At TSL 3, the capital conversion costs total $63.1 million, 13.1 times the industry annual capital expenditure in the year leading up to amended standards. DOE estimates that complete platform redesigns would cost the industry $62.4 million in equipment conversion costs. These conversion costs largely relate to the research programs required to develop new products that meet the efficiency standards set forth by TSL 3. These costs are equivalent to 14.3 times the industry annual budget for research and development. Total capital and equipment conversion costs associated with the changes in products and manufacturing facilities required at TSL 3 would require significant use of manufacturers' financial reserves (manufacturer capital pools), impacting other areas of business that compete for these resources, and significantly reducing INPV. In addition, manufacturers could face a substantial impact on profitability at TSL 3. Because manufacturers are more likely to reduce their margins to maintain a price-competitive product at higher TSLs, DOE expects that TSL 3 would yield impacts closer to the high end of the range of INPV impacts. If the high end of the range of impacts is reached,

as DOE expects, TSL 3 could result in a net loss of 76.8 percent in INPV to commercial clothes washer manufacturers. As a result, at TSL 3, DOE expects that some companies would be forced to exit the commercial clothes washer market or shift production abroad, both which would negatively impact domestic manufacturing capacity and employment.

In view of the foregoing, DOE concludes that, at TSL 3 for front-loading and top-loading CCW equipment, the benefits of energy savings, positive NPV of total customer benefits, customer LCC savings for three of the four applications, emission reductions and the estimated monetary value of the emissions reductions would be outweighed by the negative customer impacts for front-loadings CCWs in laundromats, the large reduction in industry value at TSL 3, as well as the potential for loss of domestic manufacturing. Consequently, DOE has concluded that TSL 3 is not economically justified.

Next, DOE considered TSL 2, which would save an estimated total of 0.11 quads of energy, an amount DOE considers significant. TSL 2 has an estimated NPV of customer benefit of $0.40 billion using a 7 percent discount rate, and $0.94 billion using a 3 percent discount rate.

The cumulative emissions reductions at TSL 2 are 5.9 million metric tons of CO_2, 9.1 thousand tons of NO_X, 4.4 thousand tons of SO_2, and 0.01 tons of Hg. The estimated monetary value of the CO_2 emissions reductions at TSL 2 ranges from $39 million to $556 million.

At TSL 2, the average LCC savings is $285 and $235 for front-loading CCW units for multi-family application, and laundromat application, respectively. For top-loading CCW units, the average LCC savings are $259 and $145 for multi-family and laundromat applications. The median PBP is 0.02 and 0.01 years for multi-family and laundromat applications for front-loading CCW units, zero years for top-loading CCW units. The share of customers experiencing a net LCC benefit is 61 percent for front-loading CCW units, and 99 percent for top-loading CCW units.

At TSL 2, the projected change in INPV is a decrease of $6.0 million, or a decrease of 4.9 percent. Although products that meet the efficiency standards specified by this TSL are forecast to represent only 15 percent of shipments in the year leading up to amended standards, DOE's testing and reverse-engineering analyses indicate that manufacturers can achieve TSL 2 at little or no additional capital cost compared to models at the current baseline levels. Through its analyses, DOE observed that manufacturers generally employ control strategies to achieve the TSL 2 efficiency levels (e.g., changes in water levels, water temperatures, and cycle settings available to the end user). Accordingly, this level corresponds more to incremental equipment conversions rather than platform redesigns. Thus, DOE estimates that compliance with TSL 2 would not require any up front capital investments, while the industry budget for capital expenditure in the year leading up to amended standards is $4.8 million. TSL 2 will require an estimated $10.2 million in equipment conversion costs primarily relating to the research and development programs needed to improve upon existing platforms to meet the specified efficiency levels. This represents 2.3 times the industry budget for research and development in the year leading up to amended standards. The substantial reduction in conversion costs corresponding to compliance with TSL 2 greatly mitigates the operational risk and impact on INPV.

After considering the analysis and weighing the benefits and the burdens, DOE has tentatively concluded that at TSL 2 for front-loading and top-loading commercial clothes washer equipment, the benefits of energy savings, positive NPV of customer benefit, positive impacts on consumers (as indicated by positive average LCC savings, favorable PBPs, and the large percentage of customers who would experience LCC benefits), emission reductions, and the estimated monetary value of the emissions reductions would outweigh the potential reductions in INPV for manufacturers. The Secretary of Energy has concluded that TSL 2 would save a significant amount of energy and is technologically feasible and economically justified.

Based on the above considerations, DOE today proposes to adopt the energy conservation standards for front-loading and top-loading commercial clothes washers at TSL 2.

Table V.23 presents the proposed energy conservation standards for commercial clothes washer equipment.

TABLE V.23—PROPOSED ENERGY CONSERVATION STANDARDS FOR COMMERCIAL CLOTHES WASHERS

Product class	Minimum MEF_{J2}*	Maximum IWF †
Top-Loading	1.35	8.8
Front-Loading	2.00	4.1

* MEF_{J2} (appendix J2 modified energy factor) is calculated as the clothes container capacity in cubic feet divided by the sum, expressed in kilowatt-hours (kWh), of: (1) The total weighted per-cycle hot water energy consumption; (2) the total weighted per-cycle machine electrical energy consumption; and (3) the per-cycle energy consumption for removing moisture from a test load.

† IWF (integrated water factor) is calculated as the sum, expressed in gallons per cycle, of the total weighted per-cycle water consumption for all wash cycles divided by the clothes container capacity in cubic feet.

2. Summary of Benefits and Costs (Annualized) of the Proposed Standards

The benefits and costs of today's proposed standards, for equipment sold in 2018–2047, can also be expressed in terms of annualized values. The annualized monetary values are the sum of (1) the annualized national economic value of the benefits from consumer operation of equipment that meet the proposed standards (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), and (2) the annualized monetary value of the benefits of emission reductions, including CO_2 emission reductions.[42]

Although combining the values of operating savings and CO_2 emission reductions provides a useful perspective, two issues should be considered. First, the national operating savings are domestic U.S. customer 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

[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 2013, the year used for discounting the NPV of total customer costs and savings, for the time-series of costs and benefits using discount rates of three and seven percent for all costs and benefits except for the value of CO_2 reductions. For the latter, DOE used a range of discount rates. From the present value, DOE then calculated the fixed annual payment over a 30-year period (2019 through 2048) 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.

analysis. The national operating cost savings is measured for the lifetime of front-loading and top-loading commercial clothes washers shipped in 2018–2047. The SCC values, on the other hand, reflect the present value of some future climate-related impacts resulting from the emission of one ton of carbon dioxide in each year. These impacts continue well beyond 2100.

Estimates of annualized benefits and costs of the proposed standards for front-loading and top-loading commercial clothes washers are shown in Table V.24. The results under the primary estimate are as follows. Using a 7-percent discount rate for benefits and costs other than CO_2 reduction, for which DOE used a 3-percent discount rate along with the average SCC series that uses a 3-percent discount rate, the cost of the standards proposed in today's rule is $0.02 million per year in increased equipment costs; while the estimated benefits are $31 million per year in reduced equipment operating costs, $9 million in CO_2 reductions, and $0.37 million in reduced NO_X emissions. In this case, the net benefit would amount to $40 million per year. Using a 3-percent discount rate for all benefits and costs and the average SCC series, the estimated cost of the standards proposed in today's rule is $0.02 million per year in increased equipment costs; while the estimated benefits are $46 million per year in reduced operating costs, $9 million in CO_2 reductions, and $0.57 million in reduced NO_X emissions. In this case, the net benefit would amount to approximately $56 million per year.

TABLE V.24—ANNUALIZED BENEFITS AND COSTS OF PROPOSED STANDARDS FOR FRONT-LOADING AND TOP-LOADING COMMERCIAL CLOTHES WASHERS (TSL 2)

	Discount rate	Primary estimate*	Low net benefits estimate*	High net benefits estimate*
		million 2012$/year		
Benefits				
Operating Cost Savings	7%	31	27	38.
	3%	46	40	60.
CO_2 Reduction Monetized Value ($11.8/t case)*.	5%	2	2	3.
CO_2 Reduction Monetized Value ($39.7/t case)*.	3%	9	8	11.
CO_2 Reduction Monetized Value ($61.2/t case)*.	2.5%	13	12	17.
CO_2 Reduction Monetized Value ($117/t case)*.	3%	28	25	34.
NO_X Reduction Monetized Value (at $2,639/ton)**.	7%	0.37	0.33	0.45.
	3%	0.57	0.51	0.70.
Total Benefits†	7% plus CO_2 range	33 to 58	29 to 52	42 to 73.
	7%	40	35	50.
	3% plus CO_2 range	49 to 75	43 to 66	64 to 95.
	3%	56	49	72.
Costs				
Incremental Product Costs	7%	0.02	0.02	0.02.
	3%	0.02	0.03	0.02.
Net Benefits				
Total†	7% plus CO_2 range	33 to 58	29 to 52	42 to 73.
	7%	40	35	50.
	3% plus CO_2 range	49 to 75	43 to 66	64 to 95.
	3%	56	49	72.

* This table presents the annualized costs and benefits associated with front-loading and top-loading CCW units shipped in 2018–2047. These results include benefits to customers which accrue after 2047 from the products purchased in 2018–2047. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule. The Primary, Low Benefits, and High Benefits Estimates utilize projections of energy prices from the *AEO2013* Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental product costs reflect no change for projected product price trends in the Primary Estimate, an increasing trend for projected product prices in the Low Benefits Estimate, and a decreasing trend for projected product prices in the High Benefits Estimate. The methods used to derive projected price trends are explained in section IV.F.

** The interagency group selected four sets of SCC values for use in regulatory analyses. Three sets of values are based on the average SCC from the three integrated assessment models, at discount rates of 2.5, 3, and 5 percent. The fourth set, which represents the 95th percentile SCC estimate across all three models at a 3-percent discount rate, is included to represent higher-than-expected impacts from temperature change further out in the tails of the SCC distribution. The values in parentheses represent the SCC in 2015. The SCC time series incorporate an escalation factor. The value for NO_X is the average of the low and high values used in DOE's analysis.

† Total Benefits for both the 3-percent and 7-percent cases are derived using the series corresponding to average SCC with 3-percent discount rate. In the rows labeled ''7% plus CO_2 range'' and ''3% plus CO_2 range,'' the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

VI. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Section 1(b)(1) of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), requires each agency to identify the problem that it intends to address, including, where applicable, the failures of private markets or public institutions that warrant new agency action, as well as to assess the significance of that problem. The problems that 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 commercial 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 commercial clothes washers 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 a ''significant regulatory action'' under Executive Order 12866. DOE presented for review to the Office of Information and Regulatory Affairs (OIRA) in the OMB the draft rule and other documents prepared for this rulemaking, including a regulatory impact analysis (RIA), 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 believes that today's NOPR is consistent with these principles, including the requirement that, to the extent permitted by law, benefits justify costs and that net benefits are maximized.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'', 5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site (*http://energy.gov/gc/office-general-counsel*).

DOE reviewed today's NOPR pursuant to the RFA and the policies and procedures discussed above. DOE certifies that the standards established in today's NOPR, published elsewhere in today's **Federal Register,** will not have a significant impact on a substantial number of small entities. The factual basis for this certification is set forth below. DOE will consider any comments on the certification or economic impacts of the rule in determining whether to proceed with the NOPR.

For manufacturers of commercial clothes washers, 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: *www.sba.gov/sites/default/files/SizeStandards_Table.pdf.* Commercial clothes washer manufacturing is classified under NAICS 333318, ''Other commercial and service industry machinery manufacturing.'' The SBA sets a threshold of 1,000 employees or less for an entity to be considered as a small business for this category.

To estimate the number of small businesses which could be impacted by the amended energy conservation standards, DOE conducted a market survey using available public information to identify potential small manufacturers. DOE's research included the AHAM membership directory, product databases (CEE, CEC, and ENERGY STAR databases) and individual company Web sites to find potential small business manufacturers. DOE also asked interested parties and industry representatives if they were aware of any other small business manufacturers during manufacturer interviews and at previous DOE public meetings. DOE reviewed all publicly available data and contacted various companies, as necessary, to determine whether they met the SBA's definition of a small business manufacturer of covered commercial clothes washers. DOE screened out companies that did not offer products covered by this rulemaking, did not meet the definition of a ''small business,'' or are foreign owned and operated.

All top-loading commercial clothes washers and approximately 40 percent of front-loading commercial clothes washers are currently manufactured in the United States, accounting for 78 percent of overall domestic commercial clothes washer shipments. Three U.S.-

based companies are responsible for this 78 percent domestic production and over 95 percent of commercial clothes washer industry market share. Although one of these manufacturers has been identified and analyzed separately as a LVM, none of these manufacturers meet the definition of a small business manufacturer, as they all have more than 1,000 employees. The small portion of the remaining commercial clothes washer market (approximately 5,800 shipments) is supplied by a combination of 3 international companies, all of which have small market shares. These companies are all foreign owned and operated, and exceed the SBA's employment threshold for consideration as a small business under the appropriate NAICS code. Therefore, DOE did not identify any small business manufacturers of commercial clothes washers.

Based on the discussion above, DOE certifies that the standards for commercial clothes washers set forth in today's 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 commercial clothes washers must certify to DOE that their products comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their products according to the DOE test procedures for commercial clothes washers, 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 commercial clothes washers. 76 FR 12422 (March 7, 2011). The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 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 proposed rule fits within the category of actions included in Categorical Exclusion (CX) B5.1 and otherwise meets the requirements for application of a CX. See 10 CFR Part 1021, App. B, B5.1(b); 1021.410(b) and Appendix B, B(1)–(5). The proposed rule fits within the category of actions because it is a rulemaking that establishes energy conservation standards for consumer products or industrial equipment, and for which none of the exceptions identified in CX B5.1(b) apply. Therefore, DOE has made a CX determination for this rulemaking, and DOE does not need to prepare an Environmental Assessment or Environmental Impact Statement for this proposed rule. DOE's CX determination for this proposed rule is available at *http://cxnepa.energy.gov/.*

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism.'' 64 FR 43255 (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 proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) 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 proposed rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on state, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of state, local, and tribal

governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *http://energy.gov/gc/office-general-counsel.*

DOE examined today's proposed rule according to UMRA and its statement of policy. Today's proposed rule does not contain a Federal intergovernmental mandate, and DOE expects it will not require expenditures of $100 million or more by the private sector. Such expenditures may include: (1) Investment in research and development and in capital expenditures by commercial clothes washer 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 commercial clothes washers, starting at the compliance date for the applicable standard. Therefore, the analytical requirements of UMRA do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This 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 NOPR under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively concluded that today's regulatory action, which sets forth energy conservation standards for commercial clothes washers, is not a significant energy action because the proposed standards are not likely to have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects on the proposed rule.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (the Bulletin). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions. 70 FR 2667.

In response to OMB's Bulletin, DOE conducted formal in-progress peer reviews of the energy conservation standards development process and analyses and has prepared a Peer Review Report pertaining to the energy conservation standards rulemaking analyses. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. The ''Energy Conservation Standards Rulemaking Peer Review Report'' dated February 2007 has been disseminated and is available at the following Web site: *www1.eere.energy.gov/buildings/appliance_standards/peer_review.html.*

VII. Public Participation

A. Attendance at the Public Meeting

The time, date, and location of the public meeting are listed in the **DATES** and **ADDRESSES** sections at the beginning of this notice. If you plan to attend the public meeting, please notify Ms. Brenda Edwards at (202) 586–2945 or *Brenda.Edwards@ee.doe.gov.* As explained in the **ADDRESSES** section, foreign nationals visiting DOE Headquarters are subject to advance security screening procedures.

In addition, you can attend the public meeting via webinar. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's rulemaking Web site at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/56.* Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has plans to present a prepared general statement may request that copies of his or her

statement be made available at the public meeting. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this notice. The request and advance copy of statements must be received at least one week before the public meeting and may be emailed, hand-delivered, or sent by mail. DOE prefers to receive requests and advance copies via email. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Public Meeting

DOE will designate a DOE official to preside at the public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. After the public meeting, interested parties may submit further comments on the proceedings as well as on any aspect of the rulemaking until the end of the comment period.

The public meeting will be conducted in an informal, conference style. DOE will present summaries of comments received before the public meeting, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this notice. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule before or after the public meeting, but no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this notice.

Submitting comments via regulations.gov. The regulations.gov Web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through regulations.gov cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section below.

DOE processes submissions made through regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery/courier, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential

status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

1. Information on historical product shipments and market share efficiency data, disaggregated by product class, for 2012 and 2013 as those data become available.

2. Comments, information and data on characterizing the CCW usage for establishing energy consumption of CCW. Specifically, whether there are any data on on-premise laundry usage that could improve the usage characterization.

3. Comments, information and data on the equipment lifetimes developed for multi-family and laundromat applications for both front-loading and top-loading CCW. DOE defines lifetime as the age at which CCW equipment is retired from service. DOE welcomes further input on the multi-family, commercial clothes washer lifetimes of 11.25 years on average, a 15.5 year maximum, and a 7.0 year minimum. DOE also welcomes further input on the laundromat average lifetime assumption of 7.125 years on average, a 9.3 year maximum, and a 5.0 year minimum. In the technical support document, these equipment lifetime assumptions applied to the LCC and PBP are discussed further in Chapter 8.2.3 and the Weibull distributions used for the lifetimes are discussed in Appendix 8C.

4. Comments, information and data on the base case efficiency distributions of CCW. Given that market share efficiency data for 2010–2011 were used to develop estimated base case efficiency distributions in the compliance year (2018), DOE seeks more historical market share efficiency data which would be useful for projecting the base case and standards case efficiency distributions for the analysis period.

5. Comments, information, and data on the repair and maintenance costs for front-loading and top-loading CCW equipment classes. Whether repair costs for CCW equipment would increase at the efficiency levels indicated in today's proposed rule due to any changes in the design and materials and components used in order to comply with the new efficiency standards.

6. Impacts that the energy and water conservation standards may have on any lessening of the utility or performance of the covered products. These impacts may include increased cycle times to wash clothes, ability to achieve good wash performance (e.g., cleaning and rinsing), increased longevity of clothing, improved ergonomics of washer use, increased noise, and other potential impacts.

7. The reasonableness of the values that DOE used to characterize the rebound effect with the more efficient CCW equipment.

8. Whether there would be any anticipated changes in the consumption of complementary goods (*e.g.,* laundry detergent, stain removers, fabric softeners) that may result from the proposed standards.

9. On the assumptions applied in the engineering analysis in Chapter 5 of the technical support document, for top-loading and front-loading product classes for the baseline efficiency levels and technology cost assessment. For the top-loading product class, DOE used the baseline level on the 1.60 MEF and the 8.5 WF requirements specified by current Federal energy conservation standards, which became effective for commercial clothes washers manufactured on or after January 8, 2013. For the front-loading product class, DOE established the baseline level based on the 2.00 MEF and 5.5 WF requirements specified by current Federal energy conservation standards.

10. To estimate the impact on shipments of the price increase for the considered efficiency levels, DOE used a cross price elasticity approach to measure the change in the market share of top-loaders caused by a change in the price of front loaders. At the efficiency levels proposed in this rule, front-loader CCW equipment would increase their market share by 48 percent from the current 40 percent in the analysis period. DOE welcomes stakeholder input and estimates on the effect of amended standards on future CCW equipment shipments. DOE also welcomes input and data on the cross elasticity estimates used in the analysis.

11. DOE requests comment on whether there are features or attributes of the more energy-efficient CCW equipment that manufacturers would produce to meet the standards in this proposed rule that might affect how they would be used by consumers. DOE requests comment specifically on how any such effects on CCW product features or attributes should be weighed in the choice of standards for the CCW final rule.

12. For this rulemaking, DOE analyzed the effects of this proposal assuming that the CCW equipment would be available to purchase for 30 years, and it undertook a sensitivity analysis using 9 years rather than 30 years of product shipments. The choice of a 30-year period of shipments is consistent with the DOE analysis for other products and commercial equipment. 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. We are seeking input, information and data on whether there are ways to refine the analytic timeline further.

13. DOE solicits comment on the application of the new SCC values used to determine the social benefits of CO2 emissions reductions over the rulemaking analysis period. The rulemaking analysis period covers from 2018 to 2047 plus an additional 50 years to account for the lifetime operation of the equipment purchased in that period. In particular, the agency solicits comment on its derivation of SCC values after 2050, where the agency applied the average annual growth rate of the SCC estimates in 2040–2050 associated with each of the four sets of values.

14. The agency also seeks input on the cumulative regulatory burden that may be imposed on industry either from recently implemented rulemakings for these products or other rulemakings that affect the same industry.

15. Whether DOE should incorporate the cost of risers or storage drawers (also referred to as pedestals) into the baseline installation costs for front-loading machines.

VIII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of today's proposed rule.

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Energy conservation, Household appliances, and Small businesses.

Issued in Washington, DC, on February 21, 2014.

David T. Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE proposes to amend part 431 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, to read as set forth below:

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for Part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 2. Section 431.156 to Subpart I is amended by revising paragraph (b) and adding paragraph (c) as follows:

§ 431.156 Energy and water conservation standards and their effective dates.

* * * * *

(b) Each commercial clothes washer manufactured on or after January 8, 2013, and before January 1, 2015, shall have a modified energy factor no less than and a water factor no greater than:

Equipment class	Modified energy factor (MEF), *cu. ft./kWh/cycle*	Water factor (WF), *gal./cu. ft./cycle*
Top-Loading	1.60	8.5
Front-Loading	2.00	5.5

(c) Each commercial clothes washer manufactured on or after January 1, 2015 shall have a modified energy factor no less than and an integrated water factor no greater than:

Equipment class	Modified energy factor (MEF_{J2}), *cu. ft./kWh/cycle*	Integrated water factor (IWF), *gal./cu. ft./cycle*
Top-Loading	1.35	8.8
Front-Loading	2.00	4.1

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