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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS–2013–0078]

Asian Longhorned Beetle; Quarantined Areas in New Jersey

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Asian longhorned beetle regulations by removing portions of Middlesex and Union Counties, NJ, from the list of quarantined areas based on our determination that those areas meet our criteria for removal. This action is necessary to relieve restrictions that are no longer necessary. With this change, there are no longer any areas in New Jersey that are quarantined because of Asian longhorned beetle.

DATES: This interim rule is effective March 28, 2014. We will consider all comments that we receive on or before May 27, 2014.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2013-0078-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2013–0078, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0078* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Ms. Claudia Ferguson, Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1236; (301) 851–2352.

SUPPLEMENTARY INFORMATION:

Background

The Asian longhorned beetle (ALB, *Anoplophora glabripennis*), an insect native to China, Japan, Korea, and the Isle of Hainan, is a destructive pest of hardwood trees. The ALB regulations in 7 CFR 301.51–1 through 301.51–9 (referred to below as the regulations) restrict the interstate movement of regulated articles from quarantined areas to prevent the artificial spread of ALB to noninfested areas of the United States.

The regulations in § 301.51–3(a) provide that the Animal and Plant Health Inspection Service (APHIS) will list as a quarantined area each State, or each portion of a State in which ALB has been found by an inspector, where the Administrator has reason to believe that ALB is present, or where the Administrator considers regulation necessary because of its inseparability for quarantine enforcement purposes from localities where ALB has been found.

Less than an entire State will be quarantined only if (1) the Administrator determines that the State has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are equivalent to those imposed by the regulations on the interstate movement of regulated articles and (2) the designation of less than an entire State as a quarantined area will be adequate to prevent the artificial spread of ALB.

In 2004, APHIS quarantined portions of Middlesex and Union Counties, NJ, after ALB was first detected in the area in order to prevent the artificial spread of ALB. After the completion of control and regulatory activities, and based on the results of at least 3 years of negative surveys of all regulated host plants within the quarantined areas, APHIS has determined that Middlesex and Union Counties, NJ, have met the criteria for removal of the Federal quarantine for ALB.

Therefore, in this interim rule, we are amending the list of quarantined areas in § 301.51–3(c) by removing the entry for Middlesex and Union Counties, NJ. This action relieves restrictions on the movement of regulated articles from those areas that are no longer warranted. With this change, there are no longer any areas in New Jersey that are quarantined because of ALB.

Immediate Action

Immediate action is warranted to relieve restrictions on certain areas that are no longer warranted. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

We are amending the ALB regulations by removing portions of Middlesex and Union Counties, NJ, from the list of quarantined areas and removing restrictions on the interstate movement of regulated articles from those areas. We have determined that the ALB is no longer present in that area and that the quarantine and restrictions are no longer necessary.

The Regulatory Flexibility Act requires that agencies consider the economic impact of their rules on small entities, i.e., small businesses, organizations, and governmental jurisdictions. The entities most likely to be affected by this rule include landscaping, tree servicing, waste hauling, firewood sales, trucking,

construction, excavation, and property management in the area being removed from quarantine.

In the portions of Middlesex and Union Counties, NJ, that we are deregulating in this interim rule, there are estimated to be several hundred entities that will be affected. These entities are mainly landscape companies; municipalities would also be affected. While the size of these entities is unknown, it is reasonable to assume that most are small entities based on Small Business Administration size standards.

Any affected entities located within the area removed from quarantine stand to benefit from the interim rule, since they are no longer subject to the restrictions in the regulations. However, our experience with the ALB program in Illinois, New York, and New Jersey has shown that the number and value of regulated articles that are, upon inspection, determined to be infested, and therefore denied a certificate or a limited permit for movement, is small. Thus, any benefit for affected entities in the areas removed from quarantine is likely to be minimal, given that the costs associated with the restrictions that have been relieved were themselves minimal.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 issued under Sec. 204, Title II, Public Law 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 issued under Sec. 203, Title II, Public Law 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

§ 301.51–3 [Amended]

■ 2. In § 301.51–3, paragraph (c) is amended by removing the heading ''New Jersey'' and the entry for Middlesex and Union Counties.

Done in Washington, DC, this 24th day of March 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–06947 Filed 3–27–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Chapter XIV

Continuation of Certain Benefit and Loan Programs, Acreage Reporting, Average Adjusted Gross Income, and Payment Limit

AGENCY: Commodity Credit Corporation and Farm Service Agency, USDA.

ACTION: Extension of authorization.

SUMMARY: The Agricultural Act of 2014 (referred to as the 2014 Farm Bill) extends the authorization, with some changes, of many Farm Service Agency (FSA) programs and Commodity Credit Corporation (CCC) programs administered by FSA. This document announces to producers the continuation of the following programs and notes specific changes as mandated by the 2014 Farm Bill: The 2014 crop Marketing Assistance Loans (MAL), Loan Deficiency Payments (LDP), Noninsured Crop Disaster Assistance Program (NAP), Sugar Program, Milk Income Loss Contract Program (MILC), and Dairy Indemnity Payment Program (DIPP). The 2014 Farm Bill also continues, with modifications, the Adjusted Gross Income (AGI) eligibility provisions and payment limits that apply to many FSA and CCC programs. As specified in the 2014 Farm Bill, producers must submit annual acreage reports of all cropland on a farm to qualify for MAL and LDP benefits, and most commodity programs. All of the programs listed above will be continued under existing regulations, except as specified in this document. This document will be followed by amendments to the applicable regulations to implement changes required by the 2014 Farm Bill.

DATES: *Effective Date:* March 28, 2014.

FOR FURTHER INFORMATION CONTACT: Dan McGlynn; telephone: (202) 720–7641. Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Overview

The 2014 Farm Bill (Pub. L. 113–79) authorizes the continuation of certain CCC and FSA programs, including, but not limited to, MAL, LDP, NAP, Sugar Program loans, MILC, and DIPP.

As specified in this document, CCC will implement administration of 2014 crop MAL, LDPs, and sugar loans as specified in the current regulations, subject to changes made by the 2014 Farm Bill. Applicable 2014 crop loan rates, schedules of premiums and discounts, and other related rates will be announced later.

The 2014 Farm Bill requires producers to submit annual acreage reports of all cropland on a farm to qualify for all programs in Title I, subtitles A and B, which includes MAL, LDP, and the new Agriculture Risk Coverage Program, Price Loss Coverage Program, and the Transition Assistance Program for Producers of Upland Cotton. Regulations will be published at a later date for these three new programs as required by the 2014 Farm Bill.

NAP service fees will remain unchanged, although more producers will be eligible for fee waivers and more crops will be eligible with the 2014 Farm Bill changes as specified in the NAP section below.

MILC will continue through the earlier of September 1, 2014, or the date when the new Dairy Margin Protection program specified in section 1403 of the 2014 Farm Bill is implemented. There are minor changes to MILC for the remaining months of FY 2014, as specified in this document.

The 2014 Farm Bill contains no changes to DIPP, which will continue through September 30, 2018.

FSA must update regulations, software, forms, and handbooks to implement the 2014 Farm Bill. FSA is updating program Fact Sheets and will conduct extensive outreach to ensure that producers are aware of sign-up periods and application requirements. Details for the implementation of each program will be announced in separate press releases. The reauthorized programs will be implemented as soon as possible, so that producers can plan for the 2014 growing and harvest seasons.

MAL, LDP

The 2014 Farm Bill extended the MAL and LDP Programs for all previously authorized commodities for the 2014 through 2018 crops. These programs will continue as specified in the regulations in 7 CFR parts 1421, 1425, 1427, and 1434, with the mandatory changes from the 2014 Farm Bill as described below.

The MAL Program provides short-term financing, which allows farmers to pay their bills soon after harvest and sell their crop at a time that is convenient for them, facilitating orderly marketing throughout the rest of the year. MAL repayment provisions specify, under certain circumstances, that producers may repay at less than the loan rate plus accrued interest and other charges. When the allowed repayment is less than the loan rate, the difference is referred to as marketing loan gain.

LDPs are direct payments to producers on harvested commodities that provide income support when the market price falls below loan rates as specified in the 2014 Farm Bill. Current regulations for MAL and LDP apply through the 2013 crop year.

With the pending harvest of 2014 crop loan commodities, this document announces that CCC will implement MAL and LDP provisions for 2014 crop wheat, corn, grain sorghum, barley, oats, soybeans, rice, peanuts, cotton, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, graded and non-graded wool, mohair, honey, dry peas, lentils, large chickpeas, and small chickpeas based on current commodity loan regulations in:

- 7 CFR Part 1421, ''Grains and Similarly Handled Commodities—Marketing Assistance Loans and Loan Deficiency Payments for 2008 through 2012;''
- 7 CFR Part 1425, ''Cooperative Marketing Associations;''
- 7 CFR Part 1427, ''Cotton;'' and
- 7 CFR Part 1434, ''Nonrecourse Marketing Assistance Loan and LDP Regulations for Honey.''

The loan rate for base quality upland cotton is the simple average of the adjusted prevailing world price for the 2 immediately preceding marketing years, but not more than 52 cents per pound or less than 45 cents per pound. The 2014 loan rate, announced February 18, 2014, at 52 cents per pound, is below the 72-cent simple average of the world price for the 2 immediately preceding marketing years. Therefore, the 2014 Farm Bill change, which is designed to make the loan rate more reflective of prevailing market prices, serves to limit the impact of elevated market prices on the loan rate, while allowing any price declines below 52 cents to be reflected in lower future loan rates.

The applicable regulations will be amended at a later date through rulemaking to reflect the changes required by the 2014 Farm Bill. In addition, CCC will announce by press release and other means the applicable 2014 crop loan rates established by the 2014 Farm Bill, the schedule of premiums and discounts, and other related information.

NAP

NAP provides limited ''catastrophic'' level coverage for crops for which crop insurance is not available through the Risk Management Agency (RMA), USDA. Qualifying losses for NAP must be due to drought, flood, or other natural disaster, as determined by the Secretary. The 2014 Farm Bill continues the provisions for NAP coverage at the catastrophic level. In addition, NAP has been expanded to include buy-up protection, similar to buy-up provisions offered under the federal crop insurance program. Service fees are currently waived for limited resource farmers. Beginning with the 2014 crops, the 2014 Farm Bill extends the service fee waiver to beginning farmers and socially disadvantaged farmers. We will refund the administrative service fee for beginning farmers and socially disadvantaged farmers who have already paid the fee for 2014 coverage prior to enactment of the 2014 Farm Bill. Eligible NAP crops currently include commercial crops: Crops expressly grown for food (excluding livestock and their by-products); crops planted and grown for livestock consumption; crops grown for fiber (excluding trees grown for wood, paper, or pulp products); aquaculture species crops (including ornamental fish); floriculture; ornamental nursery; Christmas tree crops; turf grass sod; industrial crops; seed crops; and sea grass and sea oats. Beginning with 2015 crops, the 2014 Farm Bill adds sweet sorghum, biomass sorghum, and industrial crops (including those grown expressly for the purpose of producing a feedstock for renewable biofuel, renewable electricity, or biobased products) as eligible crops. The NAP regulation, 7 CFR part 1437, will be amended at a later date through rulemaking to reflect the changes required by the 2014 Farm Bill.

Sugar Program

The Sugar Program provides loans to eligible sugar processors, using domestically grown sugar beets and sugarcane that is in the refined, raw, or in-processed state as collateral for the loan. These loans can be repaid at principal plus interest during the loan term or the sugar can be forfeited to CCC, at loan maturity, in satisfaction of loan debt. Processors may begin applying for 2014 crop sugar loans on October 1, 2014. Sugar loans will continue under the current regulations found in 7 CFR Part 1435, Sugar Program.

The Sugar Program regulation, 7 CFR part 1435, will be amended at a later date through rulemaking to reflect the extension of the program through the 2018 crop, as authorized by the 2014 Farm Bill. The 2014 Farm Bill changes only the authorized dates for the Sugar Program; it does not change any other provisions of the Sugar Program.

CCC will also announce by press release and other means the 2014 crop sugar loan rates, the schedule of premiums and discounts, and other related information.

MILC

The 2014 Farm Bill extends MILC with minor modifications through the earlier of September 1, 2014, or the date on which the new Dairy Margin Protection Program is implemented. The new Dairy Margin Protection Program will be implemented at a later date through regulations as required by the 2014 Farm Bill. MILC compensates enrolled dairy producers when the Boston Class I milk price falls below $16.94 per hundredweight (cwt), as adjusted for the National Average Dairy Feed Ration Cost specified in the 2014 Farm Bill. All MILC contracts are automatically extended to the earlier of September 1, 2014, or the date on which the Dairy Margin Protection program is implemented. Producers therefore do not need to re-enroll in MILC to receive FY 2014 benefits. The production start month previously selected by an operation is applicable for FY 2014, unless a producer requests a change.

Producers may select any month in FY 2014 prior to the termination date

for MILC as specified in the 2014 Farm Bill to begin receiving payments. During the period (referred to as the ''relief period'') beginning April 14, 2014, through the close of business on May 30, 2014, producers with existing MILC contracts may select a different production start month for FY 2014 by completing and submitting form CCC–580M ''Milk Income Loss Contract Extension (MILC) Modification'' to FSA. For producers with new dairy operations that began operation before April 14, 2014, FSA will accept applications (form CCC–580 ''Milk Income Loss Contract (MILC)'') during the relief period. Regular start month selection provisions specified in 7 CFR 1430.205, ''Selection of Starting Month,'' will not apply during the relief period. After the relief period ends, beginning June 2, 2014, all production start month changes for new and existing MILC participants must be made according to regular start month selection provisions as specified in 7 CFR 1430.205.

September 2013 was the last eligible month for MILC payments under the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill, Pub. L. 110–246) as extended by the American Taxpayer Relief Act of 2012 (Pub. L. 112–240). The payment rate determined for October through December 2013 and January 2014, the first four months of FY 2014, is zero. Payments for subsequent months of FY 2014 will be determined as data becomes available.

The payment rate for MILC is adjusted upward when the National Average Dairy Feed Ration Cost exceeds certain levels. Beginning February 1, 2014, and ending on the termination date for MILC, if the National Average Dairy Feed Ration Cost for a month is greater than $7.35 per hundredweight, the payment rate for that month will be increased by 45 percent of the percentage by which the National Average Dairy Feed Ration Cost exceeds $7.35 per hundredweight.

DIPP

The 2014 Farm Bill extended DIPP through September 30, 2018 with no changes. Through DIPP, FSA issues payments to dairy producers for losses incurred because they were required to remove their milk production from commercial markets due to the presence of certain chemical or toxic residues.

Acreage Reporting

As a condition of eligibility for all commodity program and marketing loan program benefits specified in Subtitle A and Subtitle B of Title I of the 2014 Farm Bill, producers on farms must annually submit acreage reports of all cropland on the farm. The report of acreage must include the producer or producers' shares and comply with the existing regulations specified in 7 CFR part 718.

Payment Eligibility and Payment Limit Requirements

The 2014 Farm Bill modifies the payment limit and adjusted gross income (AGI) eligibility provisions, which are currently specified in 7 CFR Part 1400. Beginning with the 2014 crop year, the total amount of payments received, directly and indirectly, by a person or legal entity (except joint ventures or general partnerships) for Price Loss Coverage, Agricultural Risk Coverage, marketing loan gains, and loan deficiency payments (other than for peanuts), is limited to no more than $125,000 annually. A person or legal entity that receives, directly or indirectly, payments for peanuts has a separate $125,000 payment limit for those payments. The NAP payment limit also increases to $125,000 per year. The combined payment limit for three of the four disaster programs (Livestock Indemnity Program, Livestock Forage Disaster Program, and Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish) is also increased to $125,000; a separate $125,000 limit applies to the Tree Assistance Program.

The 2014 Farm Bill simplifies and modifies the average AGI eligibility provisions. Producers whose total (farm plus nonfarm) average AGI for the 3 tax years preceding the most recent complete tax year exceeds $900,000 are not eligible to receive benefits from most programs administered by FSA and the Natural Resources Conservation Service (NRCS). Previous average AGI provisions specified in the 2008 Farm Bill had different eligibility limits for certain programs based on average farm AGI and, for some programs, on average nonfarm AGI.

The AGI and payment limit eligibility restrictions from the 2014 Farm Bill apply to the 2014 crop, fiscal, or program year for payment limits which encompass the 2010, 2011, and 2012 tax years for purposes of calculating the average AGI, and will be implemented immediately. The regulations in 7 CFR part 1400 will be amended at a later date through rulemaking to reflect the changes required by the 2014 Farm Bill.

Environmental Review

FSA has determined that, in accordance with the 7 CFR 799.9(d), Environmental Quality and Related Environmental Concerns—Compliance with the National Environmental Policy Act, implementing the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), continuation of these programs as mandated by the 2014 Farm Bill, will not significantly affect the quality of the human environment. Therefore, no environmental assessment or environmental impact statement will be prepared.

Signed at Washington, DC, on March 25, 2014.

Juan M. Garcia,

Executive Vice President, Commodity Credit Corporation and Administrator, Farm Service Agency.

[FR Doc. 2014–06991 Filed 3–27–14; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0171; Directorate Identifier 2014–NM–038–AD; Amendment 39–17812; AD 2014–06–08]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc. Model DHC–8 airplanes. This AD requires repetitive functional checks of the nose and main landing gear, and corrective actions if necessary. This AD also provides optional terminating action for the repetitive functional checks. This AD was prompted by a report that the emergency downlock indication system (EDIS) had given a false landing gear down-and-locked indication. We are issuing this AD to detect and correct a false down-and-locked landing gear indication, which, on landing, could result in possible collapse of the landing gear.

DATES: This AD becomes effective April 14, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of April 14, 2014.

We must receive comments on this AD by May 12, 2014.

ADDRESSES: You may send comments, using the procedures found in 14 CFR

11.43 and 11.45, by any of the following methods:

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

For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone: 416–375–4000; fax: 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.*You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0171; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone (516) 228–7318; fax: (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, issued Canadian Airworthiness Directive CF–2014–11, dated February 13, 2014 (the Mandatory Continuing Airworthiness Information, referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> During an in-service event where the landing gear control panel indicated an unsafe nose landing gear, the flight crew observed that all three green lights were illuminated on the emergency downlock indication system. The nose landing gear was not down and locked, and collapsed during landing.
>
> Investigation found ambient light and wiring shorts can lead to incorrect illumination of the green lights on the emergency downlock indication system.
>
> This [TCCA] AD mandates the functional check of the nose and main landing gear alternate indication phototransistors and the modification of the emergency downlock indication system.

The unsafe condition is a false down-and-locked landing gear indication, which, on landing, could result in possible collapse of the landing gear. This AD provides the modification as optional terminating action for the repetitive functional checks of the alternate indication phototransistors of the nose and main landing gear. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0171.

Relevant Service Information

Bombardier has issued the following service bulletins.

- Bombardier Service Bulletin 8–32–173, Revision A, dated December 17, 2012.
- Bombardier Service Bulletin 8–32–176, Revision A, dated February 22, 2013.
- Bombardier Service Bulletin 8–32–177, dated October 9, 2013.
- Bombardier Service Bulletin 8–33–56, Revision A, dated February 22, 2013.

The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Difference Between This AD and the MCAI or Service Information

Canadian Airworthiness Directive CF–2014–11, dated February 13, 2014, requires modification of the EDIS. We have determined that this EDIS modification would eliminate the need for the functional checks of the alternate indication phototransistors of the nose and main landing gear required by this AD. Therefore, this final rule provides for the modification as an optional terminating action for the functional checks. However, we are considering further rulemaking to require the modification on all affected airplanes.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because ambient light and wiring shorts can lead to incorrect illumination of the green lights on the EDIS. This condition could lead to the landing gear not being down and locked, and consequent landing gear collapse during landing. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0171; Directorate Identifier 2014–NM–038–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD based on those comments.

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

Costs of Compliance

We estimate that this AD affects 85 airplanes of U.S. registry.

We also estimate that it will take about 3 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S.

operators to be $21,675, or $255 per product, per inspection cycle.

We estimate that it would take up to 40 work-hours per product to do the optional terminating action provided in this AD. Parts would cost up to $19,436.00 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be up to $1,941,060, or $22,836 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

According to the manufacturer, all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–06–08 Bombardier, Inc.: Amendment 39–17812. Docket No. FAA–2014–0171; Directorate Identifier 2014–NM–038–AD.

(a) Effective Date

This AD becomes effective April 14, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model DHC–8–101, –102, –103, –106, –201, –202, –301, –311, and –315 airplanes, certificated in any category, serial numbers 003 through 672 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Reason

This AD was prompted by a report that the emergency downlock indication system had given a false landing gear down-and-locked indication. We are issuing this AD to detect and correct a false down-and-locked landing gear indication, which, on landing, could result in possible collapse of the landing gear.

(f) Compliance

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

(g) Functional Check

Within 600 flight hours or 100 days, whichever occurs first after the effective date of this AD: Perform a functional check of the alternate indication phototransistors of the nose and main landing gear; and do all applicable corrective actions; in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–32–173, Revision A, dated December 17, 2012. Do all applicable corrective actions before further flight. Repeat the functional check thereafter at intervals not to exceed 600 flight hours or 100 days, whichever occurs first, until accomplishment of the applicable actions specified in paragraph (h) of this AD.

(h) Optional Terminating Action

Accomplishment of the applicable actions specified in paragraphs (h)(1) through (h)(3) of this AD terminates the requirements of paragraph (g) of this AD.

(1) For airplanes configured as described in Modsum 8/1519: Incorporate Modsum 8Q101968, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–33–56, Revision A, dated February 22, 2013.

(2) For airplanes configured as described in Modsum 8/0235, 8/0461, and 8/0534: Incorporate Modsum 8Q101955, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–32–176, Revision A, dated February 22, 2013.

(3) For airplanes not configured as described in Modsum 8/0534: Incorporate Modsum 8Q101969, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–32–177, dated October 9, 2013.

(i) Credit for Previous Actions

(1) This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 8–32–173, dated October 28, 2011, which is not incorporated by reference in this AD.

(2) This paragraph provides credit for actions required by paragraph (h)(1) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 8–33–56, dated February 11, 2013, which is not incorporated by reference in this AD.

(3) This paragraph provides credit for actions required by paragraph (h)(2) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 8–32–176, dated February 11, 2013, which is not incorporated by reference in this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516–228–7300; fax: 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they were approved by the State of Design Authority (or its delegated agent, or the DAH with a State of Design Authority's design organization approval, as applicable). You are required to ensure the product is airworthy before it is returned to service.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2014–11, dated February 13, 2014, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0171.

(2) Service information identified in this AD that is not incorporated by reference may be obtained at the addresses specified in paragraphs (l)(3) and (l)(4) of this AD.

(l) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 8–32–173, Revision A, dated December 17, 2012.

(ii) Bombardier Service Bulletin 8–32–176, Revision A, dated February 22, 2013.

(iii) Bombardier Service Bulletin 8–32–177, dated October 9, 2013.

(iv) Bombardier Service Bulletin 8–33–56, Revision A, dated February 22, 2013.

(3) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone: 416–375–4000; fax: 416–375–4539; email: *thd.qseries@aero.bombardier.com;* Internet: *http://www.bombardier.com.*

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

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

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

Ross Landes,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–06636 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–1019; Directorate Identifier 2013–CE–038–AD; Amendment 39–17810; AD 2014–06–06]

RIN 2120–AA64

Airworthiness Directives; SOCATA Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for SOCATA Model TBM 700 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as landing gear actuator rod and piston becoming unscrewed during operation and the landing gear actuator ball joint becoming uncrimped. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective May 2, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of May 2, 2014.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–1019; or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact SOCATA—Direction des Services—65921 Tarbes Cedex 9—France; telephone +33 (0) 62 41 7300, fax +33 (0) 62 41 76 54, or for North America: SOCATA NORTH AMERICA, 7501 South Airport Road, North Perry Airport, Pembroke Pines, Florida 33023; telephone: (954) 893–1400; fax: (954) 964–4141; email: *mysocata@socata.daher.com;* Internet: *http://mysocata.com.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

FOR FURTHER INFORMATION CONTACT: Albert Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; fax: (816) 329–4090; email: *albert.mercado@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to add an AD that would apply to SOCATA Model TBM 700 airplanes. That NPRM was published in the **Federal Register** on December 4, 2013 (78 FR 72834). That NPRM proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. The MCAI states:

> During maintenance check, possible unscrewing of rod and piston during operation was detected on a landing gear actuator. Investigation showed that this was likely caused by maintenance operation not conforming with the procedure described in the SOCATA maintenance manual.
>
> Moreover, following in-service landing gear collapse, uncrimping of a right hand main landing gear (MLG) actuator ball joint was detected. Investigation revealed a manufacturing non-conformity of some actuator rod end assemblies.
>
> These conditions, if not detected and corrected, could lead to MLG or nose landing gear (NLG) failure during landing or roll-out and consequent damage to the aeroplane and injury to occupants.
>
> To address this potential unsafe condition, SOCATA issued Service Bulletin (SB) 70–197–32 to require a one-time inspection of the landing gear actuator piston/rod and SB 70–206–32 to require a one-time inspection of the landing gear actuator ball joint centering and, depending on findings, accomplishment of corrective actions.
>
> SOCATA also developed modification 70–0334–32, embodied in production to secure rod/piston assembly through addition of a pin and to reduce retraction/extension indication failure through improvement of switch kinematics. These modified actuators have a new part number (P/N).
>
> For the reasons described above, this AD requires a one-time inspection of the landing gear actuators piston/rod and ball joint centering and, depending on findings, accomplishment of applicable corrective actions.

The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA-2013-1019-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comment

received on the proposal and the FAA's response to the comment.

Reference Correction Within the Actions and Compliance Section

Catherine Herau of DAHER–SOCATA requested we change the service information references in paragraph (f) of this AD in the Actions and Compliance section to clarify the AD.

We agree with the commenter and changed our final rule AD action to reference the Accomplishment Instructions section of the service information rather than the specific paragraph.

Costs of Compliance

We estimate that this AD will affect 495 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 AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $84,150, or $170 per product.

In addition, we estimate that any necessary follow-on actions would take about 3 work-hours for each main landing gear and 3 work-hours for the nose landing gear, and require parts costing $100 for each rod and assembly. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–1019; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM (78 FR 72834, December 4, 2013), the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–06–06 SOCATA: Amendment 39–17810; Docket No. FAA–2013–1019; Directorate Identifier 2013–CE–038–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective May 2, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to SOCATA TBM 700 airplanes, all serial numbers, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 32: Landing Gear.

(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 the landing gear actuator rod and piston becoming unscrewed during operation and the landing gear actuator ball joint becoming uncrimped. We are issuing this AD to detect and correct discrepancies in the pistons/rods and the ball joint centering of the nose landing gear and main landing gear, which could result in landing gear failure and lead to damage of the airplane and occupant injury.

(f) Actions and Compliance

Unless already done, do the actions in paragraphs (f)(1) through (f)(4) of this AD on any airplane with the landing gear actuators part number (P/N) T700A3230050000, P/N T700A323005000000, or P/N T700A323005300000 installed:

(1) Within the next 8 months after May 2, 2014 (the effective date of this AD), perform a detailed visual inspection (DVI) of the pistons and rods of the nose landing gear (NLG) and left hand (LH) and right hand (RH) main landing gear (MLG) actuators and measure the distance following the Accomplishment Instructions in DAHER–SOCATA Mandatory Service Bulletin SB 70–197, dated April 2013.

(2) Within the next 8 months after May 2, 2014 (the effective date of this AD), perform a DVI of the ball joint centering of the NLG and LH and RH MLG actuators and measure the ball joint mismatch following the Accomplishment Instructions in DAHER–SOCATA Mandatory Service Bulletin SB 70–206, dated April 2013.

(3) If any discrepancy is found during any inspection required in paragraphs (f)(1) or (f)(2) of this AD, before further flight, replace the affected actuator or rod end assembly if applicable with an airworthy part following the applicable Accomplishment Instructions in DAHER–SOCATA Mandatory Service Bulletin SB 70–197, dated April 2013; and/or DAHER–SOCATA Mandatory Service Bulletin SB 70–206, dated April 2013.

(4) As of May 2, 2014 (the effective date of this AD), do not install on any airplane a landing gear actuator P/N T700A3230050000, P/N T700A323005000000, or P/N T700A323005300000, unless it is found to be in compliance with the inspection requirements of paragraphs (f)(1) and (f)(2) of this AD. The landing gear actuator must be installed when doing these inspections.

(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: Albert Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; fax: (816) 329–4090; email: *albert.mercado@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.: 2013–0227, dated September 23, 2013 for related information. The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA-2013-1019-0002.*

(i) Material Incorporated by Reference

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

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

(i) DAHER–SOCATA Mandatory Service Bulletin SB 70–197, dated April 2013.

(ii) DAHER–SOCATA Mandatory Service Bulletin SB 70–206, dated April 2013.

(3) For SOCATA service information identified in this AD, contact SOCATA—Direction des Services—65921 Tarbes Cedex 9—France; telephone +33 (0) 62 41 7300, fax +33 (0) 62 41 76 54, or for North America: SOCATA NORTH AMERICA, 7501 South Airport Road, North Perry Airport, Pembroke Pines, Florida 33023; telephone: (954) 893–1400; fax: (954) 964–4141; email: *mysocata@socata.daher.com;* Internet: *http://mysocata.com.*

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

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

Issued in Kansas City, Missouri, on March 19, 2014.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–06483 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–1012; Directorate Identifier 2013–CE–037–AD; Amendment 39–17807; AD 2014–06–03]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Regional Aircraft Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for British Aerospace Regional Aircraft Jetstream Series 3101 and Jetstream Model 3201 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as stress corrosion cracking of the main landing gear yoke pintle housing on a Jetstream series 3100 airplane. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective May 2, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of May 2, 2014.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–1012; or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact BAE Systems (Operations) Ltd, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; phone: +44 1292 675207, fax: +44 1292 675704; email: *RApublications@baesystems.com;* Internet: *http://www.jetstreamcentral.com.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

FOR FURTHER INFORMATION CONTACT: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090; email: *taylor.martin@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to add an AD that would apply to British Aerospace Regional Aircraft Jetstream Series 3101 and Jetstream Model 3201 airplanes. That NPRM was published in the **Federal Register** on December 3, 2013 (78 FR 72598). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> An occurrence of Jetstream 3100 main landing gear (MLG) failure after landing was reported. The subsequent investigation revealed stress corrosion cracking of the MLG yoke pintle housing as a root cause of the MLG failure. Degradation of the surface protection by abrasion can occur when the forward face of the yoke pintle rotates against the pintle bearing, which introduces corrosion pits and, consequently, stress corrosion cracking.
>
> This condition, if not corrected, could lead to structural failure of the MLG possibly resulting in loss of control of the aeroplane during take-off or landing runs.
>
> To address this potential unsafe condition, BAE Systems (Operations) Ltd issued Service Bulletin (SB) 32–JM7862 to provide instruction for installation of a protective washer fitted at the forward spigot on both, left hand (LH) and right hand (RH), MLG.

For the reasons described above, this AD requires installation of a washer to protect the MLG at the forward face of the yoke pintle. The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA-2013-1012-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (78 FR 72598, December 3, 2013) or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (78 FR 72598, December 3, 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 72598, December 3, 2013).

Costs of Compliance

We estimate that this AD will affect 66 products of U.S. registry. We also estimate that it would take about 15 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $84,150, or $1,275 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–1012; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–06–03 British Aerospace Regional Aircraft: Amendment 39–17807; Docket No. FAA–2013–1012; Directorate Identifier 2013–CE–037–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective May 2, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to British Aerospace Regional Aircraft Jetstream Series 3101 and Jetstream Model 3201 airplanes, all serial numbers, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 32: Landing Gear.

(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 stress corrosion cracking of the main landing gear yoke pintle housing. We are issuing this AD to prevent abrasion and subsequent corrosion from building on the main landing gear (MLG) yoke pintle housing. This condition if not corrected could cause structural failure of the MLG resulting in loss of control during take-off or landing.

(f) Actions and Compliance

Unless already done, do the following actions as applicable in paragraphs (f)(1) and (f)(2) of this AD:

(1) At the next scheduled MLG removal after May 2, 2014 (the effective date of this AD), modify the left hand (LH) and right hand (RH) MLG installation at the forward spigot following the accomplishment instructions of British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–JM7862, Revision 1, dated May 7, 2013.

(2) As of May 2, 2014 (the effective date of this AD), do not install any LH or RH MLG on Jetstream Series 3101 airplanes and Jetstream Model 3201 airplanes unless it is found to be in compliance with the requirements of paragraph (f)(1) of this AD.

(g) Credit for Actions Done in Accordance With Previous Service Information

This AD allows credit for the requirements of paragraph (f)(1) of this AD if already done before May 2, 2014 (the effective date of this AD), following British Aerospace Jetstream Series 3100 & 3200 Service Bulletin SB 32–JM7862, original issue, dated April 8, 2013.

(h) 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: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090; email: *taylor.martin@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.

(i) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2013–0206, dated September 9, 2013, for related information. The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA-2013-1012-0002.*

(j) Material Incorporated by Reference

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

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

(i) British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–JM7862, Revision 1, dated May 7, 2013.

(ii) Reserved.

(3) For British Aerospace Regional Aircraft service information identified in this AD, contact BAE Systems (Operations) Ltd, Customer Information Department, Prestwick

International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; phone: +44 1292 675207, fax: +44 1292 675704; email: *RApublications@baesystems.com;* Internet: *http://www.jetstreamcentral.com.*

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

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

Issued in Kansas City, Missouri, on March 14, 2014.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–06245 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0966; Directorate Identifier 2013–CE–040–AD; Amendment 39–17799; AD 2014–05–27]

RIN 2120–AA64

Airworthiness Directives; Rockwell Collins, Inc. Transponders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Rockwell Collins TPR–720 and TPR–900 Mode select (S) transponders that are installed on airplanes. This AD was prompted by the identification that the TPR–720 and TPR–900 Mode S transponders respond intermittently to Mode S interrogations from both ground-based and traffic collision avoidance system (TCAS-) equipped airplanes. This AD requires testing and calibration of the alignment of the transponders. We are issuing this AD to correct the unsafe condition on these products.

DATES: This AD is effective May 2, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 2, 2014.

ADDRESSES: For service information identified in this AD, contact Rockwell Collins, Inc., Collins Aviation Services, 350 Collins Road NE., M/S 153–250, Cedar Rapids, IA 52498–0001; telephone: 888–265–5467 (U.S.) or 319–265–5467; fax: 319–295–4941 (outside U.S.); email: *techmanuals@rockwellcollins.com;* Internet: *http://www.rockwellcollins.com/Services_and_Support/Publications.aspx.* You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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–2013–0966; 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 Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Roger A. Souter, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: 316–946–4134; facsimile: 316–946–4107; email address: *roger.souter@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Rockwell Collins TPR–720 and TPR–900 Mode select (S) transponders that are installed on airplanes. The NPRM published in the **Federal Register** on November 19, 2013 (78 FR 69318). The NPRM proposed to require testing and calibration of the alignment of the TPR–720 and TPR–900 Mode S transponders.

Comments

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

Request FAA Review Impact on AD 92–11–09 (57 FR 20744, May 15, 1992)

Konstantinos Sideris of Airbus commented that AD 92–11–09 (57 FR 20744, May 15, 1992) required converting part number (P/N) 622–7878–020 into P/N 622–7878–301. The commenter stated that the proposed AD would affect both of those P/Ns, and he requested the FAA review the impact of the proposed AD on AD 92–11–09 and consider cancelling AD 92–11–09.

After review, we disagree with cancelling AD 92–11–09 (57 FR 20744, May 15, 1992). This AD requires a different task than that required in AD 92–11–09 and assures timely test and calibration for all affected P/Ns, including those affected and referenced in AD 92–11–09.

We did not change the final rule AD action based on this comment.

Request FAA Add and Delete Specific Model Airplanes from Applicability

The Boeing Company requested we add Models 737 classics, 737NG, 757, and 767 airplanes to the Applicability and exclude the Model 747–8.

We agree that this AD may apply to Models 737, 757, and 767 airplanes; however, paragraph (c), Applicability, of this AD is not intended as all-inclusive. Paragraph (c) of this AD states, ''. . . transponders that are installed on but not limited to the airplanes . . .'' and gives a partial listing of airplanes known to have the affected transponders installed. In our discussions with Rockwell Collins, they discussed that the subject transponders may be installed by supplemental type certificate on models other than the models that are known to have the affected transponders installed.

We added language to paragraph (c), Applicability, to clarify that the listing of airplanes is not all-inclusive.

Request FAA Change the Cost of Compliance Estimate

The Boeing Company requested we adjust the total estimated cost of compliance to account for the added airplane models the commenter requested we add.

We disagree with this comment. We based the estimated cost of compliance on the number of transponder units produced by Rockwell Collins, not the estimated number of airplanes that may have the transponders installed.

We did not change the final rule AD action based on this comment.

Request FAA Change the Language of the Required Action

Craig Amadeo of Delta Airlines requested we change the language in the AD to clarify that the operators do not have to return the transponders to Rockwell Collins for the testing and calibration. Delta has full capability to test and align the receiver of the affected transponders. The commenter also requested we add more specific

language to the AD to clarify the testing and calibration procedures from the component maintenance manual (CMM) required by the AD.

We agree that the operators do not need to return the transponders to Rockwell Collins for the testing and calibration. Any properly certified repair facility may do the required work. We also agree mechanics should know the applicable procedures to use from the CMM. However, the AD directs mechanics to the Rockwell Collins service information that references the specific procedures and figures to use for the required work. We do not agree that quoting the service information in the AD is necessary.

We added language to the final rule AD action to clarify operators do not need to return the transponders to Rockwell Collins for the required testing and calibration.

Request for Different Service Information

Robert Semar of United Airlines stated that a normal shop visit with the transponders does not accomplish the testing required by this AD. We infer the commenter wants more service information.

We agree that a normal shop visit will not accomplish the testing required by this AD; however, we disagree that more service information is required. The service letter referenced in the AD identifies the specific procedures required to comply with the AD.

We did not change the final rule AD action based on this comment.

Request FAA Change Cost of Compliance

Robert Semar of United Airlines requested we add the cost of removal/installation of the transponders to the cost of compliance section of the AD.

We agree and have added the cost to remove and reinstall the transponders to the estimated cost of compliance for this AD action.

Request Confirmation of the Applicability

Kevin Hallworth requested we confirm whether the AD should also apply to the Rockwell Collins TPR–901, TDR–94, and TDR–94D Mode S transponders. The commenter asked if they are similarly affected.

We have confirmed that the TPR–901 is not affected by this AD. The associated circuitry in the TPR–901 is significantly different than that of the affected transponders. The TDR–94 and TDR–94D transponders are not affected by this issue and are not part of this AD action.

We did not change the final rule AD action based on this comment.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (78 FR 69318, November 19, 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 69318, November 19, 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 4,000 products that are installed on 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
Removal and reinstallation of the transponders	2 × $85 per hour = $170	Not applicable	$170	$680,000
Test and calibration of the transponders	4 × $85 per hour = $340	Not applicable	340	1,360,000

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–05–27 Rockwell Collins, Inc.: Amendment 39–17799; Docket No.

FAA–2013–0966; Directorate Identifier 2013–CE–040–AD.

(a) Effective Date

This AD is effective May 2, 2014.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to the following Rockwell Collins, Inc. Mode S transponders that are installed on but not limited to the airplanes listed in paragraphs (c)(2)(i) and (c)(2)(ii) of this AD:

(i) TPR–720: CPN 622–7878–001, 622–7878–020, 622–7878–120, 622–7878–200, 622–7878–201, 622–7878–301, 622–7878–440, 622–7878–460, 622–7878–480, 622–7878–901; and

(ii) TPR–900: CPN 822–0336–001, 822–0336–020, 822–0336–220, 822–0336–440, 822–0336–460, 822–0336–480, 822–0336–902.

(2) The products listed in paragraphs (c)(1)(i) and (c)(1)(ii) of this AD may be installed on but not limited to the following airplanes, certificated in any category:

(i) Airbus Models A319, A320, A330, A340; and

(ii) The Boeing Company Models B737, B747, B757, B767, B777, MD–80, and DC–9.

(3) The listing of airplanes in paragraphs (c)(2)(i) and (c)(2)(ii) of this AD is not intended as all-inclusive. The affected transponders may be installed using a supplemental type certificate or other means on other airplanes not listed in those paragraphs.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 34, Navigation.

(e) Unsafe Condition

This AD was prompted by the identification that the TPR–720 and TPR–900 Mode S transponders respond intermittently to Mode S interrogations from both ground-based and traffic collision avoidance system equipped airplanes. We are issuing this AD to correct possible misalignment issues with the transponders that could result in increased pilot and air traffic controller workload as well as reduced separation of airplanes.

(f) Compliance

Comply with this AD within the compliance times specified in paragraph (g) of this AD, unless already done.

(g) Test and Calibration

(1) Within the next 2 years after the effective date of this AD and repetitively thereafter at intervals not to exceed every 4 years, send the TPR–720 and TPR–900 Mode S transponders to a properly certified repair facility for test and calibration to assure proper alignment following Rockwell Collins Service Information Letter 13–1, Revision No. 1, 523–0821603–101000, dated October 24, 2013.

(2) Rockwell Collins Service Information Letter 13–1, Revision No. 1, 523–0821603–101000, dated October 24, 2013, recommends the affected transponders be sent to a Rockwell Collins authorized repair facility for the alignment and return to service testing; however, any properly certified repair facility may do this alignment and return to service testing.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita Aircraft Certification Office (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 (i) of this AD.

(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.

(i) Related Information

For more information about this AD, contact Roger A. Souter, FAA, Wichita ACO, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: 316–946–4134; facsimile: 316–946–4107; email address: *roger.souter@faa.gov.*

(j) Material Incorporated by Reference

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

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

(i) Rockwell Collins Service Information Letter 13–1, Revision No. 1, 523–0821603–101000, dated October 24, 2013.

(ii) Reserved.

(3) For service information identified in this AD, contact Rockwell Collins, Inc., Collins Aviation Services, 350 Collins Road NE., M/S 153–250, Cedar Rapids, IA 52498–0001; telephone: 888–265–5467 (U.S.) or 319–265–5467; fax: 319–295–4941 (outside U.S.); email: *techmanuals@rockwellcollins.com;* Internet: *http://www.rockwellcollins.com/Services_and_Support/Publications.aspx.*

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

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

Issued in Kansas City, Missouri, on March 4, 2014.

Steven W. Thompson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–05202 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0835; Directorate Identifier 2013–NM–095–AD; Amendment 39–17790; AD 2014–05–17]

RIN 2120–AA64

Airworthiness Directives; Bombardier Inc., Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc. Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 airplanes. This AD was prompted by results from fuel system reviews conducted by the manufacturer. This AD requires accomplishing modifications to the fuel system. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: This AD becomes effective May 2, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 2, 2014.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-0835;* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane

Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

FOR FURTHER INFORMATION CONTACT: Morton Lee, Propulsion Engineer, Propulsion & Services Branch, ANE–173, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone 516–228–7355; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc. Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 airplanes. The NPRM published in the **Federal Register** on October 2, 2013 (78 FR 60800). The NPRM was prompted by results from fuel system reviews conducted by the manufacturer. The NPRM proposed to require accomplishing modifications to the fuel system. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2013–07, dated March 1, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Bombardier Aerospace has completed a system safety review of the aeroplane fuel system against fuel tank safety standards * * *. The identified non-compliances were then assessed * * * to determine if mandatory corrective action is required.
>
> The assessment showed that a number of modifications to the fuel system are required to mitigate unsafe conditions that could result in potential ignition sources within the fuel system.
>
> * * * * *

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0835-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (78 FR 60800, October 2, 2013) or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (78 FR 60800, October 2, 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 60800, October 2, 2013).

Costs of Compliance

We estimate that this AD affects 94 airplanes of U.S. registry.

We also estimate that it will take about 519 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $58,924 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $9,685,666, or $103,039 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-0835;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–05–17 Bombardier, Inc.: Amendment 39–17790. Docket No. FAA–2013–0835; Directorate Identifier 2013–NM–095–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective May 2, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 airplanes, certificated in any category, serial numbers (S/Ns) 002 through 672 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Reason

This AD was prompted by results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

(f) Compliance

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

(g) Modifications—Part I

Within 6,000 flight hours or 36 months, whichever occurs first, after the effective date of this AD, do the modifications specified in paragraphs (g)(1) through (g)(14) of this AD, as applicable.

(1) For airplanes having S/Ns 003 through 624 inclusive: Accomplish Bombardier ModSum 8Q101512, ''Fuel System—Fuel Tank Mechanical Design, SFAR 88 Compliance (Retrofit),'' Revision G, dated June 10, 2009, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–57–44, Revision D, dated October 8, 2008.

(2) For airplanes having S/Ns 003 through 629 inclusive on which a long range fuel system specified in de Havilland Change Request (CR) CR828CH00044, CR828SO08061, CR828CH00027, CR828SO00006, or Special Order Option (SOO) 8061 has been installed: Accomplish Bombardier ModSum 8Q902091, ''Fuel System—Fuel Tank Mech. Design, SFAR 88 Compl.—Extended Range Tank Option (Retrofit),'' Revision C, dated December 22, 2006, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–28–39, Revision B, dated August 19, 2009.

(3) For airplanes having S/Ns 003 through 624 inclusive on which de Havilland SOO 8155, SOO 8098, SOO 8099, SOO 6082, or CR849SO08155; Supplemental Type Certificate SA85–1; or Limited Supplemental Type Certificate W–LSA98–005/D; has been incorporated: Accomplish Bombardier ModSum 8Q902144, ''Fuel System—Fuel Tank Mechanical Design, SFAR 88 Compliance—APU Option (Retrofit),'' Revision E, dated June 17, 2009, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–28–44, Revision B, dated July 25, 2009.

(4) For airplanes having S/Ns 003 through 624 inclusive: Accomplish Bombardier ModSum 8Q101865, ''Fuel System—Fuel Tank Mechanical Design, SFAR 88 Compliance (Retrofit),'' Revision B, dated May 26, 2008, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–28–47, dated May 2, 2008.

(5) For Model DHC–8–102, –103, and –106 airplanes having S/Ns 002 through 014 inclusive: Accomplish Bombardier ModSum 8Q101916, ''Fuel System—Fuel Tank Secondary Pressure Relief Valve Rework SFAR 88 Compliance (Retrofit),'' Revision A, dated October 19, 2010, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–28–58, dated July 25, 2011.

(6) For airplanes having S/Ns 002 through 629 inclusive on which a long range fuel system specified in de Havilland CR828CH00044, CR828SO08061, CR828CH00027, or CR828SO00006, or SOO 8061 has been installed, including airplanes on which metric refuel/defuel indicators specified in de Havilland CR828CH00029 have been installed: Accomplish Bombardier ModSum 8Q902122, ''Production/Retrofit—Fuel System—Long Range Wiring Installation—SFAR 88 Compliance,'' Revision F, dated December 8, 2011, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–28–41, Revision B, dated August 8, 2012.

(7) For airplanes having S/Ns 002 through 619 inclusive with imperial refuel/defuel indicators, excluding airplanes on which a long range fuel system specified in de Havilland CR828CH00044, CR828SO08061, CR828CH00027, CR828SO00006, or SOO 0861, has been installed: Accomplish Bombardier ModSum 8Q101511, ''Production/Retrofit—Fuel System—Fuel Tank Wiring Installation—SFAR88 Compliance,'' Revision C, dated January 30, 2009, in accordance with the Accomplishment Instruction of Bombardier Service Bulletin 8–28–35, Revision C, dated January 14, 2013.

(8) For airplanes having S/Ns 002 through 619 inclusive on which metric refuel/defuel indicators specified in de Havilland CR828CH00020 have been installed, excluding airplanes on which a long range fuel system specified in de Havilland CR828CH00044, CR828SO08061, CR828CH00027, CR828SO00006, or SOO 8061, has been installed: Accomplish Bombardier ModSum 8Q901117, ''Production/Retrofit—Fuel System—Metric Indication—Fuel Tank Wiring Installation—SFAR 88,'' Revision C, dated March 23, 2009, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–28–43, Revision A, dated June 25, 2009.

(9) For airplanes having S/Ns 003 through 619 inclusive, excluding airplanes on which Bombardier ModSum 8Q101652 specified in Bombardier Service Bulletin 8–28–36, Revision A, dated November 17, 2006; or Revision B, dated February 12, 2008; has been installed: Accomplish Bombardier ModSum 8Q101652, ''Electrical—Fuel Quantity Indication Wire Routing Segregation and Identification,'' Revision F, dated March 10, 2011, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–28–36, Revision C, dated October 7, 2009. In addition, for Model DHC–8–102, –103, –106, –201, and –202 airplanes on which an active noise and vibration suppression (ANVS) system has been installed, and on which Bombardier ModSum 8Q101652 specified in Bombardier Service Bulletin 8–28–36, Revision A, dated November 17, 2006; or Revision B, dated February 12, 2008; has been incorporated: Do the actions specified in paragraph (h)(1) of this AD.

(10) For airplanes having S/Ns 003 through 672 inclusive on which Bombardier ModSum 8Q101513 or 8Q101652 specified in de Havilland CR828CH00044, CR828SO08061, CR828CH00027, CR828CO00006, or SOO 8061 has been installed, excluding airplanes having a long range fuel system installed: Accomplish Bombardier ModSum 8Q101907, ''Fuel System—Fuel Qty Ind., Wire Routing Segregation, Installation of Top Hat Support—SFAR88 (Standard Aircraft),'' Revision B, dated September 10, 2010, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–28–48, Revision A, dated July 23, 2012.

(11) For airplanes having S/Ns 003 through 619 inclusive, excluding airplanes on which a long range fuel system specified in de Havilland CR828CH00044, CR828SO08061, CR828CH00027, CR828SO00006, or SOO 8061, has been installed; and excluding airplanes on which Bombardier ModSum 8Q101652 specified in Bombardier Service Bulletin 8–28–36, Revision A, dated November 17, 2006, Revision B, dated February 12, 2008, or Revision C, dated October 7, 2009, has been installed: Accomplish Bombardier ModSum 8Q101908, ''Fuel System—Fuel Qty Ind., Wire Routing Segregation, Installation of Dual Spacers—SFAR88 (Standard A/C),'' Revision B, dated September 10, 2010, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–28–55, dated July 23, 2012. In addition, for airplanes on which Bombardier ModSum 8Q101652 specified in Bombardier Service Bulletin 8–28–36, dated August 9, 2006; Revision A, dated November 17, 2006; Revision B, dated February 12, 2008; or Revision C, dated October 7, 2009; has been installed: Do the actions in paragraph (i)(1) of this AD.

(12) For airplanes having S/Ns 002 through 629 inclusive on which a long range fuel system specified in de Havilland CR828CH00044, CR828SO08061, CR828CH00027, CR828SO00006, or SOO 8061, has been installed; excluding airplanes on which Bombardier ModSum 8Q902064 specified in Bombardier Service Bulletin 8–28–42 has been incorporated: Accomplish Bombardier ModSum 8Q902064, ''Electrical—Long Range Fuel Quantity Indication Wire Routing Segregation and Identification—SFAR 88,'' Revision G, dated March 10, 2011, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–28–42, Revision A, dated October 1, 2008.

(13) For airplanes having S/Ns 003 through 672 inclusive on which a long range fuel system specified in de Havilland CR828CH00044, CR828SO08061, CR828CH00027, CR828SO00006, or SOO 8061, has been installed; and on which Bombardier ModSum 8Q902064, and either Bombardier ModSum 8Q101513 or ModSum 8Q101652, has been installed: Accomplish Bombardier ModSum 8Q902382, ''Fuel System—Fuel Qty Ind., Wire Routing Segregation, Installation of Top Hat Support—SFAR88 (Long Range Aircraft),'' Revision B, dated September 10, 2010, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–28–49, Revision A, dated July 23, 2012.

(14) For airplanes having S/Ns 003 through 629 inclusive on which a long range fuel system specified in de Havilland CR828CH00044, CR828SO08061, CR828CH00027, CR828SO00006, or SOO

8061, has been installed; excluding airplanes on which Bombardier ModSum 8Q902064 specified in Bombardier Service Bulletin 8–28–42, dated December 21, 2006, or Revision A, dated October 1, 2008, has been installed: Accomplish Bombardier ModSum 8Q902383, ''Fuel System—Fuel Qty Ind., Wire Routing Segregation, Installation of Dual Spacers—SFAR88 (Long Range A/C),'' Revision B, dated September 10, 2010, including installing dual spacers inside the center fuselage at certain locations, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–28–56, dated July 23, 2012.

(h) Inspections, Modifications, and Corrective Actions—Part II

For airplanes identified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD: Within 12,000 flight hours or 72 months, whichever occurs first, after the effective date of this AD, do the actions specified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD, as applicable.

(1) For Model DHC–8–102, –103, –106, –201, and –202 airplanes having S/Ns 003 through 619 inclusive; on which an ANVS system has been installed; and on which Bombardier ModSum 8Q101652 specified in Bombardier Service Bulletin 8–28–36, dated August 9, 2006, Revision A, dated November 17, 2006, or Revision B, dated February 12, 2008, has been installed: Accomplish Bombardier ModSum 8Q101652, ''Electrical—Fuel Quantity Indication Wire Routing Segregation and Identification,'' Revision F, dated March 10, 2011, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–28–36, Revision C, dated October 7, 2009.

(2) For Model DHC–8–102, –103, –106, –201, and –202 airplanes having S/Ns 002 through 629 inclusive on which an ANVS system has been installed, and on which Bombardier ModSum 8Q902064 specified in Bombardier Service Bulletin 8–28–42, Revision A, dated October 1, 2008, has been installed: Accomplish Bombardier ModSum 8Q902064, ''Electrical—Long Range Fuel Quantity Indication Wire Routing Segregation and Identification—SFAR 88,'' Revision G, dated March 10, 2011, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–28–42, Revision A, dated October 1, 2008.

(3) For Model DHC–8–102, –103, –106, –201, and –202 airplanes having S/Ns 620 through 666 inclusive on which an ANVS system has been installed: Do a one-time visual inspection to determine whether the fuel quantity indicating system (FQIS) wiring harness is routed correctly and relocate the wiring harness if necessary, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–28–52, dated November 3, 2009.

(i) Wire Routing Segregation and Installation of Dual Spacers—Part III

Within 18,000 flight hours or 108 months, whichever occurs first, after the effective date of this AD, do the modification specified in paragraph (i)(1) or (i)(2) of this AD, as applicable.

(1) For airplanes having S/Ns 003 through 672 inclusive on which Bombardier ModSum 8Q101513 has been incorporated; or on which Bombardier ModSum 8Q101652 specified in Bombardier Service Bulletin 8–28–36, dated August 9, 2006, Revision A, dated November 17, 2006, Revision B, dated February 12, 2008; or Revision C, dated October 7, 2009, has been incorporated; excluding airplanes on which a long-range fuel system specified in de Havilland CR828CH00044, CR828SO08061, CR828CH00027, CR828SO00006, or SOO 8061, has been installed: Accomplish Bombardier ModSum 8Q101908, ''Fuel System—Fuel Qty Ind., Wire Routing Segregation, Installation of Dual Spacers—SFAR88 (Standard A/C),'' Revision B, dated September 10, 2010, including installing dual spacers inside certain center fuselage locations, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–28–55, dated July 23, 2012.

(2) For airplanes having S/Ns 003 through 672 inclusive on which a long-range fuel system specified in de Havilland CR828CH00044, CR828SO08061, CR828CH00027, CR828SO00006, or SOO 8061, has been installed; and on which Bombardier ModSum 8Q902064 has been incorporated, or on which ModSum 8Q902064 as specified in Bombardier Service Bulletin 8–28–42, dated December 21, 2006, or Revision A, dated October 1, 2008, has been incorporated: Accomplish Bombardier ModSum 8Q902383, ''Fuel System—Fuel Qty Ind., Wire routing Segregation, Installation of Dual Spacers—SFAR88 (Long Range A/C),'' Revision B, dated September 10, 2010, including installing dual spacers inside certain center fuselage locations, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–28–56, dated July 23, 2012.

(j) Credit for Previous Actions

(1) This paragraph provides credit for actions required by paragraph (g)(2) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 8–28–39, Revision A, March 15, 2007.

(2) This paragraph provides credit for actions required by paragraph (g)(3) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 8–28–44, dated August 9, 2006; or Revision A, dated November 15, 2006.

(3) This paragraph provides credit for actions required by paragraph (g)(6) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 8–28–41, Revision A, dated April 11, 2007.

(4) This paragraph provides credit for actions required by paragraph (g)(8) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 8–28–43, dated August 10, 2006.

(5) This paragraph provides credit for actions required by paragraph (g)(10) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 8–28–48, dated October 1, 2010.

(6) This paragraph provides credit for actions required by paragraph (g)(13) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 8–28–49, dated October 1, 2010.

(7) This paragraph provides credit for actions required by paragraph (h)(3) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 8–28–53, dated November 3, 2008.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *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.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2013–07, dated March 1, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0835-0002.*

(2) Service information identified in this AD that is not incorporated by reference may be viewed at the addresses specified in paragraphs (m)(3) and (m)(4) of this AD.

(m) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 8–28–35, Revision C, dated January 14, 2013.

(ii) Bombardier Service Bulletin 8–28–36, Revision C, dated October 7, 2009.

(iii) Bombardier Service Bulletin 8–28–39, Revision B, dated August 19, 2009.

(iv) Bombardier Service Bulletin 8–28–41, Revision B, dated August 8, 2012.

(v) Bombardier Service Bulletin 8–28–42, Revision A, dated October 1, 2008.

(vi) Bombardier Service Bulletin 8–28–43, Revision A, dated June 25, 2009.
(vii) Bombardier Service Bulletin 8–28–44, Revision B, dated July 25, 2009.
(viii) Bombardier Service Bulletin 8–28–47, dated May 2, 2008.
(ix) Bombardier Service Bulletin 8–28–48, Revision A, dated July 23, 2012.
(x) Bombardier Service Bulletin 8–28–49, Revision A, dated July 23, 2012.
(xi) Bombardier Service Bulletin 8–28–52, dated November 3, 2009.
(xii) Bombardier Service Bulletin 8–28–55, dated July 23, 2012.
(xiii) Bombardier Service Bulletin 8–28–56, dated July 23, 2012.
(xiv) Bombardier Service Bulletin 8–28–58, dated July 25, 2011.
(xv) Bombardier Service Bulletin 8–57–44, Revision D, dated October 8, 2008.

(3) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.*

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

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

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

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–05939 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0862; Directorate Identifier 2011–NM–198–AD; Amendment 39–17803; AD 2014–05–31]

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) 2008–08–25 that applied to certain The Boeing Company Model 747–400 and 747–400F series airplanes. AD 2008–08–25 required installing drains and drain tubes to eliminate water accumulation in the drip shield above the M826 cardfile in the main equipment center. This new AD requires installing modified drain tubes, relocating wire bundle routing, installing a new drip shield and drip shield deflectors, and replacing insulation blankets. For certain airplanes, this new AD also concurrently requires sealing the drain slot, installing spuds, and installing drain tubes. This AD was prompted by reports of continued water damage to diode fire card 285U0072–1 in the M826 automatic fire overheat logic test system cardfile following a false FWD CARGO FIRE message, with no change in frequency, which resulted in an air turn back. We are issuing this AD to prevent water from exiting over the edge of the existing drip shield and contaminating electrical components in the M826 cardfile, which could result in an electrical short and potential loss of several functions essential for safe flight.

DATES: This AD is effective May 2, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 2, 2014.

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 98057–3356. 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–2012–0862; 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: Francis Smith, Aerospace Engineer, Cabin Safety & Environmental Control Systems, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6596; fax: 425–917–6590; email: *francis.smith@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2008–08–25, Amendment 39–15479 (73 FR 21240, April 21, 2008). AD 2008–08–25 applied to certain The Boeing Company Model 747–400 and 747–400F series airplanes. The NPRM published in the **Federal Register** on September 6, 2012 (77 FR 54854). The NPRM was prompted by reports of continued water damage to diode fire card 285U0072–1 in the M826 automatic fire overheat logic test system cardfile following a false FWD CARGO FIRE message, with no change in frequency, which resulted in an air turn back. The NPRM proposed to require installing drain tubes, relocating wire bundle routing, installing a new drip shield and drip shield deflectors, and replacing insulation blankets. For certain airplanes, the NPRM also proposed to concurrently require sealing the drain slot, installing spuds, and installing drain tubes. We are issuing this AD to prevent water from exiting over the edge of the existing drip shield and contaminating electrical components in the M826 cardfile, which could result in an electrical short and potential loss of several functions essential for safe flight.

Relevant Service Information

Since we issued the NPRM (77 FR 54854, September 6, 2012), we have reviewed Boeing Alert Service Bulletin 747–25A3580, Revision 2, dated May 13, 2013. We referred to Boeing Alert Service Bulletin 747–25A3580, Revision 1, dated July 14, 2011, as an appropriate source of service information for accomplishing certain actions specified in the NPRM.

Boeing Alert Service Bulletin 747–25A3580, Revision 2, dated May 13, 2013, among other changes, revises line number 1087 to 1332 for group 1 airplanes to account for airplanes that had the drain tubes installed in production, adds figures to account for actions required by certain groups, adds brackets and rivets, and changes certain part numbers of certain brackets.

Boeing Alert Service Bulletin 747–25A3581, Revision 2, dated September 11, 2012, among other things, clarifies wire routing, allows for trimming of parts, and adds parts to the top kit.

We have added a new paragraph (i) to this final rule to allow for credit for

actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 747–25A3580, Revision 1, dated July 14, 2011, which is not incorporated by reference in this AD. We have redesignated subsequent paragraphs accordingly.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (77 FR 54854, September 6, 2012) and the FAA's response to each comment.

Request To Use Latest Service Information

United Parcel Service (UPS) and Boeing requested that we revise the NPRM (77 FR 54854, September 6, 2012) to replace Boeing Alert Service Bulletin 747–25A3581, Revision 1, dated June 30, 2011, with Boeing Alert Service Bulletin 747–25A3581, Revision 2, dated September 11, 2012. UPS explained that Boeing Alert Service Bulletin 747–25A3581, Revision 2, dated September 11, 2012, revises the effectivity, and includes changes, corrections, and clarifications to the work instructions. UPS reasoned that in order to avoid additional efforts of applying for, approving, and documenting alternative methods of compliance for using Boeing Alert Service Bulletin 747–25A3581, Revision 2, dated September 11, 2012, we should instead revise the NPRM to incorporate Boeing Alert Service Bulletin 747–25A3581, Revision 2, dated September 11, 2012, which, according to Boeing, would change paragraphs (c)(2), (g), and (h) of the NPRM.

We partially agree. We disagree with the request to change paragraphs (c)(2) and (h) of this AD. Boeing Alert Service Bulletin 747–25A3581, Revision 2, dated September 11, 2012, adds one new airplane to the effectivity and would require resubmittal of the NPRM (77 FR 54854, September 6, 2012) for public comment on this change, which would delay the publication of this final rule. To delay this action would be inappropriate, since we have determined that an unsafe condition exists and that the required actions must be conducted to ensure continued safety. We might consider further rulemaking at a later time to address the additional airplane. However, we do agree to revise paragraph (g) of this AD by also referring to Boeing Alert Service Bulletin 747–25A3581, Revision 2, dated September 11, 2012, as an appropriate method of compliance for the actions required by paragraph (g) of this AD.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR 54854, September 6, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 54854, September 6, 2012).

Costs of Compliance

We estimate that this AD affects 38 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
Installation, relocation, and replacement.	Up to 23 work-hours × $85 per hour = $1,955.	Up to $8,887	Up to $10,842	Up to $411,996.
Concurrent installation	8 work-hours × $85 per hour = 680.	$1,801	$2,481	$94,278.

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

We 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): 2008–08–25, Amendment 39–15479 (73 FR 21240, April 21, 2008), and adding the following new AD:

2014–05–31 The Boeing Company: Amendment 39–17803; Docket No. FAA–2012–0862; Directorate Identifier 2011–NM–198–AD.

(a) Effective Date

This AD is effective May 2, 2014.

(b) Affected ADs

This AD supersedes AD 2008–08–25, Amendment 39–15479 (73 FR 21240, April 21, 2008).

(c) Applicability

This AD applies to The Boeing Company airplanes, certificated in any category, as specified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Model 747–400F series airplanes, as identified in Boeing Alert Service Bulletin 747–25A3580, Revision 2, dated May 13, 2013.

(2) Model 747–400 series airplanes, as identified in Boeing Alert Service Bulletin 747–25A3581, Revision 1, dated June 30, 2011.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/Furnishings.

(e) Unsafe Condition

This AD was prompted by reports of continued water damage to diode fire card 285U0072–1 in the M826 automatic fire overheat logic test system cardfile following a false FWD CARGO FIRE message, with no change in frequency, which resulted in an air turn back. We are issuing this AD to prevent water from exiting over the edge of the existing drip shield and contaminating electrical components in the M826 cardfile, which could result in an electrical short and potential loss of several functions essential for safe flight.

(f) Compliance

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

(g) Installation and Replacement

Within 24 months after the effective date of this AD, install aft and forward drain tubes, relocate wire bundle routing, install a new drip shield and drip shield deflectors, and replace insulation blankets, in accordance with the Accomplishment Instructions of the service information identified in paragraph (g)(1), (g)(2), or (g)(3); as applicable; of this AD.

(1) (For Model 747–400F series airplanes) Boeing Alert Service Bulletin 747–25A3580, Revision 2, dated May 13, 2013.

(2) (For Model 747–400 series airplanes) Boeing Alert Service Bulletin 747–25A3581, Revision 1, dated June 30, 2011.

(3) (For Model 747–400 series airplanes) Boeing Alert Service Bulletin 747–25A3581, Revision 2, dated September 11, 2012 (for Model 747–400 series airplanes).

(h) Concurrent Actions

For Group 1 airplanes as identified in Boeing Alert Service Bulletin 747–25A3581, Revision 1, dated June 30, 2011: Prior to or concurrently with the actions required by paragraph (g) of this AD, seal the drain slot, install spuds, and install left- and right-side drain tubes, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–25A3526, Revision 1, dated February 20, 2009 (for Model 747–400 series airplanes), except as specified in paragraphs (h)(1) and (h)(2) of this AD.

(1) Steps 1 through 5 of Figure 2 of Boeing Alert Service Bulletin 747–25A3526, Revision 1, dated February 20, 2009, are not required if work is being accomplished concurrently with the actions specified in Boeing Alert Service Bulletin 747–25A3581, Revision 1, dated June 30, 2011 (for Model 747–400 series airplanes).

(2) The portion of ''More Data'' in step 8 of Figure 3 of Boeing Alert Service Bulletin 747–25A3526, Revision 1, dated February 20, 2009, which says ''Attach drain tube and strap above bead on the spud,'' is not required.

(i) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 747–25A3580, Revision 1, dated July 14, 2011, which is not incorporated by reference in this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (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 (k)(1) 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.

(k) Related Information

(1) For more information about this AD, contact Francis Smith, Aerospace Engineer, Cabin Safety & Environmental Control Systems, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6596; fax: 425–917–6590; email: *francis.smith@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference in this AD may be obtained at the addresses specified in paragraphs (l)(3) and (l)(4) of this AD.

(l) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 747–25A3526, Revision 1, dated February 20, 2009.

(ii) Boeing Alert Service Bulletin 747–25A3580, Revision 2, dated May 13, 2013.

(iii) Boeing Alert Service Bulletin 747–25A3581, Revision 1, dated June 30, 2011.

(iv) Boeing Alert Service Bulletin 747–25A3581, Revision 2, dated September 11, 2012.

(3) 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.*

(4) You may view this service information at FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA 98057–3356. For information on the availability of this material at the FAA, call 425–227–1221.

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

Issued in Renton, Washington, on March 5, 2014.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–05558 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0701; Directorate Identifier 2013–NM–073–AD; Amendment 39–17768; AD 2014–04–09]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 727 airplanes. This AD will complete certain mandated programs intended to support the airplane reaching its limit of validity

(LOV) of the engineering data that support the established structural maintenance program. This AD requires repetitive inspections for cracking of small repairs done on the vertical flange of the rib chord, repetitive inspections for cracking along the upper fillet radius of the rib chord, and a large repair or preventive modification if necessary. Accomplishment of a large repair or preventive modification terminates the actions of this AD. We are issuing this AD to prevent cracks in the rib upper chord, which could result in the inability of the wing structure to support the limit load condition, and consequent loss of structural integrity of the wing.

DATES: This AD is effective May 2, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 2, 2014.

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–2013–0701; 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: Chandraduth Ramdoss, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Blvd., Suite 100, Lakewood, CA 90712–4137, phone: 562–627–5329; fax: 562–627–5210; email: *Chandraduth.Ramdoss@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 727 airplanes. The NPRM published in the **Federal Register** on August 27, 2013 (78 FR 52875). The NPRM proposed to require repetitive inspections for cracking of small repairs done on the vertical flange of the rib chord, repetitive inspections for cracking along the upper fillet radius of the rib chord, and a large repair or preventive modification if necessary. Accomplishment of a large repair or preventive modification would terminate the actions of the NPRM. We are issuing this AD to prevent cracks in the rib upper chord, which could result in the inability of the wing structure to support the limit load condition, and consequent loss of structural integrity of the wing.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (78 FR 52875, August 27, 2013) and the FAA's response to each comment.

Request To Remove Statement of Difference Between NPRM (78 FR 52875, August 27, 2013) and Service Information

Boeing requested that we revise ''Differences Between the Proposed AD and the Service Information'' in the NPRM (78 FR 52875, August 27, 2013) to instead state that there are no differences. Boeing stated that the NPRM specified the same type, location, and interval of the inspections specified in Boeing Service Bulletin 727–57–0112, Revision 5, dated July 31, 1997, for a small repair.

We find that clarification of the requirements of this final rule is necessary in light of the information provided in Boeing Service Bulletin 727–57–0112, Revision 5, dated July 31, 1997. The post-small-repair inspection is described in Part III of the service information; some of this information is provided in notes, and the description of the area to be inspected needed slight clarification. To ensure that operators understand that all actions specified in Part III are required for compliance, and to give more specific direction to the area of inspection, paragraph (g) in this final rule specifies these actions, including the information in the notes, with slightly different wording to describe the inspection area. Since the inspection is a direct requirement of this final rule, there is a difference between this AD and the service information. We have not changed this final rule regarding this issue.

Request To Refer to a Single Service Information Source

Paragraph (g) of the NPRM (78 FR 52875, August 27, 2013) referred to actions specified in ''Boeing 727 Service Bulletin 57–112; or Part III of the Accomplishment Instructions of Boeing Service Bulletin 727–57–0112.'' Boeing stated that only one of these references is required. Boeing added that one of the references did not follow the standard format. Boeing therefore requested that we revise the NPRM to refer to only ''Part III of the Accomplishment Instructions of Boeing Service Bulletin 727–57–0112.''

We disagree to revise the source of service information as cited in this final rule. We are required by OFR regulations to precisely specify all possible revisions of this service bulletin by their unique identities. Boeing Service Bulletin 727–57–0112 has actually been revised five times; some versions are old and were published in Boeing's older service bulletin format. The earlier version (''Boeing 727 Service Bulletin 57–112'') does not have a separate ''Accomplishment Instructions'' section. Two citations are therefore necessary to refer to the description of the small repair actions in the service information. However, we have added Note 1 to paragraph (g) of this final rule to clarify the use of the different document citations.

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 change described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 52875, August 27, 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 52875, August 27, 2013).

Costs of Compliance

We estimate that this AD affects 106 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
Inspections (per wing) ...	6 work-hours × $85 per hour = $510 per inspection cycle.	$0	$510 per inspection cycle.	Up to $108,120 per inspection cycle per airplane.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Large repair [1] [2]	300 work-hours × $85 per hour = $25,500	$12,139	$37,639
Preventive modification [1] [3]	57 work-hours × $85 per hour = $4,845	10,614	15,459

[1] Cost for on-condition actions (either [2] or [3]), per wing.
[2] Cost for large repair, per wing.
[3] Cost for preventive modification, per wing.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–04–09 The Boeing Company: Amendment 39–17768; Docket No. FAA–2013–0701; Directorate Identifier 2013–NM–073–AD.

(a) Effective Date

This AD is effective May 2, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 727, 727C, 727–100, 727–100C, 727–200, and 727–200F series airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD will complete certain mandated programs intended to support the airplane reaching its limit of validity (LOV) of the engineering data that support the established structural maintenance program. We are issuing this AD to prevent cracks in the rib upper chord, which could result in the inability of the wing structure to support the limit load condition, and consequent loss of structural integrity of the wing.

(f) Compliance

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

(g) Post-Repair Inspection

For any small repair that has been done as specified in Boeing 727 Service Bulletin 57–112; or Part III of the Accomplishment Instructions of Boeing Service Bulletin 727–57–0112: Within 3,500 flight cycles after the small repair was installed or inspected as specified in Boeing Service Bulletin 727–57–0112, or within 18 months after the effective date of this AD, whichever occurs latest, do a high frequency eddy current inspection for cracking of the vertical flange of the rib chord from the inboard side, and do a detailed (close visual) inspection for cracking along the upper fillet radius of the rib chord, in accordance with Part III of the Accomplishment Instructions of Boeing Service Bulletin 727–57–0112, Revision 5, dated July 31, 1997. Repeat the inspections thereafter at intervals not to exceed 3,500 flight cycles until accomplishment of the repair or modification specified in paragraph (i) or (j) of this AD.

Note 1 to paragraph (g) of this AD: Boeing 727 Service Bulletin 57–112 and Boeing Service Bulletin 727–57–0112 are both versions of the same document. The formatting of service bulletins was revised by Boeing following publication of Boeing 727 Service Bulletin 57–112, Revision 1, dated April 23, 1976. Boeing Service Bulletin 727–57–0112, Revision 2, dated May 19, 1988, was published using Boeing's revised formatting.

(h) Inspection Definition

For the purposes of this AD, a detailed inspection is an intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an

intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.

(i) Corrective Action for Cracks

If any crack is found during any inspection required by paragraph (g) of this AD, before further flight, do either action specified in paragraph (i)(1) or (i)(2) of this AD. Accomplishment of either action terminates the requirements of paragraph (g) of this AD.

(1) Do a large repair, in accordance with Part IV of the Accomplishment Instructions of Boeing Service Bulletin 727–57–0112, Revision 5, dated July 31, 1997.

(2) Do a preventive modification, in accordance with Part V of the Accomplishment Instructions of Boeing Service Bulletin 727–57–0112, Revision 5, dated July 31, 1997.

(j) Optional Terminating Action

Accomplishment of the actions specified in either paragraph (j)(1) or (j)(2) of this AD terminates the requirements of paragraphs (g) and (i) of this AD.

(1) A large repair, in accordance with Part IV of the Accomplishment Instructions of Boeing Service Bulletin 727–57–0112, Revision 5, dated July 31, 1997. Any crack found must be repaired before further flight using a method approved in accordance with the procedures specified in paragraph (l) of this AD.

(2) A preventive modification, in accordance with Part V of the Accomplishment Instructions of Boeing Service Bulletin 727–57–0112, Revision 5, dated July 31, 1997. Any crack found must be repaired before further flight using a method approved in accordance with the procedures specified in paragraph (l) of this AD.

(k) Credit for Previous Actions

This paragraph provides credit for the inspections, large repair, and modification specified in this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 727–57–0112, Revision 4, dated October 29, 1992.

(l) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles Aircraft Certification Office (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 (m) 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 Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles 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.

(m) Related Information

For more information about this AD, contact Chandraduth Ramdoss, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Blvd., Suite 100, Lakewood, CA 90712–4137, phone: 562–627–5329; fax: 562–627–5210; email: *Chandraduth.Ramdoss@faa.gov.*

(n) Material Incorporated by Reference

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

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

(i) Boeing Service Bulletin 727–57–0112, Revision 5, dated July 31, 1997.

(ii) Reserved.

(3) 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.*

(4) 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.

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

Issued in Renton, Washington, on February 14, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–06776 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0822; Directorate Identifier 2013–SW–004–AD; Amendment 39–17783; AD 2014–05–10]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters (Type Certificate Previously Held by Eurocopter France) (Airbus Helicopters)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2012–25–04 for Eurocopter France Model AS350B3 helicopters with a certain modification (MOD) installed. AD 2012–25–04 required installing two placards and revising the Rotorcraft Flight Manual (RFM). AD 2012–25–04 also required certain checks and inspecting and replacing, if necessary, all four laminated half-bearings (bearings). This new AD retains the previous AD requirements, requires certain modifications which would be terminating action for the airspeed limitations, and adds certain helicopter models to the bearing inspection with a different inspection interval. These actions are intended to prevent vibration due to a failed bearing, failure of the tail rotor, and subsequent loss of control of the helicopter.

DATES: This AD is effective May 2, 2014.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of May 2, 2014.

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* in Docket No. FAA–2013–0822 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 foreign

authority's AD, any incorporated-by-reference information, the economic evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

On September 23, 2013, at 78 FR 58256, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 by removing AD 2012–25–04, Amendment 39–17285 (78 FR 24041, April 24, 2013) and adding an AD that would apply to Eurocopter France (now Airbus Helicopters) Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3 (except AS350B3 helicopters with modification (MOD) 07 5606 installed), AS350C, AS350D, AS350D1, AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters. For Model AS350B3 helicopters with MOD 07 5601 installed, the NPRM proposed to require limiting the velocity never exceed speed by installing a placard and revising the RFM, checking the bearings after each flight for separation, a crack, or extrusion, performing a one-time inspection of the bearings, modifying the chin weight support and replacing any bearings with more than 5 hours time-in-service (TIS), removing the additional chin weights and installing blanks, modifying the rotating pitch-change spider assembly, installing a load compensator, and modifying the electrical installation. After modifying the helicopter, the NPRM proposed to require removing the RFM limitations and placards installed previously. For Model AS350B, AS350BA, AS350B1, AS350B2, AS350C, AS350D, AS350D1, AS355E, AS355F, AS355F1, AS355F2, AS355N, AS355NP helicopters, and Model AS350B3 helicopters that do not have MOD 07 5601 installed, the NPRM also proposed to require checking the bearings after the last flight of each day and replacing the bearings if there is an extrusion, a crack, or separation. The proposed requirements were intended to prevent vibration due to a failed bearing, failure of the tail rotor, and subsequent loss of control of the helicopter.

The NPRM was prompted by Emergency AD No. 2012–0257–E, dated December 5, 2012 (EAD 2012–0257–E) issued by the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union. EASA EAD 2012–0257–E advises of premature failures of bearings on AS350B3 helicopters, and states that the criticality of the bearing failures should apply to all AS355 and AS350 helicopters. As a result, EAD 2012–0257–E requires repetitive post-flight checks of the bearings.

EASA then superseded EAD 2012–0217–E with EASA AD No. 2013–0029, dated February 8, 2013 (AD 2013–0029), to correct an unsafe condition for Eurocopter Model AS 350 B3 helicopters modified by MOD 07 5601, except for helicopters modified by MOD 07 5606 in production. EASA advises that MOD 07 5606 restores the tail rotor dynamic load level to that on helicopters before installation of MOD 07 5601 and eliminates the modified loading conditions of bearings which caused the intensified deterioration and reported failures. For these reasons, EASA AD 2013–0029 requires incorporation of MOD 07 5606 as a terminating action.

Since we issued the NPRM, Eurocopter France has changed its name to Airbus Helicopters. This AD reflects that change and updates the contact information to obtain service documentation.

Comments

We gave the public the opportunity to participate in developing this AD, but we did not receive any comments on the NPRM (78 FR 58256, September 23, 2013).

FAA's Determination

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopter of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed, except for the minor change previously described and formatting changes. These changes are consistent with the intent of the proposals in the NPRM (78 FR 58256, September 23, 2013) and will not increase the economic burden on any operator nor increase the scope of the AD.

Differences Between This AD and the EASA AD

The EASA AD requires removing the placard and RFM changes with the true airspeed limitation (TAS) and replacing it with an indicated airspeed limitation. Since AD 2012–25–04 did not include the TAS limitation, this AD does not require removing it.

Related Service Information

We reviewed Eurocopter Service Bulletin (SB) No. AS350–01.00.66, Revision 1, dated February 15, 2013 (SB AS350–01.00.66), which describes procedures for removing the additional chin weights installed on the tail rotor, installing a load compensator, and modifying the electrical system installation, to reduce the dynamic loads on the tail rotor. Eurocopter refers to the procedures in this SB as MOD 07 5606. SB AS350–01.00.66 only applies to helicopters with MOD 07 5601 installed.

We reviewed one Eurocopter Emergency Alert Service Bulletin (EASB) with two numbers: No. 01.00.65 for the Model AS350B3 helicopters and No. 01.00.24 for the non-FAA type certificated Model AS550C3 helicopters (EASB 01.00.65). EASB 01.00.65 is Revision 3, dated February 4, 2013. EASB 01.00.65 specifies installing a placard on the instrument panel and revising the RFM to limit airspeed to 100 knots IAS, revising the RFM to include a procedure in case of in-flight vibrations originating in the tail rotor and an ''engine health check,'' checking the bearings after each flight, and performing a one-time inspection of the bearings. EASB 01.00.65 does not apply to helicopters with MOD 07 5606 installed.

We also reviewed one Eurocopter EASB with four numbers: No 05.00.71 for Model AS350B, BA, BB, D, B1, B2, B3, and the non-FAA type certificated L1 helicopters; No. 05.00.63 for Model AS355E, F, F1, F2, N, and NP helicopters; No. 05.00.46 for the non-FAA type certificated Model AS550A2, C2, C3, and U2 helicopters; and No. 05.00.42 for the non-FAA type certificated Model AS555AF, AN, SN, UF, and UN helicopters (EASB 05.00.71). EASB 05.00.71 is Revision 2, dated December 19, 2012. EASB 05.00.71 specifies procedures for checking the bearings for deterioration or damage after the last flight of each day. EASB 05.00.71 does not apply to helicopters with MOD 07 5601 installed.

We also reviewed Eurocopter SB No. AS350–64.00.11, Revision 0, dated December 19, 2012 (SB AS350–64.00.11), which describes procedures for modifying the tail rotor chin weight support to prevent interference with the bearings. The manufacturer refers to the procedures in this SB as MOD 07 6604. SB AS350–64.00.11 only applies to helicopters with MOD 07 5601 installed.

Costs of Compliance

We estimate that the pilot checks of the bearings in this AD will affect 938 helicopters of U.S. Registry, and that 50 helicopters will be affected by the remaining requirements. The cost for the pilot checks is minimal.

We estimate that operators may incur the following costs in order to comply with this AD. At an average labor rate of $85 per hour, installing a placard and revising the RFM requires about .5 work-hour, for a cost per helicopter of $43 and a total cost to U.S. operators of $2,150. Disassembling and inspecting the bearings requires about 6 work-hours, for a cost per helicopter of $510 and a total cost to U.S. operators of $25,500. Modifying the chin weight support requires about 8 work-hours, for a cost per helicopter of $680, and a total cost to U.S. operators of $34,000. Removing the additional chin weights installed on the tail rotor, modifying the rotating pitch-change spider assembly, installing a load compensator, and modifying the electrical system installation requires about 200 work-hours, and required parts will cost $18,343, for a cost per helicopter of $35,343, and a total cost to U.S. operators of $1,767,150.

If necessary, replacing the bearings installed on the aircraft requires about 6 work-hours, at an average labor rate of $85, and required parts will cost $2,415, for a cost per helicopter of $2,925.

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) 2012–25–04, Amendment 39–17285 (78 FR 24041, April 24, 2013), and adding the following new (AD):

2014–05–10 Airbus Helicopters (Type Certificate Previously Held By Eurocopter France): Amendment 39–17783; Docket No. FAA–2013–0822; Directorate Identifier 2013–SW–004–AD.

(a) Applicability

This AD applies to Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3 (except AS350B3 helicopters with modification (MOD) 07 5606 installed), AS350C, AS350D, AS350D1, AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as severe vibrations due to failure of laminated half-bearings (bearings). This condition could result in failure of the tail rotor and subsequent loss of control of the helicopter.

(c) Affected AD

This AD supersedes AD No. 2012–25–04, Amendment 39–17285 (78 FR 24041, April 24, 2013).

(d) Effective Date

This AD becomes effective May 2, 2014.

(e) Compliance

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

(f) Required Action

(1) For Model AS350B3 helicopters with MOD 07 5601 installed:

Note 1 to paragraph (f) of this AD: MOD 075601 is an integral part of a specific Model AS350B3 configuration, commercially identified as ''AS350B3e'' and is not fitted on Model AS350B3 helicopters of other configurations.

(i) Before further flight:

(A) Install a velocity never exceed (V_{NE}) placard that reads as follows on the instrument panel in full view of the pilot and co-pilot with 6-millimeter red letters on a white background:

VNE LIMITED TO 100 KTS IAS.

(B) Replace the IAS limit versus the flight altitude placard located inside the cabin on the center post with the placard as depicted in Figure 1 to paragraph (f) of this AD:

VNE POWER ON

Hp (ft)	IAS (kts)
0	100
2000	97
4000	94
6000	91
8000	88
10000	85
12000	82
14000	79
16000	76
18000	73
20000	70
22000	67

Valid for VNE POWER OFF

Figure 1 to paragraph (f)

(ii) Before further flight, revise the Rotorcraft Flight Manual (RFM) by inserting a copy of this AD into the RFM or by making pen and ink changes as follows:

(A) Revise paragraph 2.3 of the RFM by inserting the following:

VNE limited to 100 kts IAS.

(B) Revise paragraph 2.6 of the RFM by inserting Figure 2 to paragraph (f) of this AD.

VNE POWER ON

Hp (ft)	IAS (kts)
0	100
2000	97
4000	94
6000	91
8000	88
10000	85
12000	82
14000	79
16000	76
18000	73
20000	70
22000	67

Valid for VNE POWER OFF

Figure 2 to paragraph (f)

(C) Add the following as paragraph 3.3.3 to the RFM:

3.3.3 IN–FLIGHT VIBRATIONS FELT IN THE PEDALS

Symptom:

IN–FLIGHT VIBRATIONS FELT IN THE PEDALS

1. CHECK PEDAL EFFECTIVENESS
2. SMOOTHLY REDUCE THE SPEED TO VY
3. AVOID SIDESLIP AS MUCH AS POSSIBLE

LAND AS SOON AS POSSIBLE

(iii) Before further flight, and thereafter after each flight, without exceeding 3 hours time-in-service (TIS) between two checks, visually check each bearing as follows:

(A) Position both tail rotor blades horizontally.

(B) Apply load (F) by hand, perpendicular to the pressure face of one tail rotor blade (a), as shown in Figure 3 to paragraph (f) of this AD, taking care not to reach the extreme position against the tail rotor hub. The load will deflect the tail rotor blade towards the tail boom.

(C) While maintaining the load, check all the visible faces of the bearings (front and side faces) in area B of DETAIL A of Figure 3 to paragraph (f) of this AD for separation between the elastomer and metal parts, a crack in the elastomer, or an extrusion (see example in Figure 4 to paragraph (f) of this AD). A flashlight may be used to enhance the check.

BILLING CODE 4910–13–P

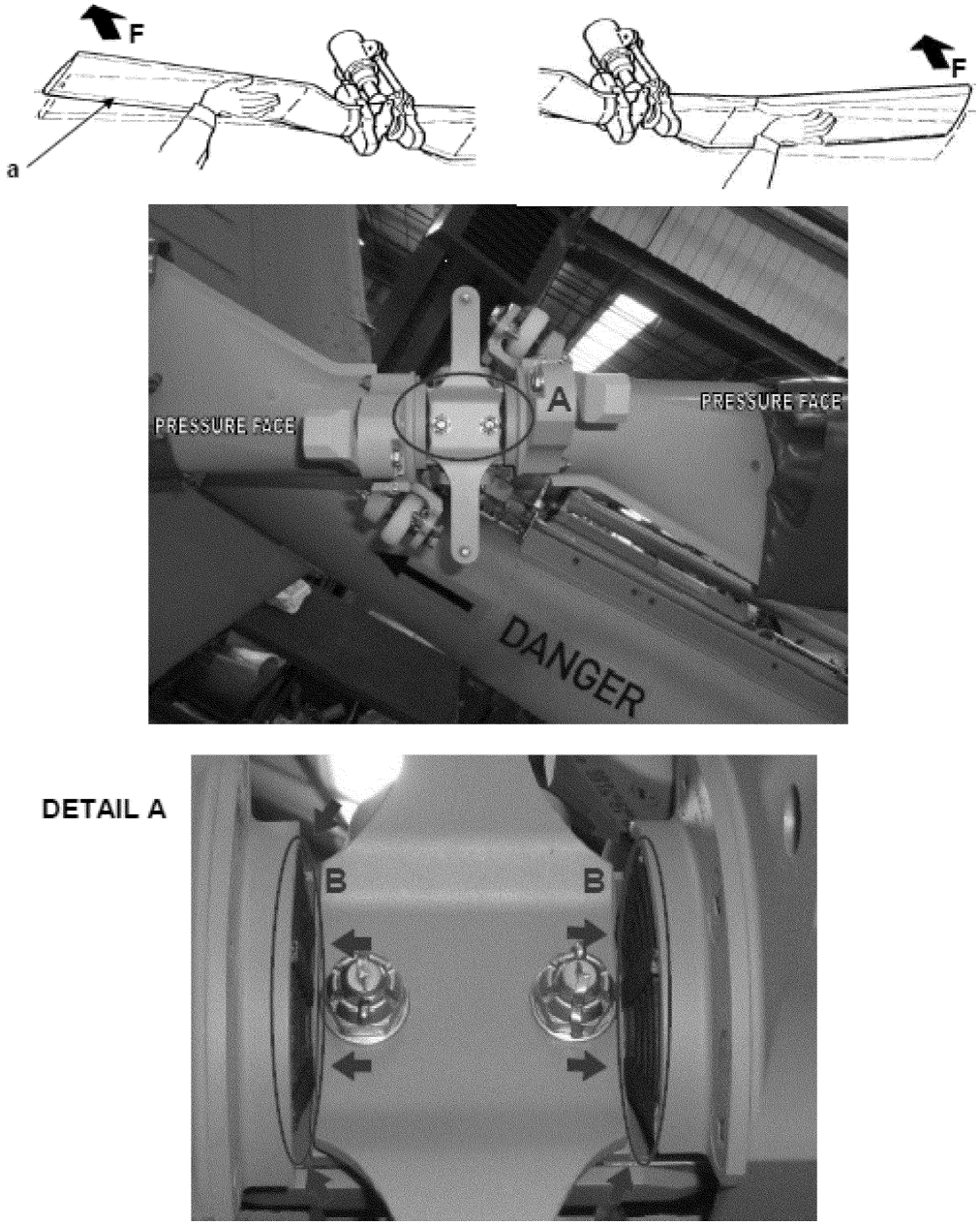


Figure 3 to paragraph (f)

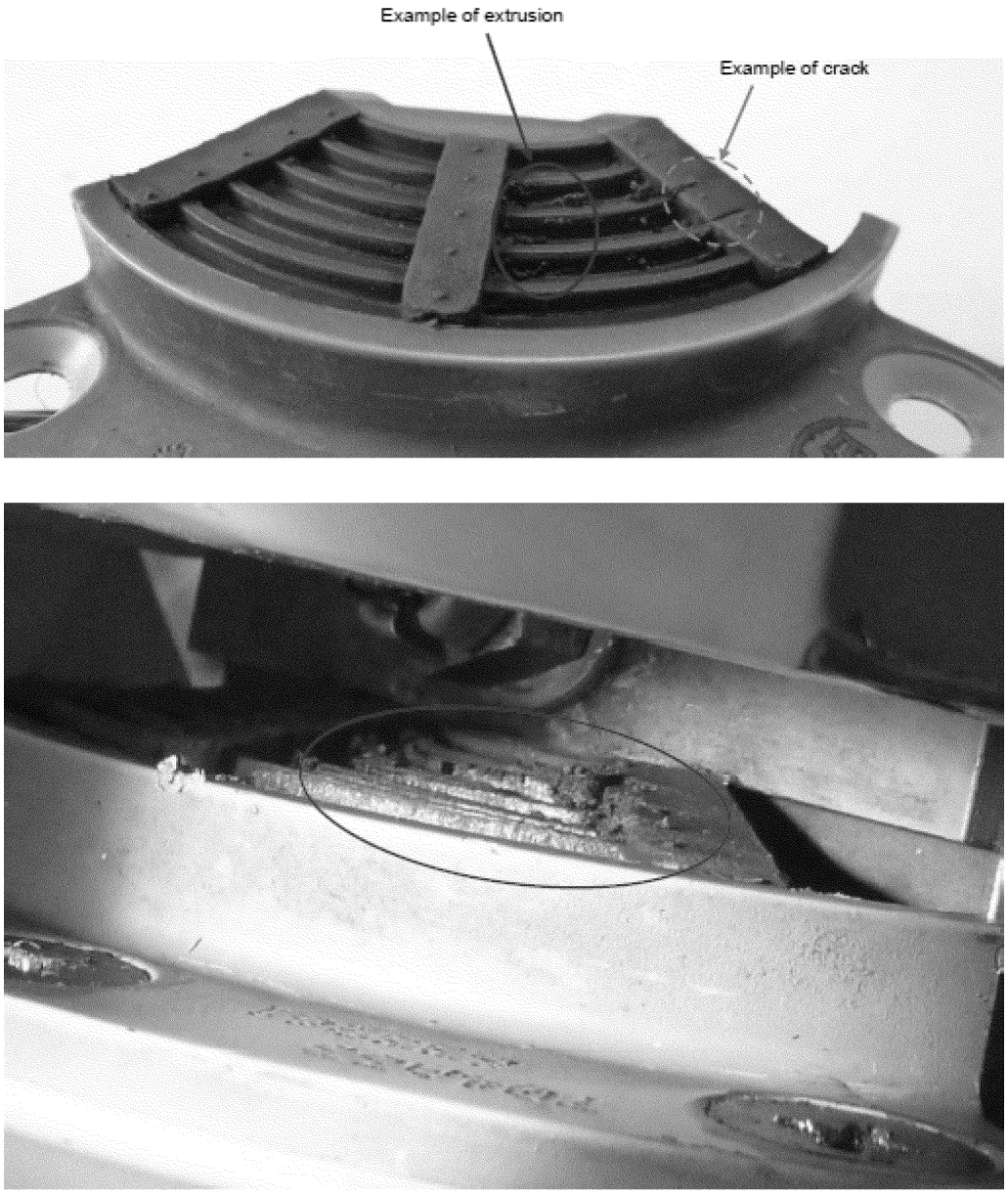
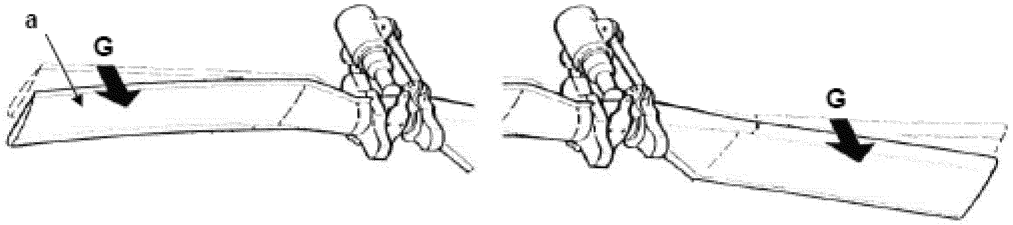


Figure 4 to paragraph (f)

(D) Repeat paragraphs (f)(1)(iii)(A) through (f)(1)(iii)(C) of this AD on the other tail rotor blade.

(E) Apply load (G) by hand perpendicular to the suction face of one tail rotor blade as shown in Figure 5 to paragraph (f) of this AD. The load will deflect the tail rotor blade away from the tail boom.



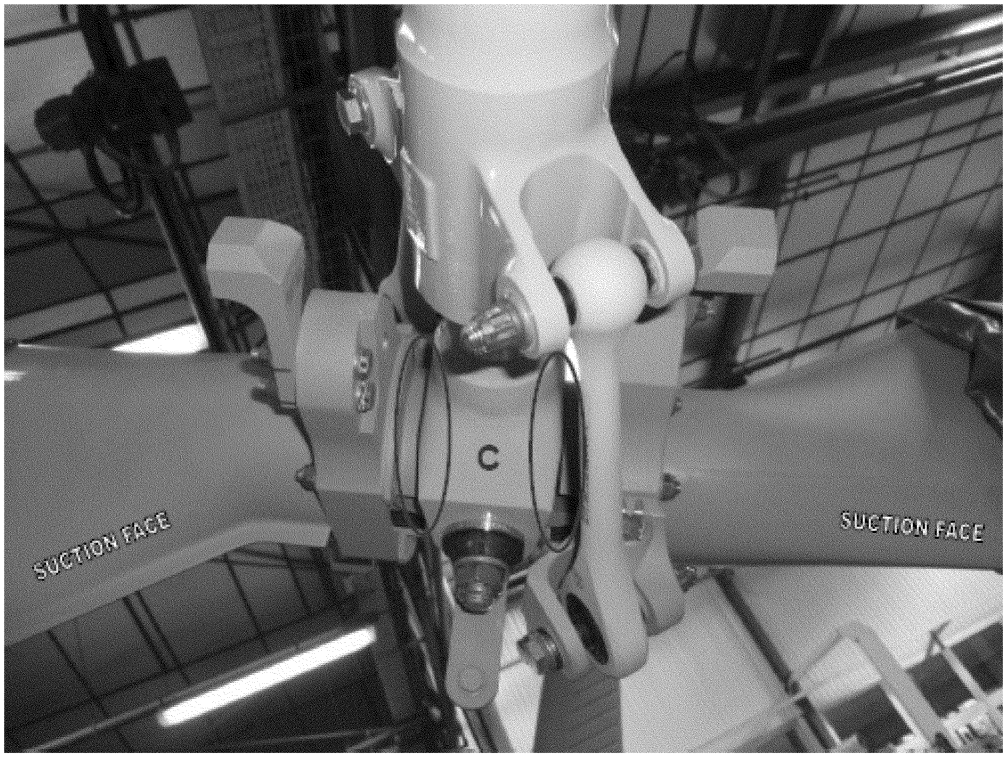


Figure 5 to paragraph (f)

(F) While maintaining the load, check visible faces of Area C as shown in Figure 5 to paragraph (f) of this AD for any extrusion. A flashlight may be used to enhance the check.

(G) Repeat paragraphs (f)(1)(iii)(E) and (f)(1)(iii)(F) of this AD on the other tail rotor blade.

(iv) The actions required by paragraphs (f)(1)(iii)(A) through (f)(1)(iii)(G) of this AD may be performed by the owner/operator (pilot) holding at least a private pilot certificate, and must be entered into the aircraft 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 §§ 91.417, 121.380, or 135.439.

(v) If there is an extrusion on any bearing, before further flight, replace the four bearings with airworthy bearings.

(vi) If there is a separation or a crack on the pressure side bearing, measure the separation or the crack. If the separation or crack is greater than 5 millimeters (.196 inches) as indicated by dimension ''L'' in Figure 6 to paragraph (f) of this AD, before further flight, replace the four bearings with airworthy bearings.

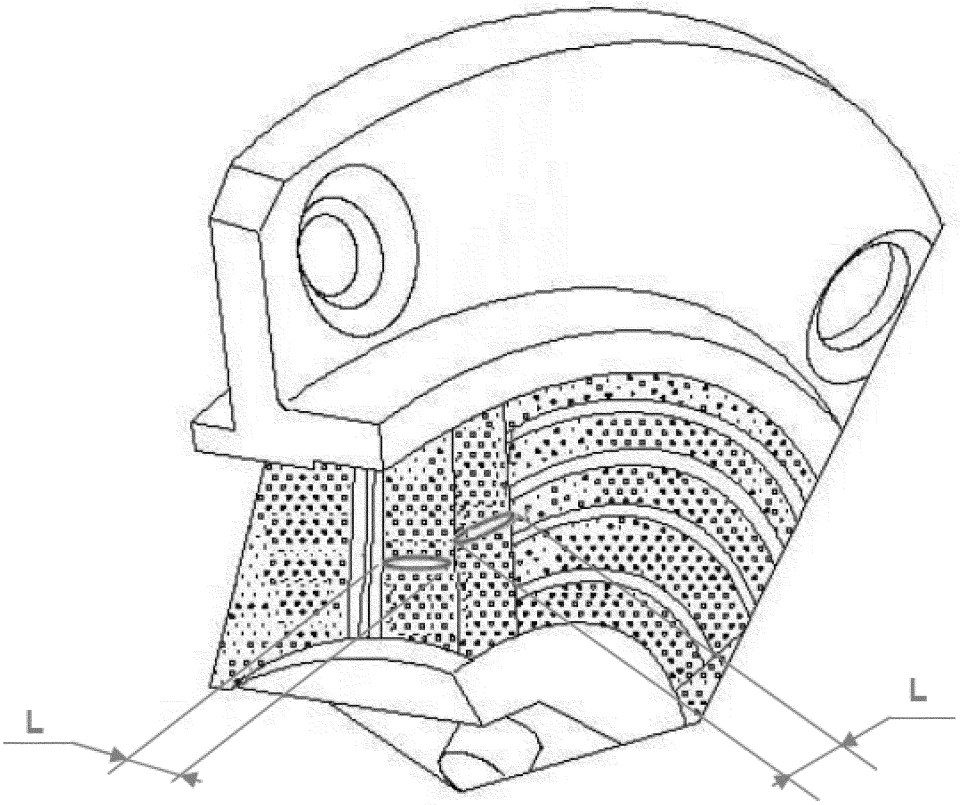


Figure 6 to paragraph (f)

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(vii) No later than after the last flight of the day, perform a one-time inspection by removing the bearings and inspecting for a separation, a crack, or an extrusion. This inspection is not a daily inspection. If there is a separation, crack, or extrusion, before further flight, replace the four bearings with airworthy bearings.

(viii) Within 130 hours TIS:

(A) Modify the chin weight support as described in the Accomplishment Instructions, paragraphs 3.B.2.a through 3.B.2.h, of Eurocopter Service Bulletin (SB) No. AS350–64.00.11, Revision 0, dated December 19, 2012.

(B) Remove the additional chin weights, install blanks on the chin weights, replace bearings with more than 5 hours TIS, and re-identify the blade assembly as described in the Accomplishment Instructions, paragraph 3.B.2.a., of Eurocopter SB No. AS350–01.00.66, Revision 1, dated February 15, 2013 (SB AS350–01.00.66).

(C) Modify and re-identify the rotating pitch-change spider assembly as described in the Accomplishment Instructions, paragraph 3.B.2.b., of SB AS350–01.00.66.

(D) Install a load compensator as described in the Accomplishment Instructions, paragraph 3.B.3.b., of SB AS350–01.00.66.

(E) Modify the electrical installation as described in the Accomplishment Instructions, section 3.B.4., of SB AS350–01.00.66.

Note 2 to paragraph (f) of this AD: The manufacturer refers to the actions in paragraphs (f)(1)(viii)(B) through (f)(1)(viii)(E) of this AD as MOD 07 5606.

(ix) After modification of a helicopter as required by paragraphs (f)(1)(viii)(A) through (f)(1)(viii)(E) of this AD, the actions of paragraph (f)(1)(iii) through (f)(1)(vii) of this AD are no longer required and the operating limitation placards and RFM procedures required by paragraphs (f)(1)(i) through (f)(1)(ii)(C) of this AD may be removed.

(2) For Model AS350B, AS350BA, AS350B1, AS350B2, AS350C, AS350D, AS350D1, AS355E, AS355F, AS355F1, AS355F2, AS355N, AS355NP helicopters, and Model AS350B3 helicopters that do not have MOD 07 5601 installed:

(i) No later than after the last flight of the day, and thereafter during each last flight of the day check, without exceeding 10 hours TIS between two checks, visually check each bearing as described in paragraphs (f)(1)(iii)(A) through (f)(1)(vi) of this AD.

(ii) If there is an extrusion on any bearing, before further flight, replace the bearing with an airworthy bearing.

(iii) If there is a separation or a crack on the bearing, measure the separation or the crack. If the separation or crack is greater than 5 mm (.196 inches) as indicated by dimension ''L'' and greater than 2 mm (.078 inches) as indicated by dimension ''P'' in Figure 3 of Eurocopter Emergency Alert Service Bulletin (EASB) No. 05.00.71 or No. 05.00.63, both Revision 2 and both dated December 19, 2012, as applicable to your model helicopter, before further flight, replace the bearing.

(g) Credit for Actions Previously Completed

Actions accomplished before the effective date of this AD in accordance with Emergency AD No. 2012–21–51, dated October 19, 2012, or AD No. 2012–25–04, Amendment 39–17285 (78 FR 24041, April 24, 2013) are considered acceptable for compliance with the corresponding actions of this AD.

(h) Special Flight Permits

Special flight permits are prohibited.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Robert Grant, Aviation Safety Engineer, Safety Management Group, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5328; email *robert.grant@faa.gov*.

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

(j) Additional Information

(1) Eurocopter EASB No. 01.00.65 and No. 01.00.24, both Revision 3 and both dated February 4, 2013, which are co-published as one document and which are not incorporated by reference, contain additional information about the subject of this AD. For this service information, contact Airbus Helicopters, Inc., 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub*. You may review this service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(2) The subject of this AD is addressed in European Aviation Safety Agency AD No. 2013–0029, dated February 8, 2013, which can be found on the Internet at *http://www.regulations.gov* in Docket number 2013–0822.

(k) Subject

Joint Aircraft Service Component (JASC) Code: 6400: Tail Rotor.

(l) Material Incorporated by Reference

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

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

(i) Eurocopter Service Bulletin No. AS350–64.00.11, Revision 0, dated December 19, 2012.

(ii) Eurocopter Service Bulletin No. AS350–01.00.66, Revision 1, dated February 15, 2013.

(iii) Eurocopter Emergency Alert Service Bulletin No. 05.00.71, Revision 2, dated December 19, 2012.

(iv) Eurocopter Emergency Alert Service Bulletin No. 05.00.63, Revision 2, dated December 19, 2012.

Note 3 to paragraph (l)(2): Eurocopter Emergency Alert Service Bulletin No. 05.00.71, Revision 2, dated December 19, 2012, and Eurocopter Emergency Alert Service Bulletin No. 05.00.63, Revision 2, dated December 19, 2012, are co-published as one document along with Eurocopter Emergency Alert Service Bulletin No. 05.00.46, Revision 2, dated December 19, 2012, and Eurocopter Emergency Alert Service Bulletin No. 05.00.42, Revision 2, dated December 19, 2012, which are not incorporated by reference in this AD.

(3) For Eurocopter service information identified in this AD, contact Airbus Helicopters, Inc., 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub*.

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued in Fort Worth, Texas, on February 20, 2014.

Lance T. Gant,

Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2014–06769 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1253; Directorate Identifier 2011–NM–079–AD; Amendment 39–17723; AD 2013–26–14]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2008–08–04 for certain Airbus Model A318, A319, A320, and A321 series airplanes. AD 2008–08–04 required repetitive inspections for cracking in the forward lug of the support rib 5 fitting of the left and right main landing gear (MLG), and repair or replacement of any cracked MLG fitting if necessary. AD 2008–08–04 also required modification of the rib bushings of the left and right MLG, which ended the repetitive inspections. This new AD requires, for airplanes on which certain modifications or repairs have been done, repetitive inspections for cracks of the forward lug of each left-hand and right-hand MLG support rib 5 fitting, and repair if necessary; and adds Model A318 series airplanes to the applicability. Replacement of an MLG support rib 5 fitting terminates the repetitive inspection requirements for the MLG support rib 5 fitting at that position. This AD was prompted by reports of cracks found in the forward lug of the MLG support rib 5 fitting. We are issuing this AD to prevent cracking in the forward lug of the MLG, which could result in failure of the lug and consequent collapse of the MLG during takeoff or landing.

DATES: This AD becomes effective May 2, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 2, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of May 19, 2008 (73 FR 19975, April 14, 2008).

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2011-1253;* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room

W12–140, 1200 New Jersey Avenue SE., Washington, DC.

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 to supersede AD 2008–08–04, Amendment 39–15456 (73 FR 19975, April 14, 2008). AD 2008–08–04 applied to certain Airbus Model A318, A319, A320, and A321 series airplanes. The SNPRM published in the **Federal Register** on October 3, 2012 (77 FR 60325). We preceded the SNPRM with a notice of proposed rulemaking (NPRM) that published in the **Federal Register** on November 23, 2011 (76 FR 72350). The NPRM proposed to continue to require repetitive inspections for cracking in the forward lug of the support rib 5 fitting of the left and right main landing gear (MLG), and repair or replacement of any cracked MLG fitting if necessary; and modification of the rib bushings of the left and right MLG, which ended the repetitive inspections. The NPRM also proposed to require, for airplanes on which certain modifications or repairs have been done, repetitive inspections for cracks of the forward lug of each left-hand and right-hand MLG support rib 5 fitting, and repair if necessary; and to remove Model A318 series airplanes from the applicability. The NPRM was prompted by reports of cracks found in the forward lug of the MLG support rib 5 fitting. The SNPRM proposed to revise the NPRM by adding Model A318 airplanes and others to the applicability; and requiring repetitive detailed inspections for cracks of the MLG support 5 fitting, and repair of any cracks. We are issuing this AD to prevent cracking in the forward lug of the MLG, which could result in failure of the lug and consequent collapse of the MLG during takeoff or landing.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2012–0032, dated February 24, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Several cases of corrosion of the Main Landing Gear (MLG) support Rib 5 fitting lug bores have been reported on A320 family aeroplanes. In some instances, corrosion pits caused the cracking of the forward lug (sometimes through its complete thickness). If not detected, the cracking may lead to the complete failure of the fitting and thus could affect the structural integrity of the MLG installation.
>
> EASA AD 2007–0213 [(*http://ad.easa.europa.eu/blob/easa_ad_2007_0213_superseded.pdf/AD_2007–0213_1*), which corresponds to FAA AD 2008–08–04, Amendment 39–15456 (73 FR 19975, April 14, 2008)] was issued to address this condition and required a repetitive inspection program of the MLG support Rib 5 fitting forward lugs and, as terminating action, the embodiment of Airbus Service Bulletin (SB) A320–57–1118.
>
> After that [EASA] AD was issued, a case of Rib 5, ruptured at the 4 o'clock position, was discovered on an aeroplane on which the terminating action of EASA AD 2007–0213 had already been embodied in accordance with Airbus SB A320–57–1118.
>
> Investigation of that case revealed that corrosion damage and cracking that should have been removed by repair machining was below the level of detectability of the Non Destructive Test (NDT) technique that cleared the surfaces prior to bush installation.
>
> This condition, if not detected and corrected, could affect the structural integrity of the aeroplane.
>
> To correct this potential unsafe condition, EASA issued AD 2011–0011 [(*http://ad.easa.europa.eu/blob/easa_ad_2011_0011_superseded.pdf/AD_2011–0011_1*), which corresponds to FAA AD 2012–15–17 (77 FR 47273, August 8, 2012)], superseding EASA AD 2007–0213, to:
>
> —retain the requirements of EASA AD 2007–0213 for aeroplanes on which the MLG Rib Bushes have not been modified/repaired in accordance with the instructions of Airbus SB A320–57–1118, or Airbus SRM 57–26–13, or the identified Airbus Repair Instructions, as applicable, and
>
> —require, for all aeroplanes on which Airbus SB A320–57–1118 has been embodied in service, or on which Airbus SRM 57–26–13 or the identified Airbus Repair Instructions have been applied, a repetitive inspection program [for cracks] of the MLG support Rib 5 fitting forward lugs and, depending on findings, the accomplishment of the associated corrective actions, and
>
> —reduce the Applicability by deleting A318 aeroplanes, as Airbus modification 32025 is embodied in production on both left-hand (LH) and right-hand (RH) wings for all A318 aeroplanes.
>
> After that [EASA] AD was issued, three cases of corrosion of Rib 5 were discovered on aeroplanes on which Airbus modification 32025 had been embodied in production. Investigations revealed that the unsafe condition addressed by [EASA] AD 2011–0011 could occur or develop on those aeroplanes as well.
>
> For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2011–0011, which is superseded, extends the applicability to all aeroplanes, and requires for aeroplanes on which Airbus modification 32025 has been embodied in production, repetitive inspections of the MLG support Rib 5 fitting forward lugs and, depending on findings, the accomplishment of applicable corrective actions.

The unsafe condition is cracking in the forward lug of the MLG, which could result in failure of the lug and consequent collapse of the MLG during takeoff or landing. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2011-1253-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received.

Support for the SNPRM (77 FR 60325, October 3, 2012)

United Airlines (UAL) stated that it generally agrees with the intent of the SNPRM (77 FR 60325, October 3, 2012).

US Airways (AWE) stated that it agrees with the need to add the post-modification inspections, because the mandated bushing modification has not proven to be an effective permanent corrective action. AWE also stated that it agrees with the method and frequency of these additional inspections.

Request To Extend Compliance Time

UAL requested that we extend the compliance time specified in paragraph (n)(2) of the SNPRM (77 FR 60325, October 3, 2012) from within 2,000 flight cycles after accomplishing the modification or within 250 flight cycles after the effective date of the AD, without exceeding 3 months after the effective date of the AD, whichever occurs later. UAL requested that the compliance time be changed to within 500 flight cycles after the effective date of the AD or within 6 months after the effective date of the AD, whichever occurs later. UAL stated that the majority of its Model A319 and A320 series airplanes have accumulated more than 2,000 flight cycles since

accomplishing the modification. UAL stated that it is requesting this change in order to ''reduce the impact due to the special routing required for the inspection,'' possible MLG removal for repair/replacement of MLG support rib 5 fitting, and a large demand on man-power. UAL stated that extending the compliance time will allow it to perform the required inspection at a more suitable maintenance opportunity.

We do not agree with the commenter's request to extend the compliance time in paragraph (n)(2) of this AD. The commenter did not provide technical justification for extending the compliance time. The compliance time for the actions specified in paragraph (n)(2) in this AD was developed after conducting a risk assessment and analyzing the impact on operators. In consideration of these factors, we determined that the compliance times, as proposed, represent an appropriate interval in which to conduct the inspection after the modification within the fleet, while still maintaining an adequate level of safety. However, under the provisions of paragraph (u) of this AD, we might approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety. We have not changed this final rule in this regard.

Requests To Include Revised Service Information

Airbus and AWE requested that we add Airbus Mandatory Service Bulletin A320–57–1118, Revision 05, dated July 23, 2012, to paragraph (m) of the SNPRM (77 FR 60325, October 3, 2012). Airbus also requested that we add Airbus Service Bulletin A320–57–1118, Revision 03, dated April 23, 2007; and Revision 04, dated June 4, 2008; to paragraph (t)(5) of the SNPRM. AWE stated that adding Airbus Mandatory Service Bulletin A320–57–1118, Revision 05, dated July 23, 2012, as authorized instructions for modification work would reduce alternative method of compliance coordination.

We partially agree with the commenters' requests. Airbus Mandatory Service Bulletin A320–57–1118, Revision 05, dated July 23, 2012, states that ''no additional work is required by this revision for airplanes modified by any previous issue.'' However, this service bulletin revision adds a liquid penetrant inspection. We have added Airbus Mandatory Service Bulletin A320–57–1118, Revision 05, dated July 23, 2012, in paragraph (m) of this final rule as an appropriate source of service information, and specified that the liquid penetrant inspection specified in this service information is not required by this AD. We have added paragraphs (t)(5)(iv) and (t)(5)(v) to this final rule to provide credit for certain actions accomplished before May 19, 2008 (the effective date of AD 2008–08–04, Amendment 39–15456 (73 FR 19975, April 18, 2008)), using Airbus Service Bulletin A320–57–1118, Revision 03, dated April 23, 2007; or Revision 04, dated June 4, 2008.

Requests To Change Certain Document References

AWE requested we revise the service bulletin reference in the Relevant Service Information section of the SNPRM from ''A320–75–1168'' to ''A320–57–1168.'' Airbus requested that we correct references to Airbus Repair Drawings ''R57258209'' and ''R57245019'' in paragraph (g)(3) of the SNPRM to Airbus Repair Drawing ''R572–58209'' and ''R572–45019,'' respectively. Airbus also requested that we amend paragraph (h)(2) of the SNPRM (77 FR 60325, October 3, 2012) to refer to ''NTM task 57–29–03–270–801–A–01 for A318/A319/A320 and NTM task 57–29–04–270–801–A–01 for A321 [series airplanes].''

We agree with the commenters' requests. The Relevant Service Information section of the SNPRM referenced by AWE is not restated in this final rule; therefore, no change to this final rule is needed in this regard. The content of paragraph (g)(3) of the SNPRM (77 FR 60325, October 3, 2012) referenced by Airbus was located in paragraph (j)(3) of the SNPRM, not in paragraph (g)(3) of the SNPRM, as the commenter specified. We have revised paragraphs (h)(2) and (j)(3) of this final rule accordingly.

Request To Include Repair Drawing

AWE requested that we include Airbus Repair Drawing R572–48341 in paragraph (g)(2) of the SNPRM (77 FR 60325, October 3, 2012). AWE stated that this drawing is the current and most advanced version of the repair scheme for corrosion and crack findings, and that Airbus issues this drawing when operators request repair design data. AWE also stated that there are still some issues with the details of this repair drawing, but it has collected comments and submitted them to Airbus for incorporation. AWE also noted that Airbus drawing number ''R572481'' cited (by a different commenter) under ''Request to Reference a Repair Drawing'' in the preamble of the SNPRM (77 FR 60325, October 3, 2012) should be ''R572–48341.''

We disagree with the commenter's request. The commenter did not provide specific data to substantiate that airplanes repaired with Airbus Repair Drawing R572–48341 would be applicable to the MLG support rib 5 fitting configuration. The commenter also did not provide justification for including a document with potential errors. However, according to the provisions of paragraph (u) of this AD, we might approve requests to include airplanes repaired by Airbus Repair Drawing R572–48341 as an appropriate action for the MLG support rib 5 fitting repair specified in paragraph (j)(2) of this AD. We have not changed this final rule in this regard.

Additional Changes Made to This Final Rule

We have converted table 1 to paragraph (k) of the SNPRM (77 FR 60325, October 3, 2012) to the text given in paragraphs (k)(1) and (k)(2) of this final rule for formatting purposes only.

We have also revised table 2 to paragraph (r)(4) of the SNPRM (77 FR 60325, October 3, 2012) to figure 1 to paragraph (r)(4) of this AD for formatting purposes only.

We have revised the citation of the service information referenced in paragraph (t)(2) of the SNPRM (77 FR 60325, October 3, 2012) and moved the service information into new paragraphs (t)(2)(i) and (t)(2)(ii) of this AD. The documents have not changed.

Conclusion

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

- Are consistent with the intent that was proposed in the SNPRM (77 FR 60325, October 3, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the SNPRM (77 FR 60325, October 3, 2012).

Differences Between This AD and the MCAI or Service Information

This AD differs from the MCAI and/or service information as follows:

- Although the MCAI or service information allows further flight after cracks are found during compliance with certain required actions, paragraphs (l) and (p) of this AD require repair or replacement before further flight.
- Airbus Mandatory Service Bulletin A320–57–1118, Revision 05, dated July

23, 2012, describes a liquid penetrant inspection. This AD does not require that inspection.

Costs of Compliance

We estimate that this AD will affect about 740 products of U.S. registry.

The actions that are required by AD 2008–08–04, Amendment 39–15456 (73 FR 19975, April 14, 2008), and retained in this AD take about 73 work-hours per product, at an average labor rate of $85 per work-hour. Required parts cost about $3,860 per product. Based on these figures, the estimated cost of the currently required actions is $10,065 per product.

We estimate that it will take about 3 work-hours per product to comply with the new basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be up to $188,700, or $255 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2011-1253;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2008–08–04, Amendment 39–15456 (73 FR 19975, April 14, 2008), and adding the following new AD:

2013–26–14 Airbus: Amendment 39–17723. Docket No. FAA–2011–1253; Directorate Identifier 2011–NM–079–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective May 2, 2014.

(b) Affected ADs

This AD supersedes AD 2008–08–04, Amendment 39–15456 (73 FR 19975, April 14, 2008).

(c) Applicability

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

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Reason

This AD was prompted by reports of cracks found in the forward lug of the main landing gear (MLG) support rib 5 fitting. We are issuing this AD to prevent cracking in the forward lug of the MLG, which could result in failure of the lug and consequent collapse of the MLG during takeoff or landing.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Retained Repetitive Detailed Inspections With Changes

This paragraph restates the requirements of paragraph (f) of AD 2008–08–04, Amendment 39–15456 (73 FR 19975, April 14, 2008), with changes. Except for airplanes on which Airbus modification 32025 has been accomplished in production, within 8 days after June 7, 2006 (the effective date of AD 2006–11–04, Amendment 39–14608 (71 FR 29578, May 23, 2006)), or before further flight after a hard landing, whichever is first: Perform a detailed inspection for cracking in the forward lug of the support rib 5 fitting of the left- and right-hand MLG, and, if any crack is found, replace the MLG fitting with a new fitting before further flight, in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, or the European Aviation Safety Agency (EASA) (or its delegated agent). Repeat the inspection thereafter at intervals not to exceed 8 days, or before further flight after a hard landing, whichever is first. As of May 19, 2008 (the effective date of AD 2008–08–04), the repetitive inspections required by paragraph (k) of this AD must be accomplished in lieu of the repetitive inspections required by this paragraph.

(h) Retained Optional Inspection Method With Revised Service Information

This paragraph restates the provisions of paragraph (g) of AD 2008–08–04, Amendment 39–15456 (73 FR 19975, April 14, 2008), with revised service information. Performing an ultrasonic inspection for cracking in the forward lug of the support rib 5 fitting of the left- and right-hand MLG, in accordance with an applicable method specified in paragraph (h)(1) or (h)(2) of this AD, is an acceptable alternative method of compliance for the initial and repetitive inspections required by paragraph (g) of this AD.

(1) In accordance with a method approved by the Manager, International Branch, ANM–116, or the EASA (or its delegated agent).

(2) In accordance with Task 57–29–03–270–801–A–01, Gear Rib Forward Lug Attachment for the Main Gear Before Modification 32025J2211, of Subject 57–29–03, Inspection of the Gear Rib Forward and

Aft Lug Attachment for the Main Gear (for Model A318, A319, and A320 series airplanes); or Task 57–29–04–270–801–A–01, Gear Rib Forward Lug Attachment for the Main Gear Before Modification 32025J2211, of Subject 57–29–04, Inspection of the Gear Rib Forward and Aft Lug Attachment for the Main Gear (for Model A321 series airplanes); both of Chapter 57, Wings, of the Airbus A318/A319/A320/A321 Nondestructive Testing Manual, Revision 89, dated August 1, 2011.

(i) Retained Optional Terminating Action With Changes

This paragraph restates the provisions of paragraph (h) of AD 2008–08–04, Amendment 39–15456 (73 FR 19975, April 14, 2008), with changes. Repair of the forward lugs of the support rib 5 fitting of the left- and right-hand MLG done before the effective date of this AD, in accordance with a method approved by the Manager, International Branch, ANM–116, or the EASA (or its delegated agent), constitutes terminating action for the requirements of paragraphs (g), (h), (k), (l), and (m) of this AD.

(j) New Referenced Conditions With Revised Affected Airplanes

To identify affected airplanes in paragraphs (k), (m), and (o) of this AD, this AD refers to the following conditions:

(1) Airplanes on which the modification of the MLG rib bushes specified in Airbus Mandatory Service Bulletin A320–57–1118 has been done.

(2) Airplanes on which a repair of the MLG support rib 5 fitting, as specified in paragraph 5.C. of Subsection 57–26–13, Attachments—Main Landing Gear, of the Airbus A319 Structural Repair Manual (SRM), Revision November 1, 2004; paragraph 5.D. of Subsection 57–26–13, Attachments—Main Landing Gear, of the Airbus A320 SRM, Revision November 1, 2004; or paragraph 5.D. of Subsection 57–26–13, Attachments—Main Landing Gear, of the Airbus A321 SRM, Revision February 1, 2005; as applicable; has been done.

(3) Airplanes on which replacement in service of the MLG support rib 5 specified in Airbus Repair Instruction R572–58507 and Airbus Repair Drawing R572–58209, or Airbus Repair Instruction R572–45020 and Airbus Repair Drawing R572–45019, as applicable, has been done.

(k) Retained Repetitive Inspections With Changes

This paragraph restates the requirements of paragraph (i) of AD 2008–08–04, Amendment 39–15456 (73 FR 19975, April 14, 2008), with changes. For airplanes on which none of the actions specified in paragraphs (j)(1), (j)(2), and (j)(3) of this AD have been done, except for airplanes on which Airbus modification 32025 has been accomplished: At the applicable time specified in paragraphs (k)(1) and (k)(2) of this AD, or before further flight after a hard landing, whichever is first, do a visual inspection or ultrasonic inspection for cracking in the forward lug of the support rib 5 fitting of the left and right MLG, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–57–1138, Revision 01, dated October 27, 2006. Repeat the inspection thereafter at the applicable interval specified paragraphs (k)(1) and (k)(2) of this AD, or before further flight after a hard landing, whichever is first, until the modification required by paragraph (m) of this AD has been accomplished. Accomplishing the initial inspection terminates the requirements of paragraph (g) of this AD.

(1) For Model A318, A319, and A320 airplanes, inspect at the applicable times specified in paragraphs (k)(1)(i) and (k)(1)(ii) of this AD.

(i) If the most recent inspection is a detailed inspection done in accordance with paragraph (g) of this AD: Inspect within 150 flight cycles after the most recent detailed inspection. Repeat the inspection thereafter at intervals not to exceed 150 flight cycles after a visual inspection.

(ii) If the most recent inspection is an ultrasonic inspection done in accordance with paragraph (h) of this AD: Inspect within 940 flight cycles after the most recent ultrasonic inspection. Repeat the inspection thereafter at intervals not to exceed 940 flight cycles after an ultrasonic inspection.

(2) For Model A321 airplanes, inspect at the applicable times specified in paragraphs (k)(2)(i) and (k)(2)(ii) of this AD.

(i) If the most recent inspection is a detailed inspection done in accordance with paragraph (g) of this AD: Inspect within 100 flight cycles after the most recent detailed inspection. Repeat the inspection thereafter at intervals not to exceed 100 flight cycles after a visual inspection.

(ii) If the most recent inspection is an ultrasonic inspection done in accordance with paragraph (h) of this AD: Inspect within 630 flight cycles after the most recent ultrasonic inspection. Repeat the inspection thereafter at intervals not to exceed 630 flight cycles after an ultrasonic inspection.

(l) Retained Corrective Action

This paragraph restates the requirements of paragraph (j) of AD 2008–08–04, Amendment 39–15456 (73 FR 19975, April 14, 2008). If any cracking is found during any inspection required by paragraph (k) of this AD: Before further flight, repair or replace the cracked MLG fitting, in accordance with a method approved by the Manager, International Branch, ANM–116, or the EASA (or its delegated agent).

(m) Retained Rib Bushing Modification With Revised Service Information

This paragraph restates the requirements of paragraph (k) of AD 2008–08–04, Amendment 39–15456 (73 FR 19975, April 14, 2008), with revised service information. Except for airplanes on which the actions specified in paragraph (j)(1) or (j)(3) of this AD have been done, and except for airplanes on which Airbus modification 32025 have been done: Within 60 months after May 19, 2008 (the effective date of AD 2008–08–04), modify the rib bushings of the left and right MLG, by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Airbus Mandatory Service Bulletin A320–57–1118, Revision 05, dated July 23, 2012, except that the liquid penetrant inspection specified in this service information is not required by this AD. Accomplishing this modification terminates the requirements of paragraphs (g) and (k) of this AD, and then the requirements of paragraph (n) of this AD must be done.

(n) New Post-Modification/Post-Repair Inspections

For airplanes on which the actions specified in paragraph (j)(1), (j)(2), or (m) of this AD have been done: At the later of the times specified in paragraphs (n)(1) and (n)(2) of this AD, do a detailed inspection for cracks of the forward lug of each left-hand and right-hand MLG support rib 5 fitting, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A320–57A1166, Revision 01, dated October 19, 2011. Repeat the inspection thereafter at intervals not to exceed 500 flight cycles.

(1) Within 2,000 flight cycles after accomplishing the modification specified in paragraph (j)(1) or (m) of this AD, or the repair specified in paragraph (j)(2) of this AD, as applicable.

(2) Within 250 flight cycles after the effective date of this AD, without exceeding 3 months after the effective date of this AD.

(o) New Repair of Cracking Found During Post-Modification/Post-Repair

If any crack is detected during any inspection required by paragraph (n) of this AD: Before further flight, repair using a method approved by either the Manager, International Branch, ANM–116, FAA, or the EASA (or its delegated agent).

(p) New Optional Terminating Action

Replacement of a MLG support rib 5 fitting at any position (left-hand or right-hand), as specified in paragraph (j)(3) of this AD, terminates the requirements of paragraphs (k) and (n) of this AD for the MLG support rib 5 fitting at that position.

(q) New Repetitive Detailed Inspection for Certain Airplanes

For airplanes on which the actions specified in paragraph (j)(3) of this AD have been done: Within 60 months after the replacement or within 500 flight cycles after the effective date of this AD, whichever occurs later, do a detailed inspection of the forward lug of each left-hand and right-hand MLG support rib 5 fitting that has been replaced, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A320–57A1166, Revision 01, dated October 19, 2011. Repeat the inspection thereafter at intervals not to exceed 500 flight cycles.

(r) New Repetitive Inspections for Airplanes With Airbus Modification 32025

For airplanes on which Airbus modification 32025 has been done: At the applicable time specified in paragraph (r)(1) (r)(2), (r)(3), or (r)(4) of this AD, do a detailed inspection for cracks of the forward lug of each left-hand and right-hand MLG support rib 5 fitting, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–57–1168, dated November 7, 2011. Repeat the inspection

thereafter at intervals not to exceed 500 flight cycles.

(1) For airplanes on which the MLG support rib 5 has not been modified or repaired since the first flight of the airplane as of the effective date of this AD: Within 60 months after the first flight of the airplane, or within 500 flight cycles after the effective date of this AD, whichever occurs later.

(2) For airplanes on which the MLG support rib 5 has been replaced as specified in paragraph (j)(3) of this AD as of the effective date of this AD: Within 60 months after the replacement of the MLG support rib 5, or within 500 flight cycles after the effective date of this AD, whichever occurs later.

(3) For airplanes on which the MLG support rib 5 has been repaired according to the SRM or a repair approval sheet as of the effective date of this AD: At the later of the times specified in paragraph (r)(3)(i) or (r)(3)(ii) of this AD.

(i) Within 2,000 flight cycles after the repair.

(ii) Within 250 flight cycles or 3 months after the effective date of this AD, whichever occurs first.

(4) For airplanes having a manufacturer serial number (S/N) listed in figure 1 to paragraph (r)(4) of this AD, and on which the MLG support rib 5 has been inspected before the effective date of this AD according to specific Airbus repair instructions or technical disposition: At the later of the times specified in paragraph (r)(4)(i) or (r)(4)(ii) of this AD.

FIGURE 1 TO PARAGRAPH (r)(4) OF THIS AD

[Manufacturer serial number (S/N)]

S/N—		
1965	2056	2155
2274	2278	2288
2321	2478	2586
2588	2612	2672
2688	2707	2929
2942	3089	3117
3361	3427	3486
3489	3806	3891
3937	4243	4345

(i) Within 2,000 flight cycles after the last inspection done using specific Airbus repair instructions or a technical disposition, or within 60 months since first flight of the airplane, whichever occurs later.

(ii) Within 250 flight cycles or 3 months after the effective date of this AD, whichever occurs first.

(s) New Repair of Cracking

If any crack is detected during any inspection required by paragraph (q) or (r) of this AD: Before further flight, repair using a method approved by either the Manager, International Branch, ANM–116, FAA, or the EASA (or its delegated agent).

(t) Credit for Previous Actions

(1) This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Chapter 51–90–00 of the Airbus A318/A319/A320/A321 Nondestructive Testing Manual, Revision February 1, 2003, which is not incorporated by reference in this AD.

(2) This paragraph provides credit for the actions required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraph (t)(2)(i) or (t)(2)(ii) of this AD.

(i) Chapter 57–29–03 of the Airbus A318/A319/A320/A321 Nondestructive Testing Manual, Revision February 1, 2005 (for Model A318, A319, and A320 airplanes), which is not incorporated by reference in this AD.

(ii) Chapter 57–29–04 of the Airbus A318/A319/A320/A321 Nondestructive Testing Manual, Revision May 1, 2005 (for Model A321 airplanes), which is not incorporated by reference in this AD.

(3) This paragraph provides credit for the actions specified in paragraph (i) of this AD, if those actions were performed before the effective date of this AD using the applicable service information specified in paragraph (t)(3)(i), (t)(3)(ii), or (t)(3)(iii) of this AD.

(i) Paragraph 5.C. of Chapter 57–26–13, Attachments—Main Landing Gear, of the Airbus A319 SRM, Revision November 1, 2004, which is not incorporated by reference in this AD.

(ii) Paragraph 5.D. of Chapter 57–26–13, Attachments—Main Landing Gear, of the Airbus A320 SRM, Revision November 1, 2004, which is not incorporated by reference in this AD.

(iii) Paragraph 5.D. of Chapter 57–26–13, Attachments—Main Landing Gear, of the Airbus A321 SRM, Revision February 1, 2005, which is not incorporated by reference in this AD.

(4) This paragraph provides credit for the inspections required by paragraphs (n) and (r) of this AD, if the inspections were performed before the effective date of this AD using Airbus Service Bulletin A320–57A1166, dated January 12, 2011, which is not incorporated by reference in this AD.

(5) This paragraph provides credit for the modification required by paragraph (m) of this AD, if the modification was performed before May 19, 2008 (the effective date of AD 2008–08–04, Amendment 39–15456 (73 FR 19975, April 14, 2008), using the service information identified in paragraph (t)(5)(i), (t)(5)(ii), (t)(5)(iii), (t)(5)(iv), or (t)(5)(v) of this AD.

(i) Airbus Service Bulletin A320–57–1118, dated September 5, 2002, which is not incorporated by reference in this AD.

(ii) Airbus Service Bulletin A320–57–1118, Revision 01, dated August 28, 2003, which is not incorporated by reference in this AD.

(iii) Airbus Service Bulletin A320–57–1118, Revision 02, dated August 2, 2006, which is not incorporated by reference in this AD.

(iv) Airbus Service Bulletin A320–57–1118, Revision 03, dated April 23, 2007, which is not incorporated by reference in this AD.

(v) Airbus Mandatory Service Bulletin A320–57–1118, Revision 04, dated June 4, 2008, which is not incorporated by reference in this AD.

(u) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD. AMOCs approved previously in accordance with AD 2006–11–04, Amendment 39–14608 (71 FR 29578, May 23, 2006); and AD 2008–08–04, Amendment 39–15456 (73 FR 19975, April 14, 2008); are approved as AMOCs for the corresponding provisions of this AD.

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

(v) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2012–0032, dated February 24, 2012, for related information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2011-1253-0002.*

(2) Service information identified in this AD that is not incorporated by reference in this AD may be obtained at the addresses specified in paragraphs (w)(5) and (w)(6) of this AD.

(w) 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 the following service information to do the actions required by this AD, unless the AD specifies otherwise.

(3) The following service information was approved for IBR on May 2, 2014.

(i) Airbus Mandatory Service Bulletin A320–57–1118, Revision 05, dated July 23, 2012.

(ii) Airbus Mandatory Service Bulletin A320–57A1166, Revision 01, dated October 19, 2011.

(iii) Airbus Service Bulletin A320–57–1168, dated November 7, 2011.

(iv) Task 57–29–03–270–801–A–01, Gear Rib Forward Lug Attachment for the Main Gear Before Modification 32025J2211, of Subject 57–29–03, Inspection of the Gear Rib Forward and Aft Lug Attachment for the Main Gear, of Chapter 57, Wings, of the Airbus A318/A319/A320/A321 Nondestructive Testing Manual, Revision 89, dated August 1, 2011.

(v) Task 57–29–04–270–801–A–01, Gear Rib Forward Lug Attachment for the Main Gear Before Modification 32025J2211, of Subject 57–29–04, Inspection of the Gear Rib Forward and Aft Lug Attachment for the Main Gear, of Chapter 57, Wings, of the Airbus A318/A319/A320/A321 Nondestructive Testing Manual, Revision 89, dated August 1, 2011.

(4) The following service information was approved for IBR on May 19, 2008 (73 FR 19975, April 14, 2008):

(i) Airbus Service Bulletin A320–57–1138, Revision 01, dated October 27, 2006.

(ii) Reserved.

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

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

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

Issued in Renton, Washington, on December 26, 2013.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

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CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1112 and 1226

[Docket No. CPSC–2013–0014]

Safety Standard for Soft Infant and Toddler Carriers

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Danny Keysar Child Product Safety Notification Act, section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA), requires the United States Consumer Product Safety Commission (Commission, CPSC, or we) to promulgate consumer product safety standards for durable infant or toddler products. Durable infant and toddler standards must be ''substantially the same as'' applicable voluntary standards or more stringent than the voluntary standard if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product. The Commission is issuing this final rule establishing a safety standard for soft infant and toddler carriers in response to the direction under section 104(b) of the CPSIA.

DATES: The rule will become effective September 29, 2014 and apply to product manufactured or imported on or after that date. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of September 29, 2014.

FOR FURTHER INFORMATION CONTACT: Julio A. Alvarado, Office of Compliance and Field Operations, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: 301–504–7418; email: *jalvarado@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Statutory Authority

The Consumer Product Safety Improvement Act of 2008 (CPSIA, Pub L. 110–314) was enacted on August 14, 2008. Section 104(b) of the CPSIA, part of the Danny Keysar Child Product Safety Notification Act, requires the Commission to: (1) Examine and assess the effectiveness of voluntary consumer product safety standards for durable infant or toddler products, in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts; and (2) promulgate consumer product safety standards for durable infant and toddler products. Durable infant and toddler standards must be ''substantially the same as'' applicable voluntary standards or more stringent than the voluntary standard if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product.

The term ''durable infant or toddler product'' is defined in section 104(f)(1) of the CPSIA as ''a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years.'' Section 104(f)(2)(H) of the CPSIA specifically identifies ''infant carriers'' as durable infant or toddler products. The Commission has identified at least four types of products that fall within the product category of ''infant carriers,'' including: Frame backpack carriers, hand-held infant carriers, slings, and soft infant and toddler carriers.

On April 5, 2013, the Commission issued a notice of proposed rulemaking (NPR) for soft infant and toddler carriers. 78 FR 20511. The NPR proposed to adopt as a mandatory standard the current voluntary standard for soft infant and toddler carriers, ASTM F2236–13, ''Standard Consumer Safety Specification for Soft Infant and Toddler Carriers'' (ASTM F2236–13), without alteration.

The Commission is issuing a final mandatory safety standard for soft infant and toddler carriers. Pursuant to section 104(b)(1)(A) of the CPSIA, the Commission consulted with manufacturers, retailers, trade organizations, laboratories, consumer advocacy groups, consultants, and members of the public to develop this standard, largely through the ASTM process. After publication of the NPR, ASTM approved two revised versions of F2236–13, F2236–13a, on November 1, 2013, and F2236–14, on January 1, 2014. The revisions included in ASTM F2236–14 clarify several issues raised in the comments received on the NPR. Furthermore, the Commission finds that the revisions included in ASTM F2236–14 adequately address the comments received on the NPR. Section V of the preamble below discusses clarifying changes to the standard. The final rule for soft infant and toddler carriers incorporates ASTM F2236–14, by reference, without alteration.

II. Product Description

A. Definition of a Soft Infant and Toddler Carrier

ASTM F2236–14 defines a ''soft infant and toddler carrier'' as ''a product, normally of sewn fabric construction, which is designed to contain a full term infant to a toddler, generally in an upright position, in close proximity to the caregiver.'' Additionally, soft infant and toddler carriers are generally designed to carry a child ''between 7 and 45 pounds.'' ASTM F2236–14 explains that soft infant and toddler carriers are ''normally 'worn' by the caregiver with a child positioned in the carrier and the weight of the child and carrier suspended from one or both shoulders of the caregiver. These products may be worn on the front, side, or back of the caregiver's body, with the infant either facing towards or away from the caregiver.'' Typically, children

are carried in soft infant and toddler carriers on the front of a caregiver; but some products on the market can be configured to carry a child upright on a caregiver's front, back, or hip.

In the United States, soft infant and toddler carriers are available in two broad classes: Structured and nonstructured. Structured soft infant and toddler carriers contain straps and waist belts that connect to the seat area and other carrier components with buckles, straps, and mechanical fasteners. The straps, belts, and seating area of these products are often stiffened with padding and typically have a heavy textile covering. Nonstructured products consist of a flat, textile center with waist straps and very long upper straps (5 to 6 feet) that wrap around the caregiver and are secured by typing the ends of the straps, such as the mei-tai design. ASTM F2236–14 does not distinguish between products based on whether they are structured or nonstructured; therefore, requirements apply equally to all types of soft infant and toddler carriers.

ASTM F2236–14's definition of a ''soft infant and toddler carrier'' distinguishes soft infant and toddler carriers from other types of infant carriers that are also worn by a caregiver but that are not covered under ASTM F–2236–14, specifically slings (including wraps), and framed backpack carriers. Soft infant and toddler carriers are designed to carry a child in an upright position. Slings are designed to carry a child in a reclined position. However, some slings may also be used to carry a child upright. Thus, the primary distinction between a sling and a soft infant and toddler carrier is that a sling allows for carrying a child in a reclined position. Different hazard patterns arise from carrying a child in a reclined position. Accordingly, slings are not covered by the standard for soft infant and toddler carriers. Like soft infant and toddler carriers, framed backpack carriers are intended to carry a child in an upright position. However, framed backpack carriers are distinguishable from soft infant and toddler carriers because typically, backpack carriers are constructed of sewn fabric over a rigid frame and are intended solely for carrying a child on the caregiver's back.

III. Incident Data

The preamble to the NPR summarized incident data involving soft infant and toddler carriers reported to the Commission from January 1, 1999 to September 10, 2012. 78 FR 20513 (April 5, 2013). CPSC's Directorate for Epidemiology, Division of Hazard Analysis updated this information for the final rule to include soft infant and toddler carrier-related incident data reported to the Commission from September 11, 2012 through July 15, 2013. During the September 11, 2012 to July 15, 2013 time frame, CPSC received 31 new incident reports related to soft infant and toddler carriers. Two of the incidents were fatal, and 29 were nonfatal. Twenty-four of the 29 nonfatal incidents involved injuries. The total count of reported incidents includes emergency department-treated injuries (*i.e.,* injuries reported through the National Electronic Injury Surveillance System (NEISS)).[1] CPSC staff cannot present national emergency department-treated injury estimates for the final rule due to insufficient numbers of NEISS incidents reported during the time period. The number of incidents occurring in 2012 and 2013 is subject to change because the CPSC continues to collect information about such incidents.

A. Fatalities

Both reported fatalities involved suffocation. One suffocation fatality occurred in 2010. The decedent was a 17-day-old infant who was being carried in a soft infant and toddler carrier—facing the mother—while the mother ran errands. The mother reportedly breast fed the victim while walking. The report is unclear about whether the victim was out of the carrier or in the carrier while being fed. The mother found the child nonresponsive in the carrier. The child was placed on life support, which was later removed due to the child's poor prognosis. The second suffocation fatality occurred in 2011. The decedent, a 4-month-old female, was placed prone to sleep on a bed while still in a soft infant carrier.[2]

B. Nonfatalities

Twenty-nine soft infant and toddler carrier-related nonfatal incidents were reported to the CPSC from September 11, 2012 to July 15, 2013. The incident reports demonstrate that an injury occurred in 24 of the 29 incidents. The children's age was unreported or unknown in four of the 29 nonfatal incidents. For the remaining 25 incidents, the ages provided in the reports ranged from 1 month to 18 months, with 64 percent of the total reports involving children 6 months of age or younger.

Among the 24 nonfatal injuries reported, four incidents required hospitalization. Two of the four injuries requiring hospitalization, a skull fracture and a leg fracture, resulted from infants falling out of a soft infant and toddler carrier. The other two injuries that required hospitalization were head injuries to the infant resulting from the caregiver falling. Other injuries included contusions, abrasions, and lacerations, mostly of the head and face. Fourteen of the injuries resulted from falls, either from the caregiver falling while wearing the carrier or from the infant falling out of the carrier.

The remaining five incident reports stated problems with the product but indicated that either no injury had occurred or the report failed to provide information about any injury.

C. Hazard Pattern Identification

CPSC identified hazard patterns among the 31 new incident reports that were similar to the hazard patterns identified among the incidents considered for the NPR. The primary hazard associated with use of a soft infant and toddler carrier continues to be falling, either caregivers falling while wearing the carrier and injuring the child in the carrier, or children falling or facing the risk of falling from the carrier. Hazard patterns are grouped into the following categories in order of frequency of incident reports:

- Caregiver falls (11) [3];
- structure, fit, and position issues (7);
- design and finish-related issues [4] (2), (which are also among the 7 in the previous category);
- strap issues (2);
- issues with stitching/seams (1); and
- other issues (10).

Caregiver Falls: Eleven of the 31 incidents (35 percent) reported injuries to the infant in the carrier, when the caregiver slipped or tripped and fell. All of these were emergency department-treated injury (NEISS data) reports.

Structure, fit, and position issues: Seven of the 31 incidents (23 percent) were related to aspects of the leg- and torso-opening design, how the carrier held the infant, and where the soft

[1] CPSC's NEISS database is a national probability sample of hospitals in the United States and its territories. Patient information is collected from each NEISS hospital for every emergency visit involving an injury associated with consumer products. From this sample, the total number of product-related injuries treated in hospital emergency rooms nationwide can be estimated.

[2] According to CPSC Human Factors staff, this scenario represents an unsafe sleep environment. The prone sleep position is a known risk factor for SIDS, and placing an infant to sleep face down on top of a bed may increase the risk of suffocation. Sleeping in the prone position on a bed with an infant still inside a carrier may further increase the suffocation risk.

[3] All of the fall incidents were emergency department-treated injury (NEISS data) reports.

[4] Finish-related issues concern items such as material smoothness and lead content.

infant and toddler carrier was positioned on the caregiver. Examples of scenarios reported include: an infant slipping far down into the carrier and suffering an injury when the caregiver bent over; an infant falling out of the carrier when the caregiver bent forward; and leg circulation-related injuries to the infant. Three injuries were reported in this category, including one hospitalization.

Design-related issues: Two of the reports included in the structure, fit, and position category above stated complaints about how the carrier fit on the caregiver and that the infant got too hot when the carrier was used with the carrier insert. A carrier insert is available with some soft infant and toddler carriers to help support a young infant's head and neck. No one reported injuries in this category.

Strap issues: Two of the 31 incidents (six percent) reported issues with straps, mostly regarding the adjuster breaking or slipping. Both incidents resulted in injuries, including one hospitalization for a skull fracture stemming from a fall when the strap came undone.

Issues with stitching/seams: One incident report (three percent) stated that stitching on a carrier component came undone. However, the infant sustained no injury.

Other issues: Ten incident reports (32 percent) involved non-product-related issues or provided insufficient information for CPSC staff to determine definitively how the product contributed to the incident. The two fatalities are included in this category—one case of an infant suffering respiratory distress while being carried facing inward, and the other case involved an infant put to sleep in a prone position on a bed while still in a soft infant and toddler carrier. In each case, CPSC staff concluded that insufficient information was reported to determine a predominant factor about the product that contributed to the death. Five reports were of incidental injuries sustained by infants while being carried around in a soft infant and toddler carrier. Examples of such incidents include an infant who hit a pole after a bus in which the child was riding suddenly accelerated and an infant who got hurt while being put into a carrier. The remaining three reports involved infants who fell out of the carrier, with no additional information specified.

D. NEISS Data

The soft infant and toddler carrier NPR presented a separate national injury estimate for the 13-year period from January 1999 through December 2011. However, insufficient emergency department-treated injuries associated with soft infant and toddler carriers in 2012 prevent derivation of reportable national estimates.[5] In addition, until NEISS data for 2013 are finalized in spring 2014, partial estimates for 2013 are not available. Hence, injury estimates are not presented separately in this final rule. However, the emergency department-treated injuries are included in the total count of reported incidents presented in section III.C above.

IV. Response to Comments

CPSC received five comments regarding the NPR, including comments from industry, consumer groups, trade associations, and consumers. The comments address eight separate issues related to fastener strength testing requirements, warning label revisions, and the effective date of the final rule. Two commenters generally supported the rule. Comments submitted in response to the NPR are available at: *www.regulations.gov*, by searching under the docket number of the rulemaking, CPSC–2013–0014. The Commission finds that revisions made to the ASTM voluntary standard, which are incorporated into ASTM F2236–14, approved on January 1, 2014, and published in January 2014, adequately address comments received on the NPR. Accordingly, the Commission will incorporate by reference the most recent version of the voluntary standard, ASTM F2236–14, as the mandatory standard for soft infant and toddler carriers.

We summarize the comments received on the NPR and CPSC's responses below. To make identification of the comments and our responses easier, we placed the word ''Comment,'' in parentheses, before the comment's description, and the word ''Response,'' in parentheses, before our response. Additionally, we have numbered each comment to help distinguish among comments. The number assigned to each comment is for organizational purposes only and does not signify the comment's value or importance, or the order in which we received the comment.

A. Fastener Strength

(Comment 1) Two commenters stated that the specified fastener strength test load of 80 pounds in section 7.7.2 of ASTM F2236–13 is too high for soft infant and toddler carriers whose manufacturer-recommended maximum occupant weight for the product is less than 45 pounds. The commenters suggested using a sliding scale for the test load that would adjust the test load by 1 pound for every pound the carrier is rated above or below 45 pounds. For example, for soft infant and toddler carriers designed for a maximum occupant weight of 25 pounds, commenters recommended a fastener test load of 60 pounds (80 pounds minus 20 pounds) instead of an 80-pound force. One commenter stated that for carriers designed for very small occupants, it would be difficult for every load-bearing fastener to be designed to meet the 80-pound test load because such fasteners tend to be large and difficult to handle gently when close to a small infant.

(Response 1) The Commission disagrees with the commenters and declines to modify the final rule based on this comment. ASTM F2236–13 added requirements for fastener strength testing. Each unique load-bearing fastener, except load-bearing fasteners used for a leg opening adjustment, must not break or disengage when subjected to a tensile load of 80-pound force for 5 seconds. The force is applied to the straps or soft goods on either side of the fastener. Leg opening adjustment fasteners are tested to a 45-pound force.

As noted in the NPR, CPSC staff tested fasteners on 14 different soft infant and toddler carriers, including recalled carriers. The manufacturer's recommended maximum occupant weight of the carriers tested ranged from 20 pounds to 45 pounds. CPSC staff found that most of the tested fasteners failed at loads well above the 80-pound force used in the test, while some of the fasteners on recalled products (which were rated at 26-pound maximum occupant weight) failed at 22 pounds to 55 pounds. The Commission agrees with CPSC staff that lowering the test load to a 60-pound force on a carrier rated at 25 pounds does not provide a sufficient safety factor, considering that fasteners from some recalled carriers failed at 55 pounds during testing. Based on the test results, the Commission finds that an 80-pound test load is appropriate, even for carriers with maximum occupant weights below 45 pounds.

All of the buckle and strap fasteners on the 14 carriers that CPSC staff tested were made from plastic. CPSC staff concluded that the characteristics of the plastic used for the fasteners dictated the fastener's ability to withstand the test load. The plastic material on the fasteners that fractured at a lower load was much less ductile, resulting in the fastener fracturing instead of deforming. Accordingly, CPSC staff found that smaller fasteners were as capable as

[5] According to the NEISS publication criteria, an estimate must be 1,200 or greater, the sample size must be 20 or greater, and the coefficient of variation must be 33 percent or smaller.

larger fasteners at meeting the 80-pound test load. Staff concluded that fastener strength was not necessarily proportional to fastener size.

CPSC staff states that the 80-pound test load for the fastener pull test is not directly related to the maximum carrier weight rating. Rather, the 80-pound test load was established based on testing the strength of fasteners on carriers already on the market. Fasteners that meet the required test load are robust enough for expected use during the life of the product. Moreover, CPSC staff believes that it is reasonably foreseeable that some caregivers may use soft infant and toddler carriers with infants whose weight exceeds the manufacturer's recommended occupant weight.

For the reasons discussed, the Commission declines to modify the final rule based on this comment.

B. Fasteners That Support the Head

(Comment 2) Two commenters stated that fasteners that support the head should be exempt from load testing. Non-load-bearing fasteners intended to retain items such as, but not limited to, hoods, bibs, and toy rings are exempt from load testing in ASTM F2236–13. One of the commenters stated: ''head support for new born babies is critical,'' but to achieve a good, adjustable head support requires fasteners that are slim and easy to use. The commenter designs head support fasteners to carry a certain load; however, the commenter stated that these fasteners are not load bearing and should be exempt from load testing in section 6.4 of the standard.

(Response 2) ASTM balloted and approved two clarifying changes to Note 1 in section 6.4 of the standard, which have been incorporated into ASTM F2236–14. These changes address the commenters' concern. Note 1 exempts non-load-bearing fasteners from the fastener strength tests in section 6.4 and lists examples of non-load-bearing fasteners that are exempt. We note that the list in Note 1 is not exhaustive, but merely illustrative, and that other features attached to a soft infant and toddler carrier by a non-load-bearing fastener are also exempt from the fastener strength tests in section 6.4.

ASTM F2236–13, the proposed standard for adoption in the NPR, stated that fasteners intended to retain items such as ''hoods, bibs and toy rings'' were exempt from testing. The ASTM subcommittee for soft infant and toddler carriers was aware of a feature called a ''sleeping hood'' that is attached to a soft infant and toddler carrier by non-load bearing fasteners. The ''sleeping hood'' feature was intended to be captured in ASTM F2236–13 Note 1 with the phrase ''hoods.'' To clarify that non-load-bearing fasteners used to retain ''sleeping hoods'' are exempt from testing, ASTM changed the word ''hoods'' in Note 1 to ''sleeping hoods.'' This revision was approved and published in ASTM F2236–13a.

Subsequently, based on a manufacturer's concern that Note 1 was still unclear about whether head adjustment fasteners that were non-load bearing had to be tested, ASTM balloted and approved another modification to Note 1. The second modification was incorporated into ASTM F2236–14 and added ''head adjustment fasteners'' to the list of examples of fasteners exempt from testing in Note 1. The Commission agrees with the clarification and believes that these revisions to the voluntary standard address the commenters' concern.

To the extent that commenters are suggesting that any potential load-bearing fastener that supports the head should be excluded from the fastener strength test in section 6.4 of the standard, the Commission disagrees. CPSC found that on the 14 carriers tested, the uppermost fastener generally supports the infant's upper torso and shoulders, as well as the head, and therefore, the fastener is critical to securing the infant in the carrier. Load-bearing fasteners that support the head, upper torso, and shoulders are not exempt from fastener-load testing requirements. The commenter apparently does not intend to exempt this type of fastener from testing.

C. Fastener Strap Slip During Load Testing

(Comment 3) One commenter stated that the strap slippage requirement as articulated in the standard (ASTM F2236–13, paragraphs 6.4.1 and 6.4.2) can result in a technical failure of an otherwise safe product. The commenter found that during product testing, certain straps can slip more than 1 inch but in a direction that makes the straps become tighter, not looser. The commenter asserted that this does not compromise safety. The commenter suggested that the language in paragraph 6.4.1 should be changed from ''. . . adjustable elements in straps shall not *slip* more than 1 in. (2.5 cm) when tested . . .'' to ''. . . adjustable elements in straps shall not *loosen* more than 1 in. (2.5 cm) when tested . . . .''

(Response 3) The strap slippage requirement in section 6.4.1 of ASTM F2236–13, the standard referenced in the NPR, prevents the fastener straps from slipping an appreciable amount through the buckles during fastener strength testing. Significant slippage can result in a minimal load being held by the fastener/strap and could result in the strap pulling out of the fastener or loosening to the point that the infant could fall out of the carrier. The commenter seeks to clarify that straps that tighten during the test do not constitute a test failure.

The Commission agrees that straps that tighten during testing should not fail the strap retention requirement in the standard. However, based on the CPSC staff's assessment, the Commission finds that use of the word ''slip'' in the standard is more accurate than ''loosen.'' The amount of strap ''slip'' through a fastener can be measured; whereas, CPSC staff is uncertain how to measure strap ''loosening.'' Additionally, the requirement for support/shoulder strap slippage during the dynamic and static load testing in paragraph 6.2 uses the same wording, which states: ''adjustable sections of the support/shoulder straps shall not slip more than 1 in. (25 mm) per strap from their original adjusted position . . .'' Therefore, the Commission will not replace the word ''slip'' with ''loosen'' in the final rule, as suggested by the commenter.

After publication of the NPR, ASTM balloted and approved a modification to the voluntary standard that addresses the commenter's concern about straps that tighten during testing. ASTM F2236–14 incorporates a revision to sections 6.2.2, 6.4.1, and 6.4.2 of the voluntary standard to state: ''straps shall not slip, *in a manner that loosens the strap,* by more than 1 inch.'' This modification was included in the voluntary standard, beginning with revision ASTM F2236–13a.

The Commission finds that the revisions now incorporated into sections 6.2.2, 6.4.1, and 6.4.2 of ASTM F2236–14 addresses the commenter's concern and clarifies when fasteners pass the fastener strength test requirement without substantively altering the test method.

D. Warning Text Format

(Comment 4) One commenter noted that in ASTM F2236–13, the text height requirement for the warnings provided with product instructions specified in section 9.2.2 needs to be modified to match the text height requirement for warning labels in section 8.3.1. The commenter stated that if this modification is not made, section 9.2.2 would require every letter of warning text to be at least 0.1″ high, instead of only the upper case letters, as is the case in section 8.3.1.

(Response 4) The Commission agrees that the text height requirement for

warnings should be consistent throughout the standard. To address the commenter's concern, ASTM balloted and approved the following modified text in section 9.2.2, as follows (additions are shown by *italics):*

> 9.2.2 In warning statements, the symbol "⚠" and the word WARNING shall be at least 0.2 in. (5 mm) high. The remainder of the text shall be in characters whose upper case is at least 0.1 in. (2.5 mm) high.

Section 9.2.2 of the voluntary standard incorporates this revision, beginning with ASTM F2236–13a. The Commission believes that the revised language addresses the commenter's concern.

E. Suffocation Warning

(Comment 5) One commenter stated that the required warning statement should read: ''Infants, especially those under four months, can suffocate in this product if face is pressed tight against your body,'' rather than the warning statement in the proposed rule, as provided in the ASTM standard: ''Suffocation Hazard—Infants under 4 months can suffocate in this product if face is pressed tight against your body.'' The commenter said that this warning language does not adequately warn the user of the risk of suffocation for infants over four months and that the suggested warning statement will alert parents and other caregivers to a risk to older babies as well.

(Response 5) The Commission disagrees that the proposed suffocation warning, as provided in the ASTM voluntary standard, does not adequately warn users of the risk of suffocation. The primary mechanism for suffocation in a soft infant and toddler carrier is the infant's face being pressed tightly against a caretaker's body, obstructing the nose and mouth and keeping the infant's head from moving. Infants younger than 4 months old are mostly at risk because they do not have the head control or the muscle strength to move their head away if their airway becomes obstructed. By 4 months of age, infants have increased neck strength and can hold their heads up and explore their surroundings while the caretaker is walking. Infants who are 4 months old can be carried in the outward-facing position in soft infant and toddler carriers that allow this carry position. At around age 6 months, infants begin to sit upright unassisted. Caretakers can carry infants of this age in a soft infant and toddler carrier on the hip or on the caregiver's back, depending on the caretaker's level of comfort. As children reach toddlerhood, caregivers can carry children in this age group in a carrier on the hip or back depending on the carrier type. Given that infants from age 4 months and older have developed head control and muscular strength and can be placed in outward facing, hip, and back carry positions, their face is less likely to become pressed tightly into a caretaker's body. Therefore, the risk of suffocation for these children is low. The Commission has not received data indicating that a risk of suffocation exists for children 4 months and older.

Identifying explicitly children who are most at risk does not suggest that others are not at risk. However, guidelines for warning labels recommend focusing on the most likely and most serious risks (Laughery and Hammond, 1999; Wogalter, 2006). Warnings about low-probability events (*i.e.,* older infants suffocating in soft infant carriers) may reduce the believability or arousal strength of warnings that caution of more likely risks (*i.e.,* infants under 4 months suffocating in soft infant carriers). The Commission finds that the current ASTM warning label about the suffocation hazard is sufficient without modification.

F. Stability Warning

(Comment 6) One commenter stated: ''we are concerned that raising the upper weight limits, for the purpose of ensuring that all soft infant and toddler carriers on the market are covered by the rule, brings in carriers that might have a greater risk of instability and falls due to the extra weight load relative to the weight and strength of the caregiver. We would urge the Commission to include an adequate alert to this risk in the required warnings and instructions.''

(Response 6) During the rulemaking, CPSC staff identified soft infant and toddler carriers on the market that have a manufacturer-recommended upper weight limit of 45 pounds. The Commission believes that expanding the scope of the standard to increase the upper weight limit from 25 pounds to 45 pounds is necessary for the standard to cover all products on the market. However, for the Commission to include a warning statement about the greater risk of instability and falls involving products with higher weight limits, data must be available to demonstrate that carrying heavier children in soft infant and toddler carriers presents a greater risk of instability and falls. At this time, the available data do not support this position. Furthermore, the commenter did not provide data demonstrating that products with higher weight limits present a greater risk of instability and falls than carriers with a lower weight limit. Therefore, at this time, the Commission declines to modify the warning label as suggested by the commenter.

G. Product Marking

(Comment 7) One commenter recommended that the CPSC require that products manufactured after the effective date of the final rule be marked as compliant, so that consumers can identify clearly products that meet the new mandatory standard for soft infant and toddler carriers.

(Response 7) The Commission finds that sufficient incentive exists for compliant producers to label their products as compliant with the final standard for soft infant and toddler carriers. A final rule implementing testing, certification, and labeling of children's products in section 14 of the CPSA, as amended by the CPSIA, *Testing and Labeling Pertaining to Product Certification,* 16 CFR part 1107 (the 1107 rule), became effective on February 13, 2013. Under the 1107 rule, a manufacturer or importer may label a certified compliant product as ''Meets CPSC Safety Requirements.'' Because producers are already allowed to label compliant products as such under the 1107 rule, adding this option to the soft infant and toddler carrier standard would be redundant. The Commission declines to change to the final rule based on this comment.

H. Effective Date

(Comment 8) Two commenters address the 6-month effective date proposed in the NPR. One commenter,

representing several advocacy groups, expressed support for the 6-month effective date. Another commenter, a soft infant and toddler carrier manufacturer, recommended a 12-month effective date, stating that the manufacturing process can take up to 6 months, and the product may be stocked in a warehouse for additional months, depending on sales.

(Response 8) The final standard will not be applied retroactively to products manufactured prior to the effective date of the final rule. Thus, any products warehoused before the effective date will not be affected by the standard. Manufacturers should be able to comply with the mandatory standard within 6 months of the final rule's publication. Manufacturers whose products do not comply with the standard will require some product modification. However, product modification is expected to involve minor changes, such as adding or changing straps or fasteners. Moreover, ASTM F2236–13 was adopted by ASTM in March 2013, and became effective in September 2013. Although the Commission is adopting ASTM F2236–14 as the mandatory standard, no substantive changes have been made to the voluntary standard since ASTM F2236–13. Manufacturers that comply with ASTM F2236–13 have already made, or have begun to make, the necessary modifications. The Commission declines to change the effective date of the final rule based on this comment.

V. Summary of ASTM F2236–14

The Commission is issuing this final rule for soft infant and toddler carriers that incorporates by reference the most recent voluntary standard for soft infant and toddler carriers, ASTM F2236–14. Together with the changes made in ASTM F2236–12, ASTM F2236–13, and ASTM F2236–13a, ASTM F2236–14 reflects the most significant revisions to the standard to date. Revisions to the voluntary standard include modified and new requirements developed by CPSC staff, working with stakeholders on the ASTM subcommittee task group, to address the hazards associated with soft infant and toddler carriers. After the comment period for the NPR closed, the ASTM F15.21 Soft Infant and Toddler Carrier subcommittee held a teleconference on August 12, 2013, to discuss comments submitted on the NPR. The subcommittee discussed the basis for each comment and reached a consensus on revisions to be submitted for ballot. The subcommittee chair balloted the proposed revisions to ASTM F2236–13 for concurrent ASTM Main Committee F15 and Subcommittee F15.21 consideration on August 23, 2013, with a 1- month comment period. The August 23, 2013 ballot contained three revisions to the voluntary soft infant and toddler carrier standard:

- Revisions to sections 6.2.2, 6.4.1, and 6.4.2 to clarify that during the dynamic load, static load, and fastener strength tests, straps shall not slip, in a manner that loosens the strap, more than 1 inch.
- A revision to Note 1 in section 6.4 to clarify that ''sleeping hoods'' are an example of non-load-bearing fasteners that are exempt from fastener strength testing.
- A revision to section 9.2.2 to clarify that the text height requirements for the warnings included with instructions in section 9.2.2 are the same as the text height requirements for warnings required in section 8.3.1 of the voluntary standard.

ASTM did not receive any negative votes on the balloted revisions to ASTM F2236–13. ASTM approved the balloted revisions on November 1, 2013, and subsequently published ASTM F2236–13a in November 2013.

On September 26, 2013, the ASTM F15.21 Soft Infant and Toddler Carrier subcommittee met to discuss results of the items balloted on August 23, 2013. One manufacturer wanted the voluntary standard to further clarify that fasteners used for adjusting the head portion of the carrier were exempt from fastener strength testing because such fasteners are not load bearing. As a result, the subcommittee chair developed a draft ballot item that proposed to add ''head adjustment fasteners'' to the list of examples of fasteners that are exempt from load testing listed in Note 1 of section 6.4. The subcommittee chair balloted the proposed revision to ASTM F2236–13a for concurrent ASTM Main Committee F15 and Subcommittee F15.21 consideration on November 6, 2013, with a 1-month comment period. ASTM did not receive any negative votes on the balloted revision, and approved the revised standard, ASTM F2236–14, on January 1, 2014. ASTM published ASTM F2236–14 in January 2014.

We summarize the provisions of ASTM F2236–14 below. Each revision to ASTM F2236–13 discussed above is described below in more detail in the relevant section of the standard where the change appears. ASTM F2236–14 includes the following key provisions: scope, terminology, general requirements, performance requirements, test methods, marking and labeling, and instructional literature.

Scope. The scope of the voluntary standard was broadened in December 2012 to include soft infant and toddler carriers with an upper weight limit of up to 45 pounds. Previously, it was unclear whether carriers with upper weight limits over 25 pounds fell within the standard. Expanding the scope of the standard clarifies that all soft infant and toddler carrier products currently on the market fall within the standard. The name of the standard was changed in 2012 to include the word ''toddler,'' to clarify that toddlers can also be carried in these products. The scope of the standard also distinguishes soft infant and toddler carriers from other wearable infant carrier products. The scope provides that soft infant and toddler carriers are ''normally of sewn fabric construction,'' hold the child ''generally in an upright position,'' and ''may be worn on the front, side, or back of the caregiver's body.'' Finally, the scope of the standard states that the standard does not apply to infant slings.

Terminology. Section 3.1 of the standard includes 14 definitions to help explain general requirements and performance requirements. Section 3.1.7 of the standard explains that a ''leg opening'' is the ''opening in the soft carrier through which the occupant's legs extend when the product is used in the manufacturer's recommended use position.'' Sections 3.1.4 and 3.1.13 of ASTM F2236–14, respectively, explain that a ''dynamic load'' is the ''application of impulsive force through free fall of a weight,'' and that a ''static load'' is a ''vertically downward force applied by a calibrated force gage or by dead weights.'' Beginning in 2012, the standard included a new definition for ''carrying position'' to clarify methods for dynamic and static load testing in section 7 of the standard. Finally, in 2013, the standard was updated to include a new definition for ''fastener'' to aid in a new test for fastener strength and strap retention.

General Requirements. ASTM F2236–14 includes general requirements that the products must meet, as well as specified test methods to ensure compliance with the general requirements, which include:

- Restrictions on sharp points or edges, as defined by 16 CFR §§ 1500.48 and .49;
- restrictions on small parts, as defined by 16 CFR part 1501;
- restrictions on lead in paint, as set forth in 16 CFR part 1303;
- requirements for locking and latching devices;
- requirements for permanent warning labels;

• restrictions on flammability, as set forth in 16 CFR part 1610;

• requirements for toy accessories, as set forth in ASTM F 963.

The flammability requirement in section 5.7 of the standard was changed, beginning with ASTM F2236–13, from a flammable solids requirement (16 CFR 1500.3(c)(6)(vi)), to meet the more stringent flammability requirement for wearing apparel (16 CFR part 1610). Adopting the wearing apparel flammability requirement in the soft infant and toddler standard makes it consistent with other wearable infant carriers made of sewn fabric, such as slings, to prevent a foreseeable fire hazard in all wearable infant carriers.

Performance Requirements and Test Methods. ASTM F2236–14 provides performance requirements and test methods that are designed to protect against falls from the carrier due to large leg openings, breaking fasteners or seams, and straps that slip, including:

Leg Openings—Tested leg openings must not permit passage of a test sphere weighing 5 pounds that is 14.75 inches in circumference.

Dynamic and Static Load—Beginning with the 2012 version of ASTM F2236, the dynamic load test was strengthened from requiring a 25-pound shot bag to be dropped, free fall, from 1 inch above the seat area onto the carrier seat 1,000 times, to requiring testing with a 25-pound shot bag, or a shot bag equal to the manufacturer's maximum occupant weight limit, whichever is heavier. Additionally, the static load test was revised—from requiring a 75-pound weight for testing—to requiring a 75-pound weight, or a weight equal to three times the manufacturer's recommended maximum occupant weight, whichever is greater, to be placed in the seat area of the carrier for 1 minute. Such revisions to the dynamic and static load tests strengthen the test requirements, by requiring that products with a maximum recommended weight of 45 pounds be tested to a 135-pound weight instead of 75 pounds, which represents an 80 percent increase in the severity of the requirement.

ASTM F2236–14 requires that testing conducted with the new required loads must not result in a ''hazardous condition,'' as defined in the general requirements, or result in a structural failure, such as fasteners breaking or disengaging, or seams separating when tested in accordance with the dynamic and static load testing methods. Additionally, the standard provides that dynamic and static load testing must not result in adjustable sections of support/shoulder straps slipping more than 1 inch per strap from their original adjusted position after testing.

Section 6.2.2 of the standard on Support/Shoulder Strap Slippage was modified beginning with ASTM F2236–13a. The modification clarifies what constitutes passing or failing the strap slippage test. Section 6.2.2 was amended to state: ''Adjustable sections of support/shoulder straps shall not slip*, in a manner that loosens the strap,* more than 1 in. (25 mm) per strap from their original adjusted position after dynamic and static load testing is performed in accordance with *7.2.1* and *7.2.2,* respectively.'' The amendment allows straps to tighten during testing but not loosen more than 1 inch, which is the intent of the testing.

Fastener Strength and Strap Retention—ASTM F2236–14 includes a new component-level performance requirement that was added to the standard in 2013 to evaluate the strength of fasteners and strap retention to help prevent falls from a carrier. Previously, soft infant and toddler carriers were recalled due to an occupant fall hazard caused by broken fasteners that passed the static and dynamic performance requirements in the then existing standard, ASTM F2236–10. Accordingly, the performance requirement in section 6.4 of ASTM F2236–14 states that load-bearing fasteners at the shoulder and waist of soft infant and toddler carriers, such as buckles, loops, and snaps, may not break or disengage; nor may their straps slip more than 1 inch when subjected to an 80-pound pull force. Adjustable leg opening fasteners must also be tested but are subjected to lower loads, a 45-pound pull force, because these fasteners do not carry the same load as fasteners at the shoulders and waist. ASTM F2236–14 requires that when tested, fasteners must not break or disengage, and adjustable elements must not slip more than 1 inch.

Similar to the strap slip requirement in the static and dynamic load testing section of the standard, ASTM also clarified the strap slip section of the fastener strength test section in ASTM F2236–13a. Sections 6.4.1 and 6.4.2 were amended to state: ''Each unique fastener, except for leg opening adjustment fasteners as tested per *6.4.2,* shall not break or disengage, and adjustable elements in straps shall not slip*, in a manner that loosens the strap,* more than 1 in. (2.5 cm) . . . .'' This amendment allows straps to tighten during testing but not to loosen more than 1 inch, which is the intent of the testing.

Additionally, Note 1 to section 6.4 of the standard provides that the fastener strength and strap retention testing apply only to load-bearing fasteners. ASTM F2236–13 stated: ''Fasteners intended to retain items such as, but not limited to, hoods, bibs and toy rings, are exempt from these requirements.'' ASTM approved two changes to the language in Note 1 to clarify that several non-load-bearing features, ''sleeping hoods'' and ''head adjustment fasteners,'' are included in the list of examples exempted from fastener strength testing when such features are non-load-bearing. Note 1 in section 6.4 of ASTM F2236–14 now provides that: ''Fasteners intended to retain items such as, but not limited to, *sleeping* hoods, *head adjustment fasteners,* bibs and toy rings, are exempt from these requirements.''

Unbounded Leg Opening—The voluntary standard was updated in 2013 to clarify the unbounded leg opening test procedure to improve test repeatability. ASTM F2236–14 requires that an unbounded leg opening must not allow complete passage of a truncated test cone that is 4.7 inches long, with a major diameter of 4.7 inches and a minor diameter of 3 inches. The standard requires a test cone to be pulled through the leg opening with a 5-pound force for 1 minute.

Marking, Labeling, and Instructional Literature. ASTM F2236–14 requires that each product and its retail package be marked or labeled with certain information and warnings. The warning label requirement was updated in 2013 to address fall and suffocation hazards. ASTM F2236–14 requires that the warning label provide a fall hazard statement addressing that infants can fall through wide leg openings or out of the carrier. The standard requires the following fall-related precautionary statements be addressed on the warning label: Adjust leg openings to fit baby's legs snugly; before each use, make sure all [fasteners/knots] are secure; take special care when leaning or walking; never bend at waist, bend at knees; only use this carrier for children between _ lbs. and _ lbs. Additionally, ASTM F2236–14 requires that a suffocation hazard statement must address the fact that infants under 4 months old can suffocate in the carrier if the child's face is pressed tightly against the caregiver's body. The standard requires that the warning label must also address the following suffocation-related precautionary statements: Do not strap infant too tightly against your body; allow room for head movement; keep infant's face free from obstructions at all times. Products must also contain an informational statement that a child must face toward the caregiver until he

or she can hold his or her head upright. All products are required to come with instructional literature on assembly, use, maintenance, cleaning, and required warnings.

ASTM F2236–14 includes an example warning label that identifies more clearly the hazards, the consequences of ignoring the warning, and how to avoid the hazards. The label format was designed to communicate more effectively these warnings to the caregiver (Fig. 1). Manufacturers may alter the rectangular shape of the label to fit on shoulder straps, if the manufacturer chooses not to place label in the occupant space. However, the standard requires that the label be placed in a prominent and conspicuous location, where the caregiver will see the label when placing the soft infant and toddler carrier on their body.

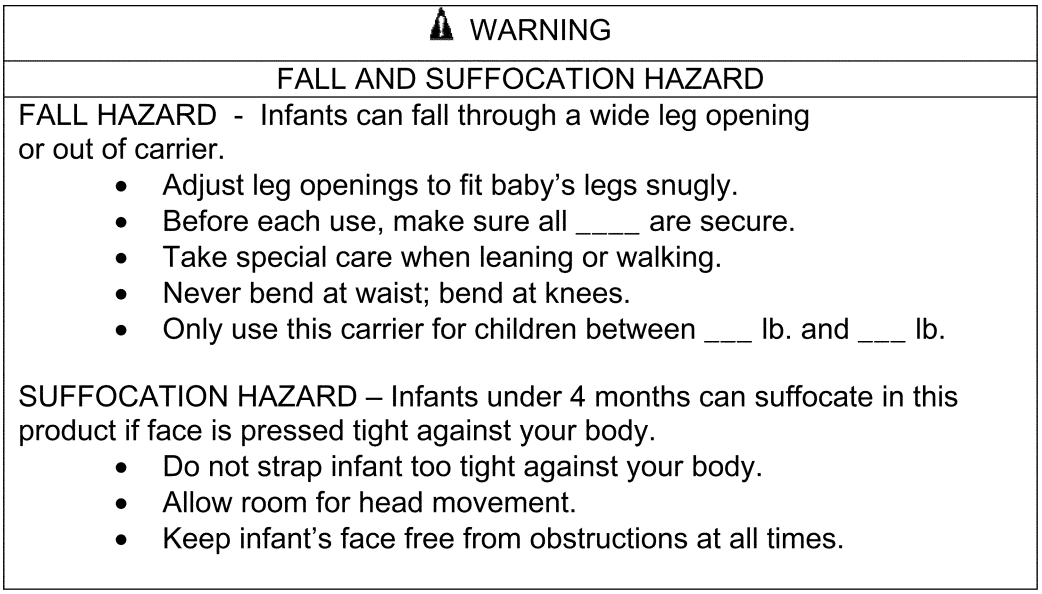

Figure 1. ASTM F2236-14 Example Warning Label.

ASTM F2236-14 includes a 2013 revision to section 9.2.2 of the standard on Instructional Literature. Section 9.2.2 of the standard describes how the warning label is to be conveyed in the instructional literature. The text height requirements in this section should match the text height requirements for the on-product warning label in section 8.3.1, which was overlooked when publishing ASTM F2236-13. To correct this issue, ASTM F2236-14 includes the following revision to section 9.2.2, so that it is the same as 8.3.1: "In warning statements, the symbol "⚠" and the word WARNING shall be at least 0.2 in. (5 mm) high. The remainder of the text shall be in characters whose upper case is at least 0.1 in. (2.5 mm) high."

VI. Effective Date

The Administrative Procedure Act (APA) generally requires that the effective date of the rule be at least 30 days after publication of the final rule. 5 U.S.C. 553(d). The NPR proposed that the final rule would become effective 6 months after publication of a final rule in the **Federal Register**. Although we received one comment requesting a 12-month effective date (comment 8 in section IV.H), the Commission finds that a 6-month effective date is sufficient time to allow manufacturers to come into compliance. Manufacturers whose products are not compliant with the standard will require some product modification; however, any necessary product modification is expected to involve minor changes, such as adding or changing straps or fasteners. Moreover, ASTM F2236–13 was adopted by ASTM in March 2013, and became effective in September 2013.

Although the Commission is adopting ASTM F2236–14, this version of the voluntary standard is substantially the same as ASTM F2236–13. Manufacturers that are compliant with ASTM F2236–13 have already made or have begun to make the necessary modifications.

VII. Regulatory Flexibility Act

A. Introduction

The Regulatory Flexibility Act (RFA) requires that final rules be reviewed for their potential economic impact on small entities, including small businesses. Section 604 of the RFA requires that CPSC prepare a final regulatory flexibility analysis (FRFA) when the Commission promulgates a final rule. The FRFA must describe the impact of the rule on small entities and identify any alternatives that may reduce the impact. Specifically, the FRFA must contain:

- A succinct statement of the objectives of, and legal basis for, the rule;
- a summary of the significant issues raised by public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;
- a description of, and, where feasible, an estimate of, the number of small entities to which the rule will apply;
- a description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities subject to the requirements and the type of professional skills necessary for the preparation of reports or records; and
- a description of the steps the agency has taken to reduce the significant economic impact on small entities, consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the rule, and why each one of the other significant alternatives to the rule considered by the agency, which affect the impact on small entities, was rejected.

B. Market for Soft Infant and Toddler Carriers

Soft infant and toddler carriers are generally produced and/or marketed by juvenile product manufacturers and distributors. Several of these firms primarily produce soft infant and toddler carriers, as well as substitute products, such as slings. CPSC Economic Analysis (EC) staff believes that there are at least 54 suppliers of soft infant and toddler carriers to the U.S. market.[6] Thirty-nine domestic firms supply soft infant and toddler carriers to the U.S. market: 23 are domestic manufacturers; eight are domestic importers; and eight firms have unknown supply sources. In addition, 12 foreign firms supply soft infant and toddler carriers to the U.S. market. CPSC has insufficient information available to categorize the remaining three firms.[7]

According to a 2005 survey conducted by the American Baby Group (*2006 Baby Products Tracking Study*), 51 percent of new mothers own soft infant and toddler carriers.[8] Approximately 30 percent of soft infant and toddler carriers are handed down or purchased secondhand.[9] Thus, about 70 percent of soft infant and toddler carriers are acquired new. This estimate suggests that approximately 1.5 million soft infant and toddler carriers are sold to households annually (0.51 x 0.70 x 4.1 million births per year).[10]

Many soft infant and toddler carriers have expanded their maximum weight limits in recent years to accommodate older children. However, from the lack of incident data involving children older than 2 years, CPSC staff believes that most caregivers would not be comfortable carrying older, heavier children in soft infant and toddler carriers. Based on the incident data, it appears that soft infant and toddler carriers are used during a child's first year, with some caregivers continuing to use these products into the second year. While we do not know the proportion of caregivers who continue to use these products into the second year, we estimated the numbers of soft infant and toddler carriers in use by assuming that a portion of caregivers, *e.g.,* 25–50 percent, will continue to use carriers in the child's second year. Based on data from the *2006 Baby Products Tracking Study,* approximately 2.1 million soft infant and toddler carriers are owned by new mothers. Assuming that 25–50 percent of caregivers continue to use soft infant and toddler carriers in the second year, approximately 2.6 million (2.1 million $\times$ 0.25 $\times$ 2.1 million) to 3.2 million (2.1 million $\times$ 0.50 $\times$ 2.1 million) households have soft infant and toddler carriers available for use annually. Based on Directorate for Epidemiology staff's estimate of 1,400 injuries treated nationally in emergency departments from 1999 to 2011, an average of about 108 emergency department-treated injuries involve soft infant and toddler carriers annually.[11] Therefore, about 0.34 – 0.40 emergency department-treated injuries may occur annually for every 10,000 soft infant and toddler carriers available for use.

C. Reason for Agency Action and Legal Basis for the Final Rule

The Danny Keysar Child Product Safety Notification Act, section 104 of the CPSIA, requires the CPSC to promulgate mandatory standards for nursery products that are substantially the same as, or more stringent than, the voluntary standard. Staff recommends adopting the voluntary standard (ASTM F2236–14), without modification.

D. Requirements of the Final Rule

The requirements of the final rule are set forth above in section V of this preamble, which describes ASTM F2236–14.

E. Issues Raised by Public Comments

Section IV of this preamble contains a summary of the five comments received and the issues raised by the comments.

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[6] Staff conducted research to identify manufacturers and importers of soft carriers. From the time of the NPR to the final rule, several firms entered the market, raising the number of suppliers from 39 in the NPR to 54 presently.

[7] CPSC staff made these determinations using information from Dun & Bradstreet and ReferenceUSAGov, as well as the firms' Web sites.

[8] The data collected for the *Baby Products Tracking Study* does not represent an unbiased statistical sample. The sample of 3,600 new and expectant mothers is drawn from *American Baby* magazine's mailing lists. Also, because the most recent survey information is from 2005, the information may not reflect the current market.

[9] The data on secondhand products for new mothers was not available. Instead, data for new mothers and experienced mothers were combined and broken down into first-time mothers and experienced mothers. Data for first-time mothers and experienced mothers have been averaged to calculate the approximate percentage of soft infant and toddler carriers that were handed down or purchased secondhand.

[10] U.S. Department of Health and Human Services, Centers for Disease Control and Prevention (CDC), National Center for Health Statistics, National Vital Statistics System, ''Births: Final Data for 2009,'' *National Vital Statistics Reports* Volume 60, Number 1 (November 2011): Table I. The number of live births in 2009 is rounded from 4,130,665.

[11] Memorandum from Risana Chowdhury, Directorate for Epidemiology, dated March 11, 2013, Subject: Soft Infant and Toddler Carrier-Related Deaths, Injuries, and Potential Injuries, and NEISS Injury Estimates; 1999–September 10, 2012. CPSC staff cannot present national emergency department-treated injury estimates for 2012 due to insufficient numbers of NEISS incidents reported during the time period, and 2013 data is not yet available. Memorandum from Risana Chowdhury, Directorate for Epidemiology, dated September 23, 2013, Subject: Soft Infant and Toddler Carrier-Related Deaths, Injuries, and Potential Injuries between September 11, 2012 and July 15, 2013.

F. Other Federal Rules

Two federal rules interact with the soft infant and toddler carrier mandatory standard: (1) *Testing and Labeling Pertaining to Product Certification* (16 CFR part 1107); and (2) *Requirements Pertaining to Third Party Conformity Assessment Bodies* (16 CFR part 1112). The regulation at 16 CFR part 1107 requires every manufacturer of a children's product that is subject to a children's product safety rule to certify, based on third party testing, that the product complies with all applicable safety rules. Because soft infant and toddler carriers will be subject to a mandatory children's product safety rule, they will also be subject to the third party testing requirements of 16 CFR part 1107 when the soft infant and toddler carrier mandatory standard becomes effective.

In addition, 16 CFR part 1107 requires the third party testing of children's products to be conducted by CPSC-accredited laboratories. Section 14(a)(3) of the CPSA required the Commission to publish a notice of requirements (NOR) for the accreditation of third party conformity assessment bodies (*i.e.,* testing laboratories) to test for conformance with each children's product safety rule. The NORs for existing rules are set forth in 16 CFR part 1112. The Commission is finalizing an amendment to 16 CFR part 1112 that establishes the requirements for the accreditation of testing laboratories to test for compliance with the soft infant and toddler carrier final rule.

G. Impact on Small Businesses

The FRFA is limited to the 39 domestic firms known to be marketing soft infant and toddler carriers in the United States because U.S. Small Business Administration (SBA) guidelines and definitions pertain to U.S.-based entities. Under SBA guidelines, a manufacturer of soft infant and toddler carriers is small if it has 500 or fewer employees, and importers and wholesalers are considered small if they have 100 or fewer employees. Based on these guidelines, 32 of the 39 domestic firms supplying soft infant and toddler carriers to the U.S. market are small firms—18 manufacturers, six importers, and eight firms—whose supply source is unknown. Additional unknown small soft infant and toddler carrier suppliers may also operate in the U.S. market.

One purpose of the regulatory flexibility analysis is to evaluate the impact of a regulatory action and determine whether the impact is economically significant. While the SBA gives considerable flexibility in defining ''economically significant,'' CPSC staff typically uses one percent of gross revenue as the threshold for determining ''economic significance.'' CPSC staff considers any impact that is one percent or more of gross revenue is considered economically significant. SBA has accepted the one percent of gross revenue threshold and this threshold is also commonly used by agencies in determining economic significance.[12]

Small Manufacturers: The expected impact of the final rule on small manufacturers will differ, based on whether manufacturers' soft infant and toddler carriers are already compliant with F2236–13. Although F2236–14 was published in January 2014, firms are still likely to be testing to F2236–13. However, because ASTM F2236–13, ASTM F2236–13a, and ASTM F2236–14 do not contain material differences, manufacturers in compliance with ASTM F2236–13 are likely to continue to comply with the voluntary standard.

The Juvenile Products Manufacturers Association (JPMA), the major U.S. trade association that represents juvenile product manufacturers and importers, has certified several soft infant and toddler carriers as compliant with the voluntary standard, and other manufacturers have claimed compliance with the voluntary standard. Based on this information, 11 of 18 domestic manufacturers comply with ASTM F2236–13. These 11 firms should not require any modifications to their products and, as such, the firms should not be impacted by incorporation of ASTM F2236–14 as the final rule.

Meeting ASTM F2236–14's requirements could require some modifications for seven of the 18 domestic manufacturers who are believed not to be currently compliant with ASTM F2236–13. Based upon past discussions with firms and Engineering Sciences staff, necessary modifications would likely involve adding or changing straps, fasteners, or fabrics and generally would be less expensive to accomplish than a complete product redesign. Therefore, in most cases, the impact of the final rule is not expected to have a significant effect on products that do not comply with ASTM F2236–13.

Under section 14 of the CPSA, soft infant and toddler carriers are also subject to third party testing and certification requirements. Once the new soft infant and toddler requirements become effective, all manufacturers will be subject to the additional costs associated with the third party testing and certification requirements under the testing rule, *Testing and Labeling Pertaining to Product Certification* (16 CFR part 1107). Third party testing will pertain to any physical and mechanical test requirements specified in the soft infant and toddler carrier final rule; lead and phthalates testing is already required. Third party testing costs are in addition to the direct costs of meeting the soft infant and toddler standard.

Based on information from the durable nursery product industry and confidential business information supplied for the development of the third party testing rule, CPSC staff estimates that testing to a single ASTM voluntary standard could cost around $500–$600 per model sample. On average, each small domestic manufacturer supplies two different models of soft infant and toddler carriers to the U.S. market annually. Therefore, if third party testing to the requirements in the soft infant and toddler standard is conducted every year on a single sample for each model, third party testing costs associated for each manufacturer would be about $1,000–$1,200 annually. Based on an examination of estimates of firms' revenues from recent Dun & Bradstreet reports, the impact of third party testing is not likely to be economically significant if only one sample per model is required. However, if more than one sample is needed to meet the testing requirements, third party testing costs could have an economically significant impact on some small manufacturers (*i.e.,* testing costs could be one percent or more of gross revenue). CPSC staff does not know exactly how many samples each manufacturer will need to test to meet the ''high degree of assurance'' criterion required by 16 CFR part 1107.

Small Importers: Most importers will not experience significant impacts as a result of the final rule. CPSC staff believes that four of the six small importers are compliant with the voluntary standard. The remaining importers may need to find an alternate source of soft infant and toddler carriers if their existing suppliers do not come into compliance with the requirements of the final rule. Alternatively, the firms may discontinue importing soft infant and toddler carriers altogether and perhaps substitute another juvenile product.

As is the case with manufacturers, all importers will be subject to third party

[12] U.S. Small Business Administration, Office of Advocacy. A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act and Implementing the President's Small Business Agenda and Executive Order 13272. May 2012, pgs. 18–20. *http://www.sba.gov/sites/default/files/rfaguide_0512_0.pdf.*

testing and certification requirements, and consequently, they will experience the associated costs, if their supplying foreign firm(s) does not perform third party testing. The resulting costs could potentially have a significant impact on a few small importers that must perform the testing themselves, particularly if more than one sample per model is required.

Eight small firms have unknown supply sources, three of which appear to be compliant with ASTM F2236–13 and should not be impacted by the incorporation of ASTM F2236–14 as the mandatory final rule. The remaining five firms may need to make small changes to their products to be compliant with ASTM F2236–14. Due to the nature of the product, the modifications should be limited to changes in straps or fasteners and should not have a significant impact.

H. Alternatives

One alternative would be to set an effective date for the final rule later than the staff-recommended 6 months, which is generally considered sufficient time for suppliers to come into compliance with a durable infant and toddler product rule. Setting a later effective date would allow suppliers additional time to modify and/or develop compliant soft infant and toddler carriers and spread the associated costs over a longer period of time. However, given that the changes to meet the standard are not substantial, CPSC staff believes that 6 months is sufficient.

VIII. Environmental Considerations

The Commission's regulations address whether we are required to prepare an environmental assessment or an environmental impact statement. If our rule has ''little or no potential for affecting the human environment,'' the rule will be categorically exempted from this requirement. 16 CFR 1021.5(c)(1). The final rule for soft infant and toddler carriers falls within the categorical exemption.

IX. Paperwork Reduction Act

This rule contains information collection requirements that are subject to public comment and review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The preamble to the proposed rule (78 FR at 20520 through 20521) discussed the information collection burden of the proposed rule and specifically requested comments on the accuracy of our estimates. OMB has assigned control number 3041–0162 to this information collection. We did not receive any comment regarding the information collection burden of the proposal. However, the final rule makes modifications regarding the information collection burden because the number of estimated manufacturers subject to the information collection burden is now estimated at 54 manufacturers rather than the 39 manufacturers initially estimated in the proposed rule.

Accordingly, the estimated burden of this collection of information is modified as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

16 CFR section	Number of respondents	Frequency of responses	Total annual responses	Hours per response	Total burden hours
1226	54	2	108	1	108

Our estimate is based on the following:

Section 8.1 of ASTM F2236–14 requires that all soft infant and toddler carrier products and their retail packaging be marked or labeled as follows: the manufacturer, distributor, or seller name, and either the place of business (city, state, mailing address, including zip code), or telephone number, or both; and a code mark or other means that identifies the date (month and year as a minimum) of manufacture.

CPSC is aware of 54 firms that supply soft infant and toddler carriers in the U.S. market. For PRA purposes, we assume that all 54 firms use labels on their products and on their packaging already. However, firms might need to make some modifications to their existing labels. We estimate that the time required to make these modifications is about 1 hour per model. Each of the 54 firms supplies an average of two different models of soft infant and toddler carriers. Therefore, we estimate the burden hours associated with labels to be 108 hours annually (1 hour × 54 firms × 2 models per firm = 108 hours annually).

We estimate the hourly compensation for the time required to create and update labels is $27.71 (U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' September 2013, Table 9, total compensation for all sales and office workers in goods-producing private industries: *http://www.bls.gov/ncs/).* Therefore, we estimate the annual cost to industry associated with the labeling requirements in the final rule to be $2,992.68 ($27.71 per hour × 108 hours = $2,992.68). This collection of information does not require operating, maintenance, or capital costs.

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted the information collection requirements of this final rule to the OMB.

X. Preemption

Section 26(a) of the CPSA, 15 U.S.C. 2075(a), provides that where a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the federal standard. Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to the Commission for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA refers to the rules to be issued under that section as ''consumer product safety rules,'' thus implying that the preemptive effect of section 26(a) of the CPSA applies to final durable infant and toddler product final rules. Therefore, the final rule issued under section 104 of the CPSIA will invoke the preemptive effect of section 26(a) of the CPSA when the final rule becomes effective.

XI. Certification and Notice of Requirements

Section 14(a) of the CPSA requires that products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard or regulation under any other act enforced by the Commission, must be certified as complying with all applicable CPSC-enforced requirements. 15 U.S.C. 2063(a). Section 14(a)(2) of the CPSA requires that certification of children's products subject to a children's product

safety rule be based on testing conducted by a CPSC-accepted third party conformity assessment body. Section 14(a)(3) of the CPSA requires the Commission to publish a NOR for the accreditation of third party conformity assessment bodies (or laboratories) to assess conformity with a children's product safety rule to which a children's product is subject. The final rule for 16 CFR part 1226, ''Safety Standard for Soft Infant and Toddler Carriers,'' is a children's product safety rule that requires the issuance of a NOR.

Effective June 10, 2013, the Commission published a final rule, *Requirements Pertaining to Third Party Conformity Assessment Bodies,* 78 FR 15836 (March 12, 2013), which codifies 16 CFR part 1112. Part 1112 establishes requirements for accreditation of third party conformity assessment bodies (or laboratories) to test for conformance with a children's product safety rule in accordance with Section14(a)(2) of the CPSA. The final rule also codifies all of the NORs that the CPSC has published, to date. All new NORs, such as the soft infant and toddler carrier standard, require an amendment to part 1112. Accordingly, the final rule amends part 1112 to include the soft infant and toddler standard, along with the other children's product safety rules for which the CPSC has issued NORs. The final NOR is based on the CPSC's laboratory accreditation requirements on the performance standard set forth in the final rule for the safety standard for soft infant and toddler carriers and the test methods incorporated within this standard.

Laboratories applying for acceptance as a CPSC-accepted third party conformity assessment body to test to the new standard for soft infant and toddler carriers are required to meet the third party conformity assessment body accreditation requirements in part 1112. When a laboratory meets the requirements as a CPSC-accepted third party conformity assessment body, the laboratory can apply to the CPSC to have 16 CFR part 1226, *Safety Standard for Soft Infant and Toddler Carriers,* included in the laboratory's scope of accreditation of CPSC safety rules listed for the laboratory on the CPSC Web site at: *www.cpsc.gov/labsearch.*

A FRFA was conducted as part of the promulgation of the original 16 CFR part 1112 (78 FR 15836, 15855–15858), as required by the Regulatory Flexibility Act. Briefly, the FRFA concluded that the accreditation requirements would not have a significant adverse impact on a substantial number of small laboratories because no requirements were imposed on laboratories that did not intend to provide third party testing services. The only laboratories expected to provide such services are those that anticipate receiving sufficient revenue from the mandated testing to justify accepting the requirements as a business decision.

Based on similar reasoning, amending the rule to include the NOR for the soft infant and toddler carrier standard will not have a significant adverse impact on small laboratories. Moreover, based upon the number of laboratories in the United States that have applied for CPSC acceptance of the accreditation to test for conformance to other juvenile product standards, we expect that only a few laboratories will seek CPSC acceptance of their accreditation to test for conformance with the soft infant and toddler carrier standard. Most of these laboratories have already been accredited to test for conformance to other juvenile product standards, and the only cost to them would be the cost of adding the soft infant and toddler standard to their scope of accreditation. As a consequence, the Commission certifies that the NOR for the soft infant and toddler carrier standard will not have a significant impact on a substantial number of small entities.

List of Subjects

16 CFR Part 1112

Administrative practice and procedure, Audit, Consumer protection, Reporting and recordkeeping requirements, Third party conformity assessment body.

16 CFR Part 1226

Consumer protection, Imports, Incorporation by reference, Infants and Children, Labeling, Law Enforcement, and Toys.

For the reasons discussed in the preamble, the Commission amends Title 16 of the Code of Federal Regulations by amending part 1112 and adding a new part 1226, as follows:

PART 1112—REQUIREMENTS PERTAINING TO THIRD PARTY CONFORMITY ASSESSMENT BODIES

■ 1. The authority citation for part 1112 continues to read as follows:

Authority: 15 U.S.C. 2063; Pub. L. No. 110–314, section 3, 122 Stat. 3016, 3017 (2008)

■ 2. In § 1112.15 add paragraph (b)(37) to read as follows:

§ 1112.15 When can a third party conformity assessment body apply for CPSC acceptance for a particular CPSC rule and/or test method?

* * * * *

(b) * * *

(37) 16 CFR part 1226, Safety Standard for Soft Infant and Toddler Carriers.

* * * * *

■ 3. Add Part 1226 to read as follows:

PART 1226—SAFETY STANDARD FOR SOFT INFANT AND TODDLER CARRIERS

Sec.

Authority: The Consumer Product Safety Improvement Act of 2008, Pub. L. 110–314, Sec. 104, 122 Stat. 3016 (August 14, 2008); Pub. L. 112–28, 125 Stat. 273 (August 12, 2011).

§ 1226.1 Scope.

This part establishes a consumer product safety standard for soft infant and toddler carriers.

§ 1226.2 Requirements for soft infant and toddler carriers.

(a) Each soft infant and toddler carrier must comply with all applicable provisions of ASTM F2236–14, Standard Consumer Safety Specification for Soft Infant and Toddler Carriers, approved on January 1, 2014. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from ASTM International, 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428; *http://www.astm.org/cpsc.htm.* You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal regulations/ibr_locations.html.*

(b) [Reserved]

Dated: March 24, 2014.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2014–06771 Filed 3–27–14; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF JUSTICE

28 CFR Parts 36 and 85

[Docket No. CRT 127; AG Order No. 3324–2014]

Civil Monetary Penalties Inflation Adjustment—Civil Rights Division

AGENCY: Office of the Attorney General, Justice.

ACTION: Final rule.

SUMMARY: In accordance with section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, the Department of Justice is adjusting for inflation the civil monetary penalties assessed or enforced by the Civil Rights Division.

DATES: This rule is effective April 27, 2014.

FOR FURTHER INFORMATION CONTACT: Robert Hinchman, Senior Counsel, Office of Legal Policy, U.S. Department of Justice, Room 4252 RFK Building, 950 Pennsylvania Avenue NW., Washington, DC 20530, telephone (202) 514–8059 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, 28 U.S.C. 2461 note (Adjustment Act), provides for the regular evaluation of civil monetary penalties to ensure that they continue to maintain their deterrent effect and that penalty amounts due the Federal Government are properly accounted for and collected. On April 26, 1996, section 31001 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Public Law 104–134, also known as the Debt Collection Improvement Act of 1996 (Improvement Act), amended the Adjustment Act to provide for more effective tools for government-wide collection of delinquent debt. In particular, section 31001(s)(1) of the Improvement Act amended section 4 of the Adjustment Act to require the head of each agency to ''by regulation adjust each civil monetary penalty provided by law within the jurisdiction of the Federal agency'' and to ''publish each such regulation in the **Federal Register**'' not later than 180 days after enactment of the Debt Collection Improvement Act of 1996, and at least every four years thereafter. Subsection (s)(1) also added a new section 7 to the Adjustment Act providing that any increase in a civil monetary penalty made pursuant to that Act shall apply only to violations that occur after the date the increase takes effect. Subsection (s)(2) of the Improvement Act provides that the first adjustment of a civil monetary penalty made pursuant to the amendment in subsection (s)(1) may not exceed 10 percent of such penalty.

In compliance with these statutory requirements, the Department of Justice published a rule on February 12, 1999 (64 FR 7066), adjusting the immigration-related civil monetary penalties, and a second rule on August 30, 1999 (64 FR 47099), adjusting the other civil monetary penalties assessed or enforced by the Department within its areas of responsibility (codified in 28 CFR parts 36 and 85).

The amounts of the adjustments are determined according to a formula set forth in the Adjustment Act, Public Law 101–410. The statutory formulas for the inflation adjustment calculations are set forth in 28 CFR 85.2, including the applicable ''rounder'' (or increment) used for calculations based on the amount of the current penalty. For example, the applicable ''rounder'' for a current $15,000 civil penalty amount is $5,000. This means that there would be no adjustment of the current amount if the raw inflation adjustment calculation shows an increase of less than $2,500, but the civil penalty amount would be increased by the full $5,000 increment if the raw inflation adjustment is above the rounding threshold.

Adjustments Made in This Rule for Civil Monetary Penalties Relating to Civil Rights

By this rule, the Department of Justice is making adjustments for inflation in the civil monetary penalties assessed or enforced by the Civil Rights Division.[1] The Department will separately publish a rule adjusting the other civil monetary penalties assessed or enforced by the Department.

Several civil monetary penalties were previously adjusted in 1999: civil monetary penalties in the amounts of $55,000 and $110,000 under the Americans With Disabilities Act, 42 U.S.C. 12188(b)(2)(C); civil monetary penalties in the amounts of $11,000 and $27,500 under the Freedom of Access to Clinic Entrances Act of 1994, 18 U.S.C. 248(c)(2)(B), and civil monetary penalties in the amounts of $55,000 and $110,000 under the Fair Housing Act of 1968, 42 U.S.C. 3614(d)(1)(C). However, this rule is also adjusting for the first time the civil monetary penalties under the Servicemembers Civil Relief Act, 50 U.S.C. App. 597(b)(3), as amended in 2010, and two penalties imposed under the Freedom of Access to Clinic Entrances Act of 1994, 28 U.S.C. 248(b), which had not previously been adjusted.

The adjustments in the civil monetary penalties under this rule will take effect in 2014. In accordance with the Act, the adjustments made by this rule are based on the Bureau of Labor Statistics' Consumer Price Index for June of the calendar year preceding the year of adjustment, that is, the amount for June 2013. The inflation factor from June 1999 (166.2), the year of adjustment for the previously-adjusted civil monetary penalties, to June 2013 (233.504) is 40.5%. Applying that factor, and the applicable ''rounders,'' this rule adjusts previously adjusted civil monetary penalty amounts as follows:

Current amount	Raw inflation calculation	Rounder	Inflation adjustment	Adjusted civil penalty amount
$11,000	$4,455	$5,000	$5,000	$16,000
27,500	11,136	5,000	10,000	37,500
55,000	22,273	5,000	20,000	75,000
110,000	44,545	10,000	40,000	150,000

[1] In addition to the civil monetary penalties addressed in this rule, the Civil Rights Division's Office of Special Counsel for Immigration-Related Unfair Employment Practices also has enforcement authority with respect to violations of section 274B of the Immigration and Nationality Act (INA), 8 U.S.C. 1324b. The Department most recently made adjustments to penalties under section 274B as part of a joint rule published with the Department of Homeland Security on February 26, 2008 (73 FR 10130). During the calculation of inflation adjustments for this rule, it was determined that neither the civil monetary penalty amounts under INA section 274B that were adjusted in 2008 nor the civil monetary penalty amounts under INA section 274B that were not eligible for adjustment in 2008 meet the threshold for adjustment at this time.

Two civil monetary penalties in the amount of $15,000 imposed under the Freedom of Access to Clinic Entrances Act of 1994 were not adjusted in 1999 because they did not meet the threshold for adjustment at that time. The inflation factor from June 1994 (148.0), the year of enactment, to June 2013 (233.504) is 57.8%. Applying that factor for the current $15,000 civil penalty amounts, the raw inflation calculation is $8,666, above the applicable ''rounder'' of $5,000. However, as this is the first adjustment, the increase is subject to a 10% cap as provided by statute for first adjustments. (Sec. (s)(2) of the Adjustment Act.) Accordingly, these civil penalty amounts are being increased from $15,000 to $16,500.

Finally, in 2010 Congress amended the Servicemembers Civil Relief Act to add two civil monetary penalties, and the inflation factor from June 2010 (217.965) to June 2013 (233.504) is 7.1%. This rule adjusts these penalties for the first time. (Although these adjustments are subject to a 10% cap for a first-time adjustment, the actual inflation adjustment is less than 10%.)

Current amount	Raw inflation calculation	Rounder	Inflation adjustment	Adjusted Civil penalty amount
$55,000	$3,921	$5,000	$5,000	$60,000
110,000	7,842	10,000	10,000	120,000

In each case, the adjusted civil penalty amounts are applicable only to violations occurring after the date the increase takes effect. See 28 U.S.C. 2461 note. Therefore, violations occurring before April 28, 2014, are subject to the civil monetary penalty amounts set forth in the Department's existing regulations in 28 CFR parts 36 and 85 (or as set by statute if the amount has not yet been adjusted by regulation).

Other agencies are responsible for the inflation adjustments of certain other civil monetary penalties that the Department's litigating components bring suit to collect. The reader should consult the regulations of those other agencies for any inflation adjustments to those penalties.

Administrative Procedure Act, 5 U.S.C. 553

The Attorney General finds that good cause exists under 5 U.S.C. 553(b)(3)(B) for immediate implementation of this final rule without prior notice and comment. This rule is a nondiscretionary ministerial action to conform the amount of civil penalties assessed or enforced by the Department of Justice to the statutorily mandated ranges as adjusted for inflation. The Attorney General is under a legal obligation to adjust these civil penalties for inflation using a statutorily required formula. The calculation of these inflation adjustments follows the specific mathematical formula set forth in section 5 of the Adjustment Act.

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. Only those entities that are determined to have violated Federal law and regulations would be affected by the increase in penalties made by this rule pursuant to the statutory requirement. Further, no Regulatory Flexibility Act analysis is required for this rule because publication of a notice of proposed rulemaking was not required for it.

Executive Orders 12866 and 13563—Regulatory Review

This regulation has been drafted and reviewed in accordance with Executive Order 12866 (''Regulatory Planning and Review''), section 1(b) (''The Principles of Regulation''), and in accordance with Executive Order 13563 (''Improving Regulation and Regulatory Review''), section 1 (''General Principles of Regulation'').

The Department of Justice has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866, section 3(f), and accordingly this rule has not been reviewed by the Office of Management and Budget.

Both 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). This final rule, however, makes nondiscretionary adjustments to existing civil monetary penalties, and the Department is required to promulgate these adjustments in accordance with the formulas prescribed by statute. The Department therefore does not have the flexibility to alter the adjustments of the civil monetary penalty amounts as provided in this rule.

Executive Order 13132—Federalism

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 it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988—Civil Justice Reform

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

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 were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

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, 5 U.S.C. 804. It 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 on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

List of Subjects

28 CFR Part 36

Administrative practice and procedure, Alcoholism, Americans with disabilities, Buildings, Business and industry, Civil rights, Consumer protection, Drug abuse, Handicapped, Historic preservation, Penalties, Reporting and recordkeeping requirements.

28 CFR Part 85

Penalties.

Accordingly, for the reasons set forth in the preamble, chapter I of Title 28 of the Code of Federal Regulations is amended as follows:

PART 36—NONDISCRIMINATION ON THE BASIS OF DISABILITY BY PUBLIC ACCOMMODATIONS AND IN COMMERCIAL FACILITIES

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

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510; 42 U.S.C. 12188(b); Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321.

■ 2. Section 36.504 is amended by revising paragraphs (a)(3)(i) and (ii) to read as follows:

§ 36.504 Relief.

(a) * * *

(3) * * *

(i) Not exceeding $50,000 for a first violation occurring before September 29, 1999, and not exceeding $55,000 for a first violation occurring on or after September 29, 1999, and before April 28, 2014, and not exceeding $75,000 for a first violation occurring on or after April 28, 2014.

(ii) Not exceeding $100,000 for any subsequent violation occurring before September 29, 1999, and not exceeding $110,000 for any subsequent violation occurring on or after September 29, 1999, and before April 28, 2014, and not exceeding $150,000 for any subsequent violation occurring on or after April 28, 2014.

* * * * *

PART 85—CIVIL MONETARY PENALTIES INFLATION ADJUSTMENT

■ 3. The authority citation for part 85 continues to read as follows:

Authority: 5 U.S.C. 301, 28 U.S.C. 503; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321.

■ 4. Section 85.3 is amended by revising the introductory text and paragraph (b) to read as follows:

§ 85.3 Adjustments to penalties.

The civil monetary penalties provided by law within the jurisdiction of the respective components of the Department, as set forth in paragraphs (a) through (d) of this section, are adjusted in accordance with the inflation adjustment procedures prescribed in section 5 of the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, as follows. The adjusted penalties set forth in paragraphs (a), (c), and (d) of this section are effective for violations occurring on or after September 29, 1999.

* * * * *

(b) Civil Rights Division. (1) 18 U.S.C. 248(c)(2)(B), Freedom of Access to Clinic Entrances Act of 1994 (Nonviolent Physical Obstruction):

(i) The civil monetary penalty amount for a first order for nonviolent physical obstruction, initially set at $10,000, is adjusted to $11,000 for a violation occurring on or after September 29, 1999, and before April 28, 2014, and is adjusted to $16,000 for a violation occurring on or after April 28, 2014.

(ii) The civil monetary penalty amount for a subsequent order for nonviolent physical obstruction, initially set at $15,000, is adjusted to $16,500 for a violation occurring on or after April 28, 2014.

(2) 18 U.S.C. 248(c)(2)(B), Freedom of Access to Clinic Entrances Act of 1994 (Other Violations):

(i) The civil monetary penalty amount for a first order other than for nonviolent physical obstruction, initially set at $15,000, is adjusted to $16,500 for a violation occurring on or after April 28, 2014.

(ii) The civil monetary penalty amount for a subsequent order other than for nonviolent physical obstruction, initially set at $25,000, is adjusted to $27,500 for a violation occurring on or after September 29, 1999, and before April 28, 2014, and is adjusted to $37,500 for a violation occurring on or after April 28, 2014.

(3) 42 U.S.C. 3614(d)(1)(C), Fair Housing Act of 1968, as amended (Pattern or Practice Violation):

(i) The civil monetary penalty amount for a first order, initially set at $50,000, is adjusted to $55,000 for a violation occurring on or after September 29, 1999, and before April 28, 2014, and is adjusted to $75,000 for a violation occurring on or after April 28, 2014.

(ii) The civil monetary penalty amount for a subsequent order, initially set at $100,000, is adjusted to $110,000 for a violation occurring on or after September 29, 1999, and before April 28, 2014, and is adjusted to $150,000 for a violation occurring on or after April 28, 2014.

(4) 50 U.S.C. App. 597(b)(3), Servicemembers Civil Relief Act of 2003, as amended:

(i) The civil monetary penalty amount for a first violation, initially set at $55,000, is adjusted to $60,000 for a violation occurring on or after April 28, 2014.

(ii) The civil monetary penalty amount for a subsequent violation, initially set at $110,000, is adjusted to $120,000 for a violation occurring on or after April 28, 2014.

* * * * *

Dated: March 21, 2014.

Eric H. Holder, Jr.,

Attorney General.

[FR Doc. 2014–06979 Filed 3–27–14; 8:45 am]

BILLING CODE 4410–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2012–0926; FRL–9907–61]

S-metolachlor; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation amends tolerances for residues of S-metolachlor in or on corn, field, forage; corn, field, stover; corn, pop, stover; corn, sweet, forage; and corn, sweet, stover. Syngenta Crop Protection, LLC, requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective March 28, 2014. Objections and requests for hearings must be received on or before May 27, 2014, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2012–0926, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and

the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT: Lois Rossi, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2012–0926 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before May 27, 2014. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2012–0926, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html*. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets*.

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of January 16, 2013 (78 FR 3377) (FRL–9375–4), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 2F8155) by Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419. The petition requested that 40 CFR 180.368 be amended by revising previously established tolerances for residues of the herbicide S-metolachlor, S-2-chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methylethyl)acetamide, in or on corn, field, forage at 20 parts per million (ppm); corn, stover at 40 ppm; and corn, sweet, forage at 40 ppm. These tolerances were proposed in order to amend tolerances previously established on these commodities at 6.0 ppm. That document referenced a summary of the petition prepared by Syngenta Crop Protection, LLC, the registrant, which is available in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has revised the proposed tolerance level for corn, field, forage and has corrected the proposed commodity definition, corn stover, to the following commodity designations: Corn, field, stover; corn, pop, stover; and corn, sweet, stover. The reasons for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

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

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

A. Toxicological Profile

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

The existing toxicological database is primarily comprised of studies conducted with metolachlor. However, bridging studies indicate that the metolachlor toxicology database can be used to assess toxicity for S-metolachlor. In subchronic (metolachlor and S-metolachlor) and chronic (metolachlor) toxicity studies in dogs and rats, decreased body weight and

body weight gain were the most commonly observed effects. No systemic toxicity was observed when metolachlor was administered dermally. There was no evidence of neurotoxic effects in the available toxicity studies, and there is no evidence of immunotoxicity in the submitted rat immunotoxicity study. Prenatal developmental studies in the rat and rabbit with both metolachlor and S-metolachlor revealed no evidence of a qualitative or quantitative susceptibility in fetal animals. A 2-generation reproduction study with metolachlor in rats showed no evidence of parental or reproductive toxicity. There are no residual uncertainties with regard to pre- and/or postnatal toxicity.

Metolachlor has been evaluated for carcinogenic effects in the mouse and the rat. Metolachlor did not cause an increase in tumors of any kind in mice. In rats, metolachlor caused an increase in benign liver tumors in rats, but this increase was seen only at the highest dose tested and was statistically significant compared to controls only in females. There was no evidence of mutagenic or cytogenetic effects *in vivo* or *in vitro.* Based on this evidence, EPA has concluded that metolachlor does not have a common mechanism of carcinogenicity with acetochlor and alachlor, compounds that are structurally similar to metolachlor. Taking into account the qualitatively weak evidence on carcinogenic effects and the fact that the increase in benign tumors in female rats occurs at a dose 1,500 times the chronic reference dose (cRfD), EPA has concluded that the cRfD is protective of any potential cancer effect.

Specific information on the studies received and the nature of the adverse effects caused by S-metolachlor as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document: ''S-Metolachlor, PP#2F8115. Human Health Risk Assessment for the petition for higher tolerances on Corn, field, forage; Corn, sweet, forage; and Corn stover'' at pp. 34–46 in docket ID number EPA–HQ–OPP–2012–0926.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.* A summary of the toxicological endpoints for S-metolachlor used for human risk assessment is discussed in Unit III. of the final rule published in the **Federal Register** of September 17, 2010 (75 FR 56897, p. 56899) (FRL–8842–3).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to S-metolachlor, EPA considered exposure under the petitioned-for tolerances as well as all existing S-metolachlor tolerances in 40 CFR 180.368. Both the acute and chronic analyses assume tolerance-level residues on all crops with established, pending, or proposed tolerances for metolachlor and/or S-metolachlor. In cases where separate tolerance listings occur for both metolachlor and S-metolachlor on the same commodity, the higher value of the two is used in the analyses. Therefore, EPA assessed dietary exposures from S-metolachlor in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for S-metolachlor. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture's (USDA) Nationwide Continuing Surveys of Food Intake by Individuals (CSFII), 1994–1996 and 1998. As to residue levels in food, EPA assumed tolerance-level residues for all uses, 100 percent crop treated (PCT) for all commodities, and default processing factors.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA's Nationwide CSFII, 1994–1996 and 1998. As to residue levels in food, EPA assumed tolerance-level residues for all uses, 100 PCT for all commodities, and default processing factors.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that a non-linear RfD approach is appropriate for assessing cancer risk to S-metolachlor. Cancer risk was assessed using the same exposure estimates as discussed in Unit III.C.1.ii.

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

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

Based on the First Index Reservoir Screening Tool (FIRST), Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS), Screening Concentration in Ground Water (SCI–GROW) models, and the USGA National Water-Quality Assessment (NAWQA) Program monitoring data, the Agency calculated conservative estimated drinking water concentrations (EDWCs) of S-metolachlor and metolachlor originating from ground water and surface water sources. EDWCs for metolachlor and S-metolachlor were calculated for both the parent compound, as well as the ethanesulfonic acid (ESA) and oxanilic acid (OA) degradates.

For surface water, PRZM/EXAMS and FIRST Version1.1.1 models were used for EDWCs for the parent S-metolachlor and the ESA and OA degradates, respectively. The SCI–GROW model was used to predict the maximum acute and chronic concentrations present in shallow groundwater. Current NAWQA monitoring data were also used to determine EDWCs. Based on monitoring and modeling data, total EDWCs for acute and chronic exposures from surface water are 219 parts per billion

(ppb) and 119 ppb, respectively. Groundwater EDWCs are 126 ppb for acute and chronic exposures for non-cancer assessments.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 219 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 126 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). S-metolachlor is currently registered for the following uses that could result in residential exposures: Residential lawns or turf by professional applicators. S-metolachlor is labeled for use on commercial (sod farm) and residential warm-season turf grasses and other non-crop land including golf courses, sports fields, and ornamental gardens. Since S-metolachlor is not registered for homeowner purchase or use, the only potential short-term residential risk scenario anticipated is postapplication hand-to-mouth exposure of children playing on treated lawns. S-metolachlor incidental oral exposure is assumed to include hand-to-mouth, object-to-mouth, and incidental soil ingestion exposures. No intermediate-term risk scenarios are anticipated for the existing and proposed uses of S-metolachlor.

Small children are the population group of concern. Although the type of site that S-metolachlor may be used on varies from golf courses to ornamental gardens, the scenario chosen for risk assessment (residential turf use) represents what the Agency considers the likely upper-end of possible exposure. Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf*.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' EPA has not found S-metolachlor to share a common mechanism of toxicity with any other substances, and S-metolachlor does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that S-metolachlor does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity.* No increase in susceptibility was seen in developmental toxicity studies in the rat and rabbit or in the reproductive toxicity studies in the rat. Toxicity to offspring was observed at dose levels the same or greater than those causing maternal or parental toxicity. Based on the results of developmental and reproductive toxicity studies, there is not a concern for increased qualitative and/or quantitative susceptibility following *in utero* exposure to metolachlor or S-metolachlor.

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

i. The toxicity database for S-metolachlor is complete to evaluate the safety of the tolerance.

The last rule for S-metolachlor, published in the **Federal Register** of August 15, 2012 (77 FR 48902) (FRL–9356–9), noted that immunotoxicity and acute and subchronic neurotoxicity studies were required. However, since that time, EPA has reviewed the available hazard and exposure information for S-metolachlor and metolachlor and has determined that based on the weight of the evidence approach the acute and subchronic neurotoxicity studies are no longer required. Additionally, an immunotoxicity study has been submitted to EPA since the last published rule. No signs of immunotoxicity were noted in this study at any dose level.

ii. There is no indication that S-metolachlor is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional uncertainty factors to account for neurotoxicity.

iii. There is no evidence that S-metolachlor results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to S-metolachlor in drinking water. EPA used similarly conservative assumptions to assess postapplication incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by S-metolachlor.

E. Aggregate Risks and Determination of Safety

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

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to S-metolachlor will occupy 1.5% of the aPAD for all infants less than 1 year old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to S-metolachlor from food and water will utilize 11.6% of the cPAD for all infants less than 1 year old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic

residential exposure to residues of S-metolachlor is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). S-metolachlor is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to S-metolachlor.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in an aggregate MOE of 680 for children 1–2 years old. Because EPA's level of concern for S-metolachlor is a MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). An intermediate-term adverse effect was identified; however, S-metolachlor is not registered for any use patterns that would result in intermediate-term residential exposure. Intermediate-term risk is assessed based on intermediate-term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for S-metolachlor.

5. *Aggregate cancer risk for U.S. population.* As explained in Unit III.A., EPA has concluded that the cRfD is protective of cancer effects. As previously discussed, the chronic risk assessment indicated that aggregate exposure to S-metolachlor does not pose a risk of concern.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodologies are available to enforce the tolerance expression, including: a gas chromatography with nitrogen phosphorous detector (GC/NPD) method (Method I) for determining residues in or on crop commodities; and a gas chromatography with mass spectroscopy detector (GC/MSD) method (Method II) for determining residues in livestock commodities.

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

B. International Residue Limits

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

The Codex has not established MRLs for S-metolachlor.

C. Revisions to Petitioned-For Tolerances

Based on the available forage residue data submitted with the petition, EPA revised the proposed tolerance on corn, field, forage from 20 ppm to 40 ppm. The available data indicate that 20 ppm would not be sufficient to cover likely residues in corn, field, forage at approved application rates; a tolerance at 40 ppm is supported by the available residue data. Additionally, the proposed tolerance for corn stover has been revised to the following commodity entries: Corn, field, stover; corn, pop, stover; and corn, sweet, stover. This revision was made in order to accurately capture the correct commodity terminology for regulated corn stover commodities.

V. Conclusion

Therefore, tolerances are amended for residues of S-metolachlor, S-2-chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methylethyl)acetamide, from 6.0 ppm to 40 ppm in or on the following commodities: Corn, field, forage; corn, field, stover; corn, pop, stover; corn, sweet, forage; and corn, sweet, stover.

VI. Statutory and Executive Order Reviews

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

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

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian

Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

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

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: March 21, 2014.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.368, revise the following entries in the table in paragraph (a)(2) to read as follows:

§ 180.368 Metolachlor; tolerances for residues.

(a) * * *

(2) * * *

Commodity	Parts per million
* * * * *	
Corn, field, forage	40
Corn, field, stover	40
* * * * *	
Corn, pop, stover	40
Corn, sweet, forage	40
* * * * *	
Corn, sweet, stover	40
* * * * *	

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[FR Doc. 2014–07006 Filed 3–27–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2005–0011; FRL–9908–65-Region 5]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List: Deletion of the Eau Claire Municipal Well Field Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) Region 5 is publishing a direct final notice of deletion of the Eau Claire Municipal Well Field Superfund Site (Site) located in Eau Claire, Wisconsin, from the National Priorities List (NPL). The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Wisconsin, through the Wisconsin Department of Natural Resources (WDNR), because EPA has determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This direct final deletion is effective May 27, 2014 unless EPA receives adverse comments by April 28, 2014. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–2005–0011, by one of the following methods:

- *http://www.regulations.gov.* Follow online instructions for submitting comments.
- Email: Howard Caine, Remedial Project Manager, at *howard.caine@epa.gov* or Susan Pastor, Community Involvement Coordinator, at *pastor.susan@epa.gov.*
- Fax: Gladys Beard, NPL Deletion Process Manager at (312) 886–4071.
- Mail: Howard Caine, Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 353–9685, or Susan Pastor, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 353–1325 or (800) 621–8431.
- Hand delivery: Susan Pastor, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 West Jackson Boulevard, Chicago, IL 60604. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The normal business hours are Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–2005–0011. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

• U.S. Environmental Protection Agency-Region 5, 77 West Jackson Boulevard, Chicago, IL 60604, Phone: (312) 353–1063.

Hours: Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.

• L.E. Phillips Memorial Public Library, 400 Eau Claire St., Eau Claire, WI 54701. Phone: (715) 839–5004.

Hours: Monday through Thursday, 10:00 a.m. to 9: 00 p.m., Friday 10:00 a.m. to 6:00 p.m., Saturday 10:00 a.m. to 5:00 p.m., Sunday 1:00 p.m. to 5:00 p.m. However, the library is closed every Sunday from May 26–September 1.

FOR FURTHER INFORMATION CONTACT: Howard Caine, Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–5787, or *caine.howard@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

EPA Region 5 is publishing this Direct Final Notice of Deletion of the Eau Claire Municipal Well Field Superfund Site from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). This deletion of the Eau Claire Municipal Well Field Superfund Site is proposed in accordance with 40 CFR 300.425(e) and is consistent with the Notice of Policy Change: Deletion of Sites on the National Priorities List, (49 FR 37070), 09/21/1984. As described in 300.425(e) (3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

Because EPA considers this action to be noncontroversial and routine, this action will be effective May 27, 2014 unless EPA receives adverse comments by April 28, 2014. Along with this Direct Final Notice of Deletion, EPA is co-publishing a Notice of Intent to Delete in the ''*Proposed Rules*'' section of the **Federal Register**. If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion, and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Eau Claire Municipal Well Field Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA Section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA may conduct such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Eau Claire Municipal Well Field Site:

(1) EPA consulted with the State of Wisconsin prior to developing this direct final Notice of Deletion and the Notice of Intent to Delete co-published today in the *''Proposed Rules''* section of the **Federal Register**.

(2) EPA has provided the State thirty (30) working days for review of this notice and the parallel Notice of Intent to Delete prior to their publication today, and the State, through the WDNR, has concurred on the deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final Notice of Deletion, a notice of the availability of the parallel Notice of Intent to Delete is being published in a major local newspaper, ''Eau Claire Leader Telegram''. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.

(4) EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not

in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Eau Claire Municipal Well Field Superfund Site from the NPL.

Site Background and History

The Eau Claire Municipal Well Field (ECMWF) site (CERCLIS ID: WID980820054) is located in Chippewa County in the Chippewa River Valley, east of the Chippewa River and approximately 2.5 miles west of the National Presto Industries (NPI) site. The ECMWF site consists of 15 municipal groundwater wells in two adjoining well fields (five in the north well field and ten in the south) that provide drinking water to approximately 60,000 residential and commercial users. All municipal wells are installed in the glacial outwash sand and gravel aquifer. In addition to these municipal wells, a number of private wells previously drew drinking water from this sand and gravel aquifer. The sand and gravel aquifer is hydraulically connected to an underlying sandstone aquifer, which is not used extensively in the area due to its low hydraulic conductivity and the water's poor aesthetic qualities. The well field is about a mile long and trends generally in a north-south direction. The ECMWF site has been used as a well field by the city for over the past 70 years. According to city personnel, prior to that time it was forested land. Current land use in the surrounding area is primarily residential, with a small park to the south and the Eau Claire airport located about one-quarter mile east of the northern portion of the city well field. It is anticipated that these land uses will continue into the foreseeable future.

In March 1981, as part of the U.S. EPA Groundwater Supply Survey, the WDNR tested the Eau Claire municipal water supply for volatile organic compounds (VOCs). Trichloroethene (TCE), 1,1-dichloroethene (1,1–DCE), 1,1-dichloroethane (1,1–DCA), and 1,1,1-trichloroethane (1,1,1–TCA) were detected in samples collected from the north well field. The WDNR informed the city of Eau Claire that the concentrations for each of the VOCs detected were below Wisconsin groundwater standards. In addition to monitoring individual municipal production wells, the city began testing private residential wells located immediately northeast of the well field. VOCs were subsequently detected in several of the residential wells sampled at levels above Wisconsin groundwater standards.

Remedial Investigation and Feasibility Study

EPA initiated a Remedial Investigation/Feasibility Study (RI/FS) at the ECMWF site in October 1984. Based on groundwater monitoring data from private wells and monitoring wells installed as part of the field investigation, the ECMWF RI identified two distinct plumes of contamination at the site, separated by a gap of approximately 1,700 feet at the Eau Claire County Airport. The ECMWF RI did not confirm the source of the groundwater contamination at the well field but suggested that the nearby National Presto Industries (NPI) property (which later became a Superfund site) could be a potential source of the groundwater contamination at the ECMWF site. Data generated during the NPI RI clearly established that waste disposal areas at the NPI site were the source of TCE contamination at the ECMWF site, and indeed, continued to release contaminants to groundwater. A separate action was taken at NPI and cleanup at the NPI site is still ongoing.

Record of Decision Findings

On June 10, 1985, EPA issued a Record of Decision (ROD) that selected a packed column air stripper as an Initial Remedial Measure (IRM) to address contamination at the ECMWF site. During the first month of operation (August 1987), influent to the air strippers was sampled and analyzed weekly for VOCs. Influent and effluent have been tested monthly thereafter. Influent and effluent samples are analyzed for VOCs according to modified Method 601 of 40 CFR part 136 by the city of Eau Claire.

Following the completion of the RI/FS, EPA issued the final ROD for the ECMWF site on March 31, 1988. The major components of the selected remedy were:

- Continued treatment of contaminated municipal water with the air stripper constructed as the IRM;
- provision of municipal water from the city of Eau Claire to private well users within or near the two plumes of groundwater contamination identified during the RI;
- installation of groundwater extraction wells in one of the two plumes of contamination; and
- discharge of untreated groundwater from extraction wells to the Chippewa River. WDNR concurred with the remedy selected by EPA for the ECMWF site. The remedies for the ECMWF site were developed to meet the following Remedial Action Objectives (RAOs):
- Prevent human ingestion of contaminated groundwater,
- Prevent inhalation of contaminants from the groundwater, and
- Restore the contaminated aquifer to water quality objectives that are protective of beneficial use within a reasonable timeframe.

Explanation of Significant Differences

After EPA issued the ECMWF site final ROD, WDNR determined that the discharge of untreated groundwater from the proposed extraction wells into the Chippewa River would not comply with Wisconsin Statute, Chapter 283, Pollution Discharge Elimination. As a result, two of the components of the ECMWF site remedy, installation of extraction wells and the discharge of untreated water, were never fully implemented. The lack of extraction wells, however, did not fundamentally alter the selected ECMWF remedy. EPA issued an Explanation of Significant Differences (ESD) in 2008 to document that these measures were not implemented and would not be implemented in the future.

The 1988 ROD states that ''EPA will clean up the groundwater to non-detect for these compounds and continue to pump and treat for a period of time beyond the non-detect to assure that the target compound limits (TCLs) have been reached.'' The target cumulative carcinogenic risk for the site was set at 1×10^{-6} excess lifetime cancer risk (ELCR) and apportioned across several of the site's VOC groundwater contaminants. In order to provide the desired protectiveness, the TCLs needed to be lower than federal drinking water standards (maximum contaminant levels (MCLs) under the Safe Drinking Water Act (SDWA)).

EPA and WDNR reviewed the cleanup goals upon conclusion of the 2007 Five-Year Review. The 1988 ROD had developed TCLs as groundwater cleanup goals at the ECMWF site. However, in 1985 Wisconsin had promulgated Groundwater Quality regulations in the Wisconsin Administrative Code (WAC), Chapter 140 (NR 140). An ESD was signed on December 23, 2009, to update the groundwater cleanup goals to incorporate NR 140. NR 140 provides

two types of standards that are to be followed. One is the Preventive Action Limits (PALs) and the other is the Enforcement Standards (ES). WDNR concurred with the ESD which adopted enforcement standards as the groundwater cleanup goal.

Construction Activities

On behalf of EPA, the U.S. Army Corps of Engineers completed construction of the air stripper in June 1987 and the system became operational in August 1987. The city of Eau Claire operates the air stripper as a part of its drinking water distribution operations. The air stripper has been in constant operation since completion of the interim remedial action in 1987. A permanent municipal water supply has been provided to affected private well owners in the city of Eau Claire, and a permanent municipal water supply was constructed and is operating in the Town of Hallie which provides its residents with drinking water.

On April 25, 1989, EPA issued a Section 106 Administrative Order to the NPI PRPs to execute remedial action tasks consistent with the ECMWF final ROD and the data generated in the NPI RI. These activities included implementation of a temporary bottled water distribution program for those in the affected area in and adjacent to the redefined Plume 2. NPI was also required to conduct a Phased Feasibility Study (PFS) to identify and reevaluate options for a permanent alternate drinking water supply for the affected area. To ensure consistency with the ECMWF final ROD, bottled water was to be made available to all private well users in the affected area until a permanent and uncontaminated drinking water supply was fully implemented and operational.

On August 1, 1990, EPA issued a ROD for the NPI site selecting a permanent drinking water supply for the affected area in and around the redefined Plume 2. Under this ROD, the city of Eau Claire would extend its municipal service to those portions of the affected area which had been annexed to the city. The remaining portions of the affected area were to be serviced by a newly created Hallie Sanitary District (District).

The city of Eau Claire hookups were completed by November 1991. The first service connections to the District were completed in December 1991 and by mid-summer 1992 the District was fully operational and servicing the affected area within the Town of Hallie.

EPA conducted a pre-certification inspection of the District on August 19, 1992. Upon completion of the certification process by the Agency and satisfaction of the terms of the Administrative Order, the District assumed full control and responsibility, including operation and maintenance, of its drinking water system.

Remediation of off-site groundwater, including Plume 1–2 which migrated from the NPI site to the ECMWF site, was addressed in the final FS for the NPI site in conjunction with remediation of on-site source areas in the southwest corner of the NPI site. NPI also implemented an interim action for on-site plume containment pursuant to a third Section 106 Administrative Order issued to NPI on July 2, 1992. This action was designed to be consistent with the final cleanup action for the NPI site by preventing the off-site movement of contaminated groundwater through extraction and treatment. This alternative was selected in an Interim Action ROD issued for the NPI site by EPA on September 30, 1992.

The city of Eau Claire has annexed and extended municipal water service to private well owners in the area that could have been subject to impacts from the contaminated groundwater originating from the NPI site. NPI paid for the construction of two air stripping towers at the ECMWF and continues to pay for their operation. The purpose of the towers is to remove the very low concentrations, even below federal drinking water standards, of volatile organic compounds in the groundwater withdrawn by the city wells and to ensure a safe drinking water supply for the city. These engineered controls appear to be effective in their goal of protecting human health and the environment.

Institutional Controls

Institutional Controls (ICs) were required at the ECMWF site in order to ensure the protectiveness of the remedy. ICs are non-engineered instruments, such as administrative and/or legal controls, that help minimize the potential for exposure to contamination and protect the integrity of the remedy. Compliance with ICs is required to assure long-term protectiveness for any areas that do not allow for unlimited use or unrestricted exposure (UU/UE).

The ROD for the ECMWF site did not identify the need for ICs. However, the 1996 ROD for NPI acknowledges that ICs are required to ensure protectiveness of the final site-wide remedy until Plume 1–2, which impacts the ECMWF, meets the groundwater cleanup goals. Residences in the affected area who have received municipal water are still allowed to use private wells for other purposes, such as irrigation and car washing as long as there is no connection to indoor plumbing. To use these private wells, property owners must submit applications for annual permits to either the City of Eau Claire's Health Department or the Hallie Sanitary District.

The City of Eau Claire (City), Village of Lake Hallie (formerly known as the Town of Hallie), and Chippewa County have all passed ordinances to protect citizens from impacted groundwater. The City has an ordinance that bans cross connections between private water supply wells and the municipal supply. The City has also annexed properties that are within and near the identified boundaries of the NPI plume(s) in Chippewa County and provided those properties with municipal water. The City recently enacted an ordinance that restricts the construction of new private water supply wells within the City, as well as requiring the abandonment of existing supply wells. The WDNR has promulgated Chapters NR 809 and NR 811 of the Wisconsin Administrative Code, which regulate safe drinking water and the design and operation of municipal water systems, respectively. The key part of this code, as it pertains to ECMWF site, is its prohibition against cross connections and its requirement of adequate separation of potable wells from sources of contamination.

The ordinances and administrative codes enacted by the local municipalities, counties, and the state provide a strong and effective framework for protection of the local citizens against consumption of contaminated groundwater from NPI and ECMWF until the cleanup goals are attained in all plumes.

Cleanup Goals

Recent data indicates that the levels of TCE in Plume 1–2 have declined and are meeting the Wisconsin enforcement standard of 5 ppb, except for 5 groundwater monitoring wells associated with the NPI site, which exceed the enforcement standard. One of these groundwater monitoring wells is located on the NPI site property and is significantly above the enforcement standard; two groundwater monitoring wells are west of the NPI site along North Hastings Way and measures TCE between 5–6 ppb; and two groundwater monitoring wells located at and near the airport measure TCE between 5–6 ppb.

Groundwater monitoring wells on the ECMWF site, as well as the production wells, all show TCE below the enforcement standard of 5 ppb. A review of the monthly production well data by ECMWF for wells 10, 11, 15, 16, 17 and 19 shows that the TCE has not been detected except for well 19. This

well does detect TCE consistently, but it is below the enforcement standard of 5 ppb. The blended production well water entering the air stripper is non-detect for any VOCs. The detection limit used by the city in its analyses is 0.7 ppb TCE. As a result, the implemented remedy at the ECMWF site has achieved the degree of cleanup as specified in the decision documents for all pathways of exposure.

Operation and Maintenance

Operation and maintenance (O&M) requirements outlined in the O&M Plan for the IRM were: (1) Routine maintenance of the air stripper as described in the manufacturer's manual; and (2) sampling and analysis requirements of stripper influent and effluent, as previously discussed. TCE, 1,1–DCE, 1,1–DCA, 1,1,1–TCA and tetrachloroethene (PCE) are monitored regularly by the city of Eau Claire to ensure compliance with Wisconsin Enforcement Standards and the Safe Drinking Water Act Maximum Contaminant Limits (MCLs) for drinking water.

Five-Year Review

EPA conducted four five-year reviews at this site; the last report was dated July 17, 2012. EPA, in consultation with the Wisconsin Department of Natural Resources (WDNR), determined that the cleanup remedy at the ECMWF site is protective of human health and the environment because cleanup standards have been met at the site. Additionally, exposure pathways from the NPI site that could result in unacceptable risks are being controlled through the use of ICs. EPA has also determined that the air strippers at ECMWF can be taken off-line as the groundwater entering the city's well field has met the cleanup standards for over 5 years and is not expected to exceed the standards in the future. The city of Eau Claire has chosen to keep the air strippers on-line in the short term, although they may turn off the air strippers at a future date. Since unlimited use/unrestricted exposure has been met at the ECMWF site, future five-year reviews are not required.

Community Involvement

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion of this site from the NPL are available to the public in the information repositories and at *www.regulations.gov.*

Determination That the Site Meets the Criteria for Deletion in the NCP

The NCP (40 CFR 300.425(e)) states that a site may be deleted from the NPL when no further response action is appropriate. EPA, in consultation with the State of Wisconsin, has determined that all required response actions have been implemented and no further response action by the responsible parties is appropriate.

V. Deletion Action

EPA, with concurrence from the State of Wisconsin through the WDNR, has determined that all appropriate response actions under CERCLA have been completed. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective May 27, 2014 unless EPA receives adverse comments by April 28, 2014. If adverse comments are received during the comment period, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion, and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Radiation protection, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: March 3, 2014.

Susan Hedman,

Regional Administrator, Region 5.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B to Part 300—[Amended]

■ 2. Table 1 of Appendix B to part 300 is amended by removing the entry for ''WI'', ''Eau Claire Municipal Well Field'', ''Eau Claire''.

[FR Doc. 2014–06817 Filed 3–27–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 209, 225, and 252

Defense Federal Acquisition Regulation Supplement; Technical Amendments

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

ACTION: Final rule.

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

DATES: *Effective* March 28, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Manuel Quinones, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6088; facsimile 571–372–6094.

SUPPLEMENTARY INFORMATION: This final rule amends the DFARS as follows:

1. Correct 209.105–1(1) conform to the implementation of the System for Award Management (SAM).

2. Correct 225.7003–3 to update cross-references to DFARS Procedures, Guidance, and Information.

3. Correct 252.204–7007(d)(2) to remove obsolete text and update the clause date.

4. Correct 252.209–7004 to conform to the System for Award Management (SAM) and update the clause date.

List of Subjects in 48 CFR Parts 209, 225, and 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 209, 225, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 209, 225, and 252 continues to read as follows:

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

PART 209—CONTRACTOR QUALIFICATIONS

209.105–1 [Amended]

■ 2. Section 209.105–1 paragraph (1) is amended by removing ''System for Award Management Exclusions'' and adding ''Exclusions section of the System for Award Management'' in its place.

PART 225—FOREIGN ACQUISITION

225.7003–3 [Amended]

■ 3. Section 225.7003–3 is amended by—

■ a. Removing the introductory text;

■ b. In paragraph (c)(2), removing ''PGI 225.7003–3'' and adding ''PGI 225.7003–3(c)'' in its place; and

■ c. In the introductory text of paragraph (d), removing ''PGI 225.7003–3'' and adding ''PGI 225.7003–3(d)'' in its place.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Section 252.204–7007 is amended by—

■ a. Removing the clause date ''(MAY 2013)'' and adding ''(MAR 2014)'' in its place.

■ b. Revising paragraph (d)(2) to read as follows:

252.204–7007 Alternate A, Annual Representations and Certifications.

* * * * *

(d) * * *

(2) The following representations or certifications in SAM are applicable to this solicitation as indicated by the Contracting Officer: [*Contracting Officer check as appropriate.*]

____(i) 252.209–7002, Disclosure of Ownership or Control by a Foreign Government.

____(ii) 252.225–7000, Buy American—Balance of Payments Program Certificate.

____(iii) 252.225–7020, Trade Agreements Certificate.

____Use with Alternate I.

____(iv) 252.225–7031, Secondary Arab Boycott of Israel.

____(v) 252.225–7035, Buy American—Free Trade Agreements—Balance of Payments Program Certificate.

____Use with Alternate I.

____Use with Alternate II.

____Use with Alternate III.

____Use with Alternate IV.

____Use with Alternate V.

* * * * *

■ 5. Section 252.209–7004 is amended by—

■ a. Removing the clause date ''(DEC 2006)'' and adding ''(MAR 2014)'' in its place; and

■ b. In paragraph (a), removing ''Excluded Parties List'' and adding ''Exclusions section of the System for Award Management'' in its place.

[FR Doc. 2014–07003 Filed 3–27–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 212

RIN 0750–AI28

Defense Federal Acquisition Regulation Supplement: Extension of Pilot Program on Acquisition of Military-Purpose Nondevelopmental Items (DFARS Case 2014–D007)

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

ACTION: Final rule.

SUMMARY: DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2014. This rule extends the expiration date of the pilot program for acquisition of military-purpose nondevelopmental items.

DATES: Effective March 28, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Annette Gray, telephone 571–372–6093.

SUPPLEMENTARY INFORMATION:

I. Background

Section 866 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2011 (Pub. L. 111–383), enacted on January 7, 2011, authorized the Secretary of Defense to carry out a pilot program to assess the feasibility and advisability of acquiring military-purpose nondevelopmental items in accordance with the streamlined procedures of the pilot program. Under this pilot program, DoD may enter into contracts with nontraditional defense contractors for the purpose of enabling DoD to acquire items that otherwise might not have been available to DoD, assist DoD in the rapid acquisition and fielding of capabilities needed to meet urgent operational needs, and protect the interests of the United States in paying fair and reasonable prices for the item or items acquired.

This pilot program is designed to test whether the streamlined procedures, similar to those available for commercial items, can serve as an effective incentive for nontraditional defense contractors to (1) channel investment and innovation into areas that are useful to DoD and (2) provide items developed exclusively at private expense to meet validated military requirements.

This final rule amends DFARS subpart 212.71, Pilot Program for Acquisition of Military-Purpose Nondevelopmental Items, to implement section 814, Extension of Pilot Program of Military Purpose Nondevelomental Items, of the National Defense Authorization Act for FY 2014. This rule extends the authority for this pilot program from January 6, 2016, to December 31, 2019.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

''Publication of proposed regulations'', 41 U.S.C. 1707, is the statute that applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. Publication for public comment is not required because the rule does not have a significant effect beyond the internal operating procedures of DoD and does not have a significant cost or administrative impact on contractors or offerors as it merely extends the expiration date of an existing pilot program pursuant to statutory directive.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501–1, and 41 U.S.C. 1707 and does not require publication for public comment.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 212

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 212 is amended as follows:

PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 1. The authority citation for 48 CFR part 212 continues to read as follows:

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

212.7102–3 [Amended]

■ 2. Section 212.7102–3 is amended by removing ''January 6, 2016'' from paragraph (a) and adding in its place ''December 31, 2019''.

[FR Doc. 2014–06737 Filed 3–27–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 235 and 252

RIN 0750–AI10

Defense Federal Acquisition Regulation Supplement: Clauses With Alternates—Research and Development Contracting (DFARS Case 2013–D026)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to create an overarching prescription for a research and development-related clause with an alternate. The rule also includes separate prescriptions for the basic and alternate clause and includes the full text of the alternate clause.

DATES: Effective March 28, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Annette Gray, telephone 571–372–6093.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 78 FR 73475 on December 6, 2013, to amend the presentation of the DFARS part 235 clause with its alternate and their prescriptions. This final rule addresses the single clause affected, which is 252.235–7003, Frequency Authorization, and its alternate.

One public comment was received; however it was not related to the proposed rule and therefore not considered in drafting the final rule. Minor editorial changes were made to standardize language used in the final rule for the clause prescriptions and prefaces in order to provide uniform arrangement in the regulations.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* and is summarized as follows.

This final rule amends the Defense Federal Acquisition Regulation Supplement (DFARS) to create prescriptions for the basic version and the alternate of a DFARS part 235 solicitation and contract clause and to include the full text of the alternate clause.

The public did not raise any issues in response to the initial regulatory flexibility analysis. The Chief Counsel for Advocacy of the Small Business Administration did not submit any comments in response to the rule.

Potential offerors, including small businesses, may be affected by this rule by seeing an unfamiliar format for clause alternates in solicitations and contracts issued by DoD contracting activities. According to the Federal Procurement Data System, in fiscal year 2012, DoD made approximately 270,000 contract awards (not including modification and orders) that exceeded the micro-purchase threshold, of which approximately 180,000 (67%) were awarded to small businesses. It is unknown how many of these contracts were awarded that included an alternate to a DFARS provision or clause.

Nothing substantive will change in solicitations or contracts for potential offerors, and only the appearance of how clause alternates are presented in the solicitations and contracts will be changed. This rule may result in potential offerors, including small businesses, expending more time to become familiar with and to understand the new format of the clause alternates in full text contained in contracts issued by any DoD contracting activity. The rule also anticipates saving contractors time by making all paragraph substitutions from the basic version of the clause, and not requiring the contractors to read inapplicable paragraphs contained in the basic version of the clause. The overall burden caused by this rule is expected to be negligible and will not be any greater on small businesses than it is on large businesses.

This rule does not add any new information collection requirements. The rule does not duplicate, overlap, or conflict with any other Federal rules. No alternatives were identified that will accomplish the objectives of the rule.

IV. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 235 and 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 235 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 235 and 252 continues to read as follows:

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

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

■ 2. In section 235.072, revise paragraph (b) to read as follows:

235.072 Additional contract clauses.

* * * * *

(b) Use the basic or the alternate of the clause at 252.235–7003, Frequency Authorization, in solicitations and contracts for developing, producing, constructing, testing, or operating a device requiring a frequency authorization.

(1) Use the basic clause if agency procedures do not authorize the use of DD Form 1494, Application for Equipment Frequency Allocation, to obtain radio frequency authorization.

(2) Use the alternate I clause if agency procedures authorize the use of DD Form 1494, Application for Equipment Frequency Allocation, to obtain frequency authorization.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Amend section 252.235–7003 by—

■ a. Revising the introductory text, clause title and date; and

■ b. Revising Alternate I.

252.235–7003 Frequency authorization.

As prescribed in 235.072(b), use one of the following clauses:

Basic. As prescribed at 235.072(b)(1), use the following clause.

FREQUENCY AUTHORIZATION—BASIC (MAR 2014)

* * * * *

Alternate I. As prescribed at 235.072(b)(2), use the following clause, which uses a different paragraph (c) than the basic clause.

FREQUENCY AUTHORIZATION—ALTERNATE I (MAR 2014)

(a) The Contractor shall obtain authorization for radio frequencies required in support of this contract.

(b) For any experimental, developmental, or operational equipment for which the appropriate frequency allocation has not been made, the Contractor shall provide the technical operating characteristics of the proposed electromagnetic radiating device to the Contracting Officer during the initial planning, experimental, or developmental phase of contract performance.

(c) The Contractor shall use DD Form 1494, Application for Equipment Frequency Allocation, to obtain radio frequency authorization.

(d) The Contractor shall include this clause, including this paragraph (d), in all subcontracts requiring the development, production, construction, testing, or operation of a device for which a radio frequency authorization is required.

(End of clause)

[FR Doc. 2014–06736 Filed 3–27–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 246 and 252

RIN 0750–AH95

Defense Federal Acquisition Regulation Supplement: Clauses With Alternates—Quality Assurance (DFARS Case 2013–D004)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to create an overarching prescription for a quality assurance-related clause with two alternates. The rule also includes separate prescriptions for the basic and alternate clauses and includes the full text of each alternate.

DATES: Effective March 28, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Annette Gray, telephone 571–372–6093.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 78 FR 48407 on August 8, 2013, to revise the presentation of the DFARS part 246 clause with alternates and their prescriptions.

II. Discussion

This final rule addresses the single DFARS part 246 clause that has alternates. The affected clause is 252.246–7001, Warranty of Data, with two alternates. The naming convention results in new clause titles: Warranty of Data—Basic, Warranty of Data—Alternate I, and Warranty of Data—Alternate II.

No public comments were submitted in response to the proposed rule. Minor editorial changes were made in the final rule to standardize language used for the clause prescriptions and prefaces to provide uniform arrangement in the regulations.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* and is summarized as follows.

This final rule amends the Defense Federal Acquisition Regulation Supplement (DFARS) to (1) create an umbrella prescription for the elements common to the basic clause and both alternates, (2) create a specific prescription for the basic clause and each alternate clause that address only the requirements for their use of the alternate so that it is clear which is appropriate in a specific procurement, and (3) include the full text of the clause alternate. The inclusion of the full text of the alternate clause makes the terms clearer to offerors, and contractors, as well as to DoD contracting officers. The prescriptions are not revised in any way to change when the clause is applicable to offerors, contractors, or subcontractors.

No comments were received from the public in response to the initial regulatory flexibility analysis. The Chief Counsel for Advocacy of the Small Business Administration did not submit any comments in response to the rule.

Potential offerors, including small businesses, may be affected by this rule by seeing an unfamiliar format for clause alternates in solicitations and contracts issued by DoD contracting activities. According to the Federal Procurement Data System, in Fiscal Year 2012, DoD made approximately 270,000 contract awards (not including modification and orders) that exceeded the micro-purchase threshold, of which approximately 180,000 (67%) were awarded to small businesses. It is unknown how many of these contracts were awarded that included an alternate to a DFARS provision or clause. Nothing substantive will change in solicitations or contracts for potential offerors, and only the appearance of how clause alternates are presented in the solicitations and contracts will be changed. This rule may result in potential offerors, including small businesses, expending more time to become familiar with and to understand the new format of the clause alternates in full text contained in contracts issued

by any DoD contracting activity. The rule also anticipates saving contractors time by making all paragraph substitutions from the basic version of the clause, and not requiring the contractors to read inapplicable paragraphs contained in the basic version of the clause where alternates are also included in the solicitations and contracts. The overall burden caused by this rule is expected to be negligible and will not be any greater on small businesses than it is on large businesses.

This rule does not add any new information collection requirements. No alternatives were identified that will accomplish the objectives of the rule. This rule should not result in any significant economic impact on small entities.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 246 and 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 246 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 246 and 252 continues to read as follows:

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

PART 246—QUALITY ASSURANCE

■ 2. Amend section 246.710 by—
■ a. Removing paragraphs (2) and (3);
■ b. Redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively; and
■ c. Revising paragraph (1) to read as follows:

246.710 Contract clauses.

(1) Use a clause substantially the same as the basic or one of the alternates of the clause at 252.246–7001, Warranty of Data, in solicitations and contracts that include the clause at 252.227–7013, Rights in Technical Data and Computer Software, when there is a need for greater protection or period of liability than provided by the inspection and warranty clauses prescribed in FAR part 46.

(i) Use the basic clause in solicitations and contracts that are not firm-fixed price or fixed-price incentive.

(ii) Use alternate in fixed-price-incentive solicitations and contracts.

(iii) Use alternate II in firm-fixed-price solicitations and contracts.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Amend section 252.246–7001 by—
■ a. Revising the introductory text, clause title and date; and
■ b. Revising Alternate I and Alternate II.

Revised text reads as follows:

252.246–7001 Warranty of data.

As prescribed in 246.710(1), use one of the following clauses:

Basic. As prescribed at 246.710(1)(i), use the following clause.

WARRANTY OF DATA—BASIC (MAR 2014)

* * * * *

Alternate I. As prescribed in 246.710(1)(ii), use the following clause, which uses a different paragraph (d)(3) than the basic clause.

WARRANTY OF DATA—ALTERNATE I (MAR 2014)

(a) *Definition. Technical data* has the same meaning as given in the clause in this contract entitled ''Rights in Technical Data and Computer Software.''

(b) *Warranty.* Notwithstanding inspection and acceptance by the Government of technical data furnished under this contract, and notwithstanding any provision of this contract concerning the conclusiveness of acceptance, the Contractor warrants that all technical data delivered under this contract will at the time of delivery conform with the specifications and all other requirements of this contract. The warranty period shall extend for three years after completion of the delivery of the line item of data (as identified in DD Form 1423, Contract Data Requirements List) of which the data forms a part; or any longer period specified in the contract.

(c) *Contractor Notification.* The Contractor agrees to notify the Contracting Officer in writing immediately of any breach of the above warranty which the Contractor discovers within the warranty period.

(d) *Remedies.* The following remedies shall apply to all breaches of the warranty, whether the Contractor notifies the Contracting Officer in accordance with paragraph (c) of this clause or if the Government notifies the Contractor of the breach in writing within the warranty period:

(1) Within a reasonable time after such notification, the Contracting Officer may—

(i) By written notice, direct the Contractor to correct or replace at the Contractor's expense the nonconforming technical data promptly; or

(ii) If the Contracting Officer determines that the Government no longer has a requirement for correction or replacement of the data, or that the data can be more reasonably corrected by the Government, inform the Contractor by written notice that the Government elects a price or fee adjustment instead of correction or replacement.

(2) If the Contractor refuses or fails to comply with a direction under paragraph (d)(1)(i) of this clause, the Contracting Officer may, within a reasonable time of the refusal or failure—

(i) By contract or otherwise, correct or replace the nonconforming technical data and charge the cost to the Contractor; or

(ii) Elect a price or fee adjustment instead of correction or replacement.]

(3) In addition to the remedies under paragraphs (d)(1) and (2) of this clause, the Contractor shall be liable to the Government for all damages to the Government as a result of the breach of warranty.

(i) The additional liability under paragraph (d)(3) of this clause shall not exceed 75 percent of the target profit.

(ii) If the breach of the warranty is with respect to the data supplied by an equipment subcontractor, the limit of the Contractor's liability shall be—

(A) Ten percent of the total subcontract price in a firm-fixed-price subcontract;

(B) Seventy-five percent of the total subcontract fee in a cost-plus-fixed-fee or cost-plus-award-fee subcontract; or

(C) Seventy-five percent of the total subcontract target profit or fee in a fixed-price-incentive or cost-plus-incentive subcontract.

(iii) Damages due the Government under the provisions of this warranty are not an allowable cost.

(iv) The additional liability in paragraph (d)(3) of this clause shall not apply—

(A) With respect to the requirements for product drawings and associated lists, special inspection equipment (SIE) drawings and associated lists, special tooling drawings and associated lists, SIE operating instructions, SIE descriptive documentation, and SIE calibration procedures under MIL–T–31000, General Specification for Technical Data Packages, Amendment 1, or MIL–T–47500, General Specification for Technical Data Packages, Supp 1, or drawings and associated lists under level 2 or level 3 of MIL–D–1000A, Engineering and Associated Data Drawings, or DoD–D–1000B, Engineering and Associated Lists Drawings (Inactive for New Design) Amendment 4, Notice 1; or drawings and associated lists under category E or I of MIL–D–1000, Engineering and Associated Lists Drawings, provided that the data furnished by the Contractor was current, accurate at time of submission, and did not involve a significant omission of data necessary to comply with the requirements; or

(B) To defects the Contractor discovers and gives written notice to the Government before the Government discovers the error.

(e) The provisions of this clause apply anew to that portion of any corrected or replaced technical data furnished to the Government under paragraph (d)(1)(i) of this clause.

(End of clause)

Alternate II. As prescribed at 246.710(1)(iii), use the following clause, which uses a different paragraph (d)(3) than the basic clause.

WARRANTY OF DATA—ALTERNATE II (MAR 2014)

(a) *Definition. Technical data* has the same meaning as given in the clause in this contract entitled ''Rights in Technical Data and Computer Software.''

(b) *Warranty.* Notwithstanding inspection and acceptance by the Government of technical data furnished under this contract, and notwithstanding any provision of this contract concerning the conclusiveness of acceptance, the Contractor warrants that all technical data delivered under this contract will at the time of delivery conform with the specifications and all other requirements of this contract. The warranty period shall extend for three years after completion of the delivery of the line item of data (as identified in DD Form 1423, Contract Data Requirements List) of which the data forms a part; or any longer period specified in the contract.

(c) *Contractor Notification.* The Contractor agrees to notify the Contracting Officer in writing immediately of any breach of the above warranty which the Contractor discovers within the warranty period.

(d) *Remedies.* The following remedies shall apply to all breaches of the warranty, whether the Contractor notifies the Contracting Officer in accordance with paragraph (c) of this clause or if the Government notifies the Contractor of the breach in writing within the warranty period:

(1) Within a reasonable time after such notification, the Contracting Officer may—

(i) By written notice, direct the Contractor to correct or replace at the Contractor's expense the nonconforming technical data promptly; or

(ii) If the Contracting Officer determines that the Government no longer has a requirement for correction or replacement of the data, or that the data can be more reasonably corrected by the Government, inform the Contractor by written notice that the Government elects a price or fee adjustment instead of correction or replacement.

(2) If the Contractor refuses or fails to comply with a direction under paragraph (d)(1)(i) of this clause, the Contracting Officer may, within a reasonable time of the refusal or failure—

(i) By contract or otherwise, correct or replace the nonconforming technical data and charge the cost to the Contractor; or

(ii) Elect a price or fee adjustment instead of correction or replacement.

(3) In addition to the remedies under paragraphs (d)(1) and (2) of this clause, the Contractor shall be liable to the Government for all damages to the Government as a result of the breach of the warranty.

(i) The additional liability under paragraph (d)(3) of this clause shall not exceed ten percent of the total contract price.

(ii) If the breach of the warranty is with respect to the data supplied by an equipment subcontractor, the limit of the Contractor's liability shall be—

(A) Ten percent of the total subcontract price in a firm[-]fixed[-]price subcontract;

(B) Seventy-five percent of the total subcontract fee in a cost-plus-fixed-fee or cost-plus-award-fee subcontract; or

(C) Seventy-five percent of the total subcontract target profit or fee in a fixed-price-incentive or cost-plus-incentive subcontract.

(iii) The additional liability specified in paragraph (d)(3) of this clause shall not apply—

(A) With respect to the requirements for product drawings and associated lists, special inspection equipment (SIE) drawings and associated lists, special tooling drawings and associated lists, SIE operating instructions, SIE descriptive documentation, and SIE calibration procedures under MIL–T–31000, General Specification for Technical Data Packages, Amendment 1, or MIL–T–47500, General Specification for Technical Data Packages, Supp 1, or drawings and associated lists under level 2 or level 3 of MIL–D–1000A, Engineering and Associated Data Drawings, or DoD–D–1000B, Engineering and Associated Lists Drawings (Inactive for New Design) Amendment 4, Notice 1; or drawings and associated lists under category E or I of MIL–D–1000, Engineering and Associated Lists Drawings, provided that the data furnished by the Contractor was current, accurate at time of submission, and did not involve a significant omission of data necessary to comply with the requirements; or

(B) To defects the Contractor discovers and gives written notice to the Government before the Government discovers the error.

(e) The provisions of this clause apply anew to that portion of any corrected or replaced technical data furnished to the Government under paragraph (d)(1)(i) of this clause.

(End of clause)

252.246–7002 [Amended]

■ 4. Amend section 252.246–7002 introductory text by removing ''246.710(4)'' and adding ''246.710(2)'' in its place.

252.246–7005 [Amended]

■ 5. Amend section 252.246–7005 introductory text by removing ''246.710(5)(i)(A)'' and adding ''246.710(3)(i)(A)'' in its place.

252.246–7006 [Amended]

■ 6. Amend section 252.246–7006 introductory text by removing ''246.710(5)(i)(B)'' and adding ''246.710(3)(i)(B)'' in its place.

[FR Doc. 2014–06735 Filed 3–27–14; 8:45 am]

BILLING CODE 5001–06–P

Proposed Rules

Federal Register
Vol. 79, No. 60
Friday, March 28, 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–2014–0173; Directorate Identifier 2013–NM–069–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2009–06–06 for all Airbus Model A310 and A300–600 series airplanes. AD 2009–06–06 currently requires revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new limitations and maintenance tasks for aging systems maintenance. Since we issued AD 2009–06–06, we have determined that more restrictive maintenance requirements and airworthiness limitations are necessary. This proposed AD would require revising the maintenance or inspection program to incorporate new maintenance requirements and airworthiness limitations. We are proposing this AD to prevent reduced structural integrity and reduced control of these airplanes due to the failure of system components.

DATES: We must receive comments on this proposed AD by May 12, 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0173; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0173; Directorate Identifier 2013–NM–069–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

On February 27, 2009, we issued AD 2009–06–06, Amendment 39–15842 (74 FR 12228, March 24, 2009). AD 2009–06–06 requires actions intended to address an unsafe condition for all Airbus Model A310 and A300–600 series airplanes.

Since we issued AD 2009–06–06, Amendment 39–15842 (74 FR 12228, March 24, 2009), we have determined that more restrictive maintenance requirements and airworthiness limitations are necessary.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2013–0075, dated March 20, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes; A300 B4–601, B4–603, B4–620, and B4–622 airplanes; A300 B4–605R and B4–622R airplanes; A300 F4–605R and F4–622R, and A300 C4–605R Variant F airplanes. The MCAI states:

> The airworthiness limitations for Airbus aeroplanes are currently published in Airworthiness Limitations Section (ALS) documents.
>
> The mandatory instructions and airworthiness limitations applicable to the Aging Systems Maintenance (ASM) are specified in Airbus A310 or A300–600 ALS Part 4 documents, which are approved by the European Aviation Safety Agency (EASA). EASA AD 2007–0092 [*http://ad.easa.europa.eu/blob/easa_ad_2007_0092.pdf/AD_2007-0092*] [which corresponds to FAA AD 2009–06–06, Amendment 39–15842] was issued to require compliance to the requirements as specified in these documents.
>
> The revision 02 of Airbus A310 and Airbus A300–600 ALS Part 4 documents introduces more restrictive maintenance requirements and/or airworthiness limitations. Failure to comply with the instructions of ALS Part 4 could result in an unsafe condition.
>
> For the reasons described above, this new AD retains the requirements of EASA AD

2007–0092, which is superseded, and requires the implementation of the new or more restrictive maintenance requirements and/or airworthiness limitations as specified in Airbus A310 ALS Part 4, Revision 02, or Airbus A300–600 ALS Parr 4, Revision 02, as applicable to aeroplane type/model.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0173.

Relevant Service Information

Airbus has issued A310 Airworthiness Limitations Section (ALS) Part 4—Ageing Systems Maintenance, Revision 02, dated November 30, 2012 (for Model A310 series airplanes); and A300–600 ALS Part 4—Ageing Systems Maintenance, Revision 02, dated April 18, 2012 (for Model A300–600 series airplanes). The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD affects 156 airplanes of U.S. registry.

The ALS revision required by AD 2009–06–06, Amendment 39–15842 (74 FR 12228, March 24, 2009), and retained in this proposed AD takes about 1 work-hour per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the actions that were required by AD 2009–06–06 is $85 per product.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $13,260, or $85 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Amend § 39.13 by removing Airworthiness Directive (AD) 2009–06–06, Amendment 39–15842 (74 FR 12228, March 24, 2009), and adding the following new AD:

Airbus: Docket No. FAA–2014–0173; Directorate Identifier 2013–NM–069–AD.

(a) Comments Due Date

We must receive comments by May 12, 2014.

(b) Affected ADs

This AD supersedes AD 2009–06–06, Amendment 39–15842 (74 FR 12228, March 24, 2009).

(c) Applicability

This AD applies to Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes; A300 B4–601, B4–603, B4–620, and B4–622 airplanes; A300 B4–605R and B4–622R airplanes; A300 F4–605R and F4–622R, and A300 C4–605R Variant F airplanes; certificated in any category, all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 27, Code 32, Flight controls.

(e) Reason

This AD was prompted by a determination that more restrictive maintenance requirements and airworthiness limitations are necessary. We are issuing this AD to prevent reduced structural integrity and reduced control of these airplanes due to the failure of system components.

(f) Compliance

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

(g) Retained Revision of Airworthiness Limitation Section (ALS) To Incorporate Limitations and Maintenance Tasks for Ageing Systems Maintenance

This paragraph restates the requirements of paragraph (n) of AD 2009–06–06, Amendment 39–15842 (74 FR 12228, March 24, 2009). Within 3 months after April 28, 2009 (the effective date of AD 2009–06–06), revise the ALS of the Instructions for Continued Airworthiness (ICA) to incorporate Airbus A310 ALS Part 4—Ageing Systems Maintenance, Revision 01, dated December 21, 2006 (for Model A310 series airplanes); or Airbus A300–600 ALS Part 4—Ageing Systems Maintenance, Revision 01, dated December 21, 2006 (for Model A300–600 series airplanes). For all tasks identified in Airbus A310 ALS Part 4—Ageing Systems Maintenance, Revision 01, dated December 21, 2006; and Airbus A300–600 ALS Part 4—Ageing Systems Maintenance, Revision 01, dated December 21, 2006; do the tasks at the later of the times specified in paragraphs (g)(1) and (g)(2) of this AD, as applicable, except as provided by paragraph (h) of this AD. The repetitive inspections must be accomplished thereafter at the interval specified in Airbus A310 ALS Part 4—Ageing Systems Maintenance, Revision 01, dated December 21, 2006; or Airbus A300–600 ALS Part 4—Ageing Systems Maintenance, Revision 01, dated December 21, 2006; as applicable.

(1) At the initial compliance times (thresholds) specified in Airbus A310 ALS Part 4—Ageing Systems Maintenance, Revision 01, dated December 21, 2006; or Airbus A300–600 ALS Part 4—Ageing Systems Maintenance, Revision 01, dated December 21, 2006; as applicable; with the compliance times starting from the later of the times specified in paragraphs (g)(1)(i) and (g)(1)(ii) of this AD.

(i) Since first flight of the airplane.

(ii) Since the applicable part was new or refurbished if the part's life (in flight hours, flight cycles, landings, or calendar time, as applicable) can be conclusively determined.

(2) Within 3 months after doing the revision of the ALS of the ICA required by paragraph (h) of this AD.

Note 1: For additional guidance on the trimmable horizontal stabilizer actuator (THSA) life limits, refer to Airbus OIT SE 999.0074/05/BB, dated August 3, 2005.

Note 2: For additional guidance on the THSA life limits and calculation method for unknown history of parts, refer to Airbus OIT SE 999.0008/07/LB, dated January 16, 2007; and Airbus Service Information Letter 05–008, Revision 01, dated February 21, 2007.

(h) Retained Revision of Airworthiness Limitation Section (ALS) To Incorporate Limitations and Maintenance Tasks for Ageing Systems Maintenance

This paragraph restates the requirements of paragraph (o) of AD 2009–06–06, Amendment 39–15842 (74 FR 12228, March 24, 2009), with revised affected airplane language. For airplanes on which any life limitation/maintenance task has been complied with in accordance with the requirements of paragraph (f), (g), (k), (l), or (m) of AD 2009–06–06: The last accomplishment of each limitation/task must be retained as a starting point for the accomplishment of each corresponding limitation/task interval now introduced Airbus A310 ALS Part 4—Ageing Systems Maintenance, Revision 01, dated December 21, 2006; and Airbus A300–600 ALS Part 4—Ageing Systems Maintenance, Revision 01, dated December 21, 2006; as applicable.

(i) Retained No Alternative Inspections/ Limitations

This paragraph restates the requirements of paragraph (p) of AD 2009–06–06, Amendment 39–15842 (74 FR 12228, March 24, 2009). Except as provided by paragraph (l) of this AD: After accomplishing the actions specified in paragraphs (g) and (h) of this AD, no alternative inspection, inspection intervals, or limitations may be used, except as required by paragraph (j) of this AD.

(j) New Requirements of This AD: Maintenance Program Revision

Within 3 months after the effective date of this AD: Revise the maintenance or inspection program, as applicable, to incorporate Airbus A310 ALS Part 4—Ageing Systems Maintenance, Revision 02, dated November 30, 2012 (for Model A310 series airplanes); or Airbus A300–600 ALS Part 4—Ageing Systems Maintenance, Revision 02, dated April 18, 2012 (for Model A300–600 series airplanes). For all limitation/replacement/inspection tasks identified in Airbus A310 ALS Part 4—Ageing Systems Maintenance, Revision 02, dated November 30, 2012; and Airbus A300–600 ALS Part 4—Ageing Systems Maintenance, Revision 02, dated April 18, 2012; the initial compliance times for the tasks are at the later of the times specified in paragraphs (j)(1) and (j)(2) of this AD, as applicable. Doing any limitation/replacement/inspection task required by this paragraph terminates the corresponding task required by paragraph (g) of this AD.

(1) At the initial compliance times (thresholds) specified in Airbus A310 ALS Part 4—Ageing Systems Maintenance, Revision 02, dated November 30, 2012; or Airbus A300–600 ALS Part 4—Ageing Systems Maintenance, Revision 02, dated April 18, 2012; as applicable; with the compliance times starting from the later of the times specified in paragraphs (j)(1)(i) and (j)(1)(ii) of this AD.

(i) Since first flight of the airplane.

(ii) Since the applicable part was new or refurbished if the part's life (in flight hours, flight cycles, landings, or calendar time, as applicable) can be conclusively determined.

(2) Within 3 months after the effective date of this AD.

(k) New Limitation: No Alternative Actions or Intervals

After accomplishment of the revision required by paragraph (j) of this AD, no alternative actions (e.g., inspections) or intervals, may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (l) of this AD.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–2125; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they were approved by the State of Design Authority (or its delegated agent, or the DAH with a State of Design Authority's design organization approval). You are required to ensure the product is airworthy before it is returned to service.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2013–0075, dated March 20, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0173.

(2) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com*; Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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

Ross Landes,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–06908 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0175; Directorate Identifier 2014–NM–014–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. This proposed AD was prompted by reports that elevator power control unit (PCU) shear pins may fail prematurely. This proposed AD would require repetitive replacement of the elevator PCU shear pins. We are proposing this AD to prevent PCU failure of elevator PCU sheer pins. If all pins fail on one elevator, the elevator surface would become inoperative, which could reduce the controllability of the airplane and could result in a loss of redundancy for flutter prevention.

DATES: We must receive comments on this proposed AD by May 12, 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., 400 Côte Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514 855–7401; email *thd.crj@aero.bombardier.com*; Internet *http://www.bombardier.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0175; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7318; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0175; Directorate Identifier 2014–NM–014–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2014–04, dated January 13, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> It was found that the elevator power control unit (PCU) shear pins may fail prematurely. The failure of an elevator PCU shear pin is dormant. There are three PCUs on each elevator. If all three PCU shear pins failed on one elevator, the elevator surface would become inoperative, which could reduce the controllability of the aeroplane and could result in a loss of redundancy for flutter prevention.
>
> This [Canadian] AD mandates the repetitive replacement of the elevator PCU shear pins to prevent premature elevator PCU shear pin failures.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0175.

Relevant Service Information

Bombardier has issued Service Bulletin 601R–55–008, Revision B, dated March 12, 2014. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD affects 575 airplanes of U.S. registry.

We also estimate that it would take about 4 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $41 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $219,075, or $381 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2014–0175; Directorate Identifier 2014–NM–014–AD.

(a) Comments Due Date

We must receive comments by May 12, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category, serial numbers 7003 and subsequent.

(d) Subject

Air Transport Association (ATA) of America Code 55, Stabilizers.

(e) Reason

This AD was prompted by reports of the possibility that elevator power control unit (PCU) shear pins may fail prematurely. We are issuing this AD to prevent PCU failure of elevator PCU sheer pins. If all pins fail on one elevator, the elevator surface would become inoperative, which could reduce the controllability of the airplane and could result in a loss of redundancy for flutter prevention.

(f) Compliance

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

(g) Repetitive Replacements

Within 6,600 flight hours or 48 months after the effective date of this AD, whichever occurs first: Replace the elevator PCU shear pins, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 601R–55–008, Revision B, dated March 12, 2014. Repeat the replacement thereafter at intervals not to exceed 6,600 flight hours or 48 months from the most recent replacement, whichever occurs first.

(h) Optional Method for Replacement

Replacing the elevator PCU shear pins, using a method approved by the Program Manager, Continuing Operational Safety, FAA, New York ACO; or Transport Canada Civil Aviation (TCCA) (or its delegated agent, or the Design Approval Holder (DAH) with TCCA design organization approval) as applicable, is a method of compliance for any replacement required by paragraph (g) of this AD. For a replacement method to be approved, the replacement approval must specifically refer to this AD.

Note 1 to paragraph (h) of this AD: Guidance for doing replacements specified in paragraph (h) of this AD may be found in Canadair Regional Jet Model CL–600–2B19 Aircraft Maintenance Manual, CSP A–001, Task Number 55–21–27–960–802.

(i) Credit for Previous Actions

This paragraph provides credit for action required by paragraph (g) of this AD, if the action was performed before the effective date of this AD using Bombardier Service Bulletin 601R–55–008, dated July 12, 2013; or Bombardier Service Bulletin 601R–55–008, Revision A, dated January 8, 2014, which are not incorporated by reference in this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they were approved by the State of Design Authority (or its delegated agent, or the DAH with a State of Design Authority's design organization approval). You are required to ensure the product is airworthy before it is returned to service.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2014–04, dated January 13, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0175.

(2) For service information identified in this AD, contact Bombardier, Inc., 400 Côte Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514 855–7401; email *thd.crj@aero.bombardier.com*; Internet *http://www.bombardier.com*. You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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

Ross Landes,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–06912 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0168; Directorate Identifier 2013–NM–208–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 787–8 airplanes. This proposed AD was prompted by failure of the anchor attachment on the occupant restraint system on the standard attendant seat due to an undersized attachment fitting. This proposed AD would require replacing the existing restraint attachment fitting on the standard attendant seat with a new, improved attachment fitting. We are proposing this AD to prevent failure of the restraint attachment fitting and consequent detachment of the attendant seat during an emergency landing, which could cause injury to passengers and crew and could impede a rapid evacuation.

DATES: We must receive comments on this proposed AD by May 12, 2014.

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

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

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

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;* 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 (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket Receipt.

FOR FURTHER INFORMATION CONTACT: Eric M. Brown, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6746; fax: 425–917–6590; email: *eric.m.brown@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0168; Directorate Identifier 2013–NM–208–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 received a report of failure of the anchor attachment on the occupant restraint system on the standard attendant seat due to an undersized attachment fitting. This condition, if not corrected, could result in failure of the restraint attachment fitting and consequent detachment of the attendant seat during an emergency landing, which would cause injury to passengers and crew and could impede a rapid evacuation.

Relevant Service Information

We reviewed Boeing Service Bulletin B787–81205–SB250027–00, Issue 001, dated January 14, 2014. We have also reviewed UTC Aerospace Systems Service Bulletin 2787–25–006, Revision B, dated July 10, 2013. The service information describes procedures for replacing the existing restraint attachment fitting to seat joint fitting on the standard attendant's seat with a new, improved attachment fitting.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD affects 1 airplane of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement	1 work-hour × $85 per hour = $85	$0	$85	$85

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2014–0168; Directorate Identifier 2013–NM–208–AD.

(a) Comments Due Date

We must receive comments by May 12, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Model 787–8 airplanes, certificated in any category, with Goodrich Model 2787 seat assemblies installed.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/furnishings.

(e) Unsafe Condition

This AD was prompted by failure of the anchor attachment on the occupant restraint system on the standard attendant seat due to an undersized attachment fitting. We are issuing this AD to prevent failure of the restraint attachment fitting and consequent detachment of the attendant seat during an emergency landing, which could cause injury to passengers and crew and could impede a rapid evacuation.

(f) Compliance

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

(g) Replacement

Within 24 months after the effective date of this AD: Replace the existing restraint attachment fitting on the standard attendant seat with a new, improved attachment fitting, in accordance with Boeing Service Bulletin B787–81205–SB250027–00, Issue 001, dated January 14, 2014; and UTC Aerospace Systems Service Bulletin 2787–25–006, Revision B, dated July 10, 2013.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (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 (i)(1) 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 Organization Designation Authorization (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.

(i) Related Information

(1) For more information about this AD, contact Eric M. Brown, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6476; fax: 425–917–6590; email: *eric.m.brown@faa.gov.*

(2) 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.

Issued in Renton, Washington, on March 17, 2014.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–06571 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0174; Directorate Identifier 2013–NM–212–AD]

RIN 2120–AA64

Airworthiness Directives; the Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 787–8 airplanes. This proposed AD was prompted by a report indicating that, on a different Boeing airplane model, there was an oxygen-fed fire, which caused extensive damage to the flight deck. This proposed AD would require replacing the low-pressure oxygen hoses with non-conductive hoses in the crew oxygen system. We are proposing this AD to prevent inadvertent electrical current from passing through an internal, anti-collapse spring of the low pressure oxygen hose, which can cause the low-pressure oxygen hose to melt or burn, leading to an oxygen-fed fire and/or smoke beneath the flight compartment in the forward electronics equipment bay.

DATES: We must receive comments on this proposed AD by May 12, 2014.

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

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

For Boeing service information identified in this proposed 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.* For B/E Aerospace service information identified in this proposed AD, contact B/E Aerospace, Inc., Commercial Aircraft Products Group, 10800 Pfluum Road, Lenexa, KS 66215; phone: 913–338–9800; fax: 913–469–8419. 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–2014–0174; 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 (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Susan Monroe, Aerospace Engineer,

Cabin Safety and Environmental Systems Branch, ANM–150S, Seattle Aircraft Certification Office, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6457; fax: 425–917–6590; email: *susan.l.monroe@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0174; Directorate Identifier 2013–NM–212–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 received a report indicating that, on a different Boeing airplane model, a fire originated near the first officer's area, which caused extensive damage to the flight deck. A Boeing investigation found that the low pressure flexible hoses in the pressurized flightcrew oxygen system can potentially be conductive because of the anti-kink metallic spring inside the hose. This condition, if not corrected, could result in inadvertent electrical current passing through an internal, anti-collapse spring of the low-pressure oxygen hose causing the low-pressure oxygen hose to melt or burn, leading to an oxygen-fed fire and/or smoke beneath the flight compartment in the forward electronics equipment bay.

Some hoses on Model 787–8 airplanes are similar in design to those on the Boeing airplane model on which the fire occurred; therefore, Model 787–8 airplanes might be subject to the same unsafe condition.

Relevant Service Information

We reviewed Boeing Alert Service Bulletin B787–81205–SB350001–00, Issue 001, dated August 22, 2013. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2014–0174.

Boeing Alert Service Bulletin B787–81205–SB350001–00, Issue 001, dated August 22, 2013, refers to B/E Aerospace Service Bulletin 4421086–35–001, Rev. 002, dated July 9, 2013, as an additional source of guidance for reworking the crew oxygen distribution manifold assembly.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require replacing the low-pressure oxygen hoses with non-conductive hoses in the crew oxygen system, as specified in the service information described previously.

Typographical Error in Service Information

Paragraph III.A., ''Verification,'' of B/E Aerospace Service Bulletin 4421086–35–001, Rev. 002, dated July 9, 2013, has a typographical error. The last sentence in that paragraph states, ''If the decal shows PN 4421086–101, continue with the retrofit steps in paragraph II.B.'' The sentence should refer to paragraph III.B. of the service information.

Costs of Compliance

We estimate that this proposed AD affects 6 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Rework and replacement	Up to 2 work-hours × $85 per hour = $170	$1,798	Up to $1,968	Up to $11,808.

According to the manufacturer, all of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2014–0174; Directorate Identifier 2013–NM–212–AD.

(a) Comments Due Date

We must receive comments by May 12, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 787–8 airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin B787–81205–SB350001–00, Issue 001, dated August 22, 2013.

(d) Subject

Air Transport Association (ATA) of America Code 35, Oxygen.

(e) Unsafe Condition

This AD was prompted by a report that, on a different Boeing airplane model, there was an oxygen-fed fire, which caused extensive damage to the flight deck. We are issuing this AD to prevent inadvertent electrical current from passing through an internal, anti-collapse spring of the low pressure oxygen hose, which can cause the low-pressure oxygen hose to melt or burn, leading to an oxygen-fed fire and/or smoke beneath the flight compartment in the forward electronics equipment bay.

(f) Compliance

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

(g) Rework of Crew Oxygen Distribution Manifold Assembly

For airplanes identified in Boeing Alert Service Bulletin B787–81205–SB350001–00, Issue 001, dated August 22, 2013: Within 60 months after the effective date of this AD, rework the crew oxygen distribution manifold assembly from part number (P/N) 4421086–101 to P/N 4421086–102, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB350001–00, Issue 001, dated August 22, 2013; and B/E Aerospace Service Bulletin 4421086–35–001, Rev. 002, dated July 9, 2013; except as specified in paragraph (i) of this AD.

(h) Replacement of Forward Crew Oxygen Supply Hose

For airplanes identified as Group 2 in Boeing Alert Service Bulletin B787–81205–SB350001–00, Issue 001, dated August 22, 2013: Within 60 months after the effective date of this AD, replace the forward crew oxygen supply hose with a new non-conductive forward oxygen supply hose, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB350001–00, Issue 001, dated August 22, 2013.

(i) Exception to Service Information

Paragraph III.A., ''Verification,'' of B/E Aerospace Service Bulletin 4421086–35–001, Rev. 002, dated July 9, 2013, has a typographical error. The last sentence in that paragraph states, ''If the decal shows PN 4421086–101, continue with the retrofit steps in paragraph II.B.'' The sentence should refer to paragraph III.B. of B/E Aerospace Service Bulletin 4421086–35–001, Rev. 002, dated July 9, 2013.

(j) Parts Installation Prohibition

As of the effective date of this AD, no person may install a distribution manifold having B/E Aerospace P/N 4421086–101; a flexible supply hose having B/E Aerospace P/N 4421189–016; or a supply hose having Boeing P/N 4421189–023; on any airplane.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (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 (l)(1) 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 Organization Designation Authorization (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.

(l) Related Information

(1) For more information about this AD, contact Susan Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6457; fax: 425–917–6590; email: *susan.l.monroe@faa.gov*.

(2) 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*. For B/E Aerospace service information identified in this AD, contact B/E Aerospace, Inc., Commercial Aircraft Products Group, 10800 Pfluum Road, Lenexa, KS 66215; phone: 913–338–9800; fax: 913–469–8419. 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.

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

Ross Landes,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–06911 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0146; Directorate Identifier 2013–NM–243–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model DHC–8–400 series airplanes. This proposed AD was prompted by fuel system reviews conducted by the manufacturer. This proposed AD would require replacing a fitting that is part of the refuel control solenoid valve assembly. We are proposing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by May 12, 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Mazdak Hobbi, Aerospace Engineer, Propulsion and Services Branch, ANE–173, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7330; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0146; Directorate Identifier 2013–NM–243–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2013–32, dated October 8, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> During the incorporation of Modsum 4–126630, mandated by [Canadian] AD CF–2010–31 [FAA AD 2011–13–06, Amendment 39–16729 (76 FR 37258, June 27, 2011)], it has been reported that fitting part number (P/N) 82822074–951 has been installed through the rear spar instead of fitting P/N 82822074–005 or 82822074–007. Fitting P/N 82822074–951 does not comply with the fuel tank safety standards introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002–043. Therefore, this fitting shall be replaced to mitigate unsafe conditions that could result in a potential ignition source within the fuel system.
>
> This [Canadian] AD mandates the replacement of the above-mentioned fittings with compliant fittings P/N 82822074–009.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0146.

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 (66 FR 23086, May 7, 2001) requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Relevant Service Information

Bombardier has issued Service Bulletin 84–28–12, Revision A, dated June 20, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD affects 55 airplanes of U.S. registry.

We also estimate that it would take about 9 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. The cost of required parts would be negligible. Based on these figures, we estimate the cost of this proposed AD on U.S.

operators to be $42,075, or $765 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2014–0146; Directorate Identifier 2013–NM–243–AD.

(a) Comments Due Date

We must receive comments by May 12, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model DHC–8–400, –401, and –402 airplanes, certificated in any category, serial numbers 4063 through 4118 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Reason

This AD was prompted by fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

(f) Compliance

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

(g) Replacement

Within 6,000 flight hours or 36 months, whichever occurs first, after the effective date of this AD: Replace fitting part number (P/N) 82822074–951 with new P/N 82822074–009, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–28–12, Revision A, dated June 20, 2013.

(h) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 84–28–12, dated July 23, 2012, which is not incorporated by reference in this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they were approved by the State of Design Authority (or its delegated agent, or the DAH with a State of Design Authority's design organization approval). For a repair method to be approved, the repair approval must specifically refer to this AD. You are required to ensure the product is airworthy before it is returned to service.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2013–32, dated October 8, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0146.

(2) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com*; Internet *http://www.bombardier.com*. You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on March 17, 2014.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–06563 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0172; Directorate Identifier 2013–NM–222–AD]

RIN 2120–AA64

Airworthiness Directives; Embraer S.A. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Embraer S.A. Model ERJ 170 airplanes. This proposed AD was prompted by

reports of ''BLEED 1(2) LEAK'' messages displayed on the Engine Indication and Crew Alert System (EICAS), and indirect damage to components of the Electrical Wiring Interconnection System (EWIS) in the engine pylon area. This proposed AD would require inspecting the EWIS components for damage, and repair if necessary. This proposed AD would also require installing pre-cooler deflectors on the left- and right-hand pylons, and applying silicone sealant. We are proposing this AD to prevent indirect damage to EWIS components near the engine bleed air pre-coolers, which could result in a dual engine roll back to idle and consequent dual engine power loss and reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by May 12, 2014.

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

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

For service information identified in this proposed AD, contact Embraer S.A., Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—BRASIL; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546; email *distrib@embraer.com.br;* Internet *http://www.flyembraer.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–2014–0172; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kathrine Rask, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2180; fax 425–227–1320.

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–2014–0172; Directorate Identifier 2013–NM–222–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directive 2013–11–01, effective November 4, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Embraer S.A. Model ERJ 170 airplanes. The MCAI states:

> This [ANAC] AD results from reports of ''BLEED 1(2) LEAK'' messages being displayed on the Engine Indication and Crew Alert system (EICAS) panel, and indirect damages to components of the Electrical Wiring Interconnection System (EWIS) on the engine pilone area, zones 419 and 429, adjacent to the exhaust flange of the engine bleed air precooler.
>
> Further investigation has shown that a leakage on the flange of the precooler refrigerating air exhaust duct caused the damage and triggered the message. We are issuing this [ANAC] AD to prevent EWIS components indirect damage, near to engine bleed air precooler, which could result in a dual engine roll back to idle and the consequent dual engine power loss.

Required actions include inspecting the EWIS components adjacent to the left- and right-hand pre-cooler for damage, and repair if necessary; installing pre-cooler deflectors on the left- and right-hand pylons, and applying silicone sealant. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0172.

Relevant Service Information

Embraer has issued EMBRAER Service Bulletin 170–36–0019, dated August 23, 2011; and Subject 20–62–00, ''Requirements for EWIS Components Inspections and Checks—Maintenance Practices'' of EMBRAER 170/175/190/195 Standard Wiring Practices Manual SWPM–1590, Revision 25, dated June 3, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of this Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD would affect 181 products of U.S. registry.

We also estimate that it would take about 6 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $366 per product. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $158,556, or $876 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

Authority for This Rulemaking

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

detail the scope of the Agency's authority.

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Amend § 39.13 by adding the following new AD:

Embraer S.A.: Docket No. FAA–2014–0172; Directorate Identifier 2013–NM–222–AD.

(a) Comments Due Date

We must receive comments by May 12, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Embraer S.A. Model ERJ 170–100 LR, –100 STD, –100 SE., and –100 SU airplanes; and Model ERJ 170–200 LR, –200 SU, and –200 STD airplanes; certificated in any category; as identified in EMBRAER Service Bulletin 170–36–0019, dated August 23, 2011.

(d) Subject

Air Transport Association (ATA) of America Code 36, Pneumatic.

(e) Reason

This AD was prompted by reports of ''BLEED 1(2) LEAK'' messages displayed on the Engine Indication and Crew Alert System (EICAS), and indirect damage to components of the Electrical Wiring Interconnection System (EWIS) in the engine pylon area. We are issuing this AD to prevent indirect damage to EWIS components near the engine bleed air pre-coolers, which could result in a dual engine roll back to idle and consequent dual engine power loss and reduced controllability of the airplane.

(f) Compliance

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

(g) Required Actions and Compliance Time

Within 8,000 flight cycles or 12,000 flight hours after the effective date of this AD, whichever occurs later, do the actions specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD.

(1) Do a general visual inspection of the EWIS components adjacent to the left- and right-hand pre-coolers (zones 419 and 429 respectively) for damage, in accordance with the instructions specified in Subject 20–62–00, ''Requirements for EWIS Components Inspections and Checks—Maintenance Practices,'' of EMBRAER 170/175/190/195 Standard Wiring Practices Manual SWPM–1590, Revision 25, dated June 3, 2013. Repair all damage before further flight, in accordance with the instructions specified in Subject 20–62–00, ''Requirements for EWIS Components Inspections and Checks — Maintenance Practices,'' of EMBRAER 170/175/190/195 Standard Wiring Practices Manual SWPM–1590, Revision 25, dated June 3, 2013.

(2) Install a new deflector on the left- and right-hand pre-cooler exhaust flange, in accordance with Part I or Part III, as applicable, of the Accomplishment Instructions of EMBRAER Service Bulletin 170–36–0019, dated August 23, 2011.

(3) Apply high temp silicone sealant to the left- and right-hand pre-cooler, in accordance with Part II or IV, as applicable, of the Accomplishment Instructions of EMBRAER Service Bulletin 170–36–0019, dated August 23, 2011.

(h) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraph (h)(1) or (h)(2) of this AD.

(1) Subject 20–62–00, ''Requirements for EWIS Components Inspections and Checks—Maintenance Practices,'' of EMBRAER 170/175/190/195 Standard Wiring Practices Manual SWPM–1590, Revision 23, dated October 8, 2012, which is not incorporated by reference in this AD.

(2) Subject 20–62–00, ''Requirements for EWIS Components Inspections and Checks—Maintenance Practices,'' of EMBRAER 170/175/190/195 Standard Wiring Practices Manual SWPM–1590, Revision 24, dated February 18, 2013, which is not incorporated by reference in this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Kathrine Rask, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2180; fax 425–227–1320. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they were approved by the State of Design Authority (or its delegated agent, or the DAH with a State of Design Authority's design organization approval, as applicable). You are required to ensure the product is airworthy before it is returned to service.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Brazilian Airworthiness Directive 2013–11–01, effective November 4, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0172.

(2) For service information identified in this AD, contact Embraer S.A., Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170–Putim–12227–901 São Jose dos Campos–SP—BRASIL; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12

3927–7546; email *distrib@embraer.com.br*; Internet *http://www.flyembraer.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.

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

Ross Landes.

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–06913 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 924

[Docket No. FHWA–2013–0019]

RIN 2125–AF56

Highway Safety Improvement Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The purpose of this notice of proposed rulemaking (NPRM) is to propose changes to Highway Safety Improvement Program (HSIP) regulations to address provisions in the Moving Ahead for Progress in the 21st Century Act (MAP–21) as well as to incorporate clarifications to better explain existing regulatory language. Specifically, this rule proposes to amend DOT's regulations to address MAP–21 provisions that removed the requirement for States to prepare a Transparency Report, removed the High Risk Rural Roads set-aside, and removed the 10 percent flexibility provision for States to use safety funding in accordance with federal law. This rule also proposes to amend DOT's regulations to address a MAP–21 provision that requires DOT to establish a subset of roadway data elements that are useful to the inventory of roadway safety, and to ensure that States adopt and use the subset. Finally, this rule proposes to address MAP–21 provisions that add State Strategic Highway Safety Plan update requirements and require States to develop HSIP performance targets. The proposed changes are intended to clarify the regulation for the development, implementation, and evaluation of highway safety improvement programs that are administered in each State.

DATES: Comments must be received on or before May 27, 2014.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, 1200 New Jersey Avenue SE., Washington, DC 20590, or submit electronically at *http://www.regulations.gov.* All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, Pages 19477–78) or you may visit *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Karen Scurry, Office of Safety, *karen.scurry@dot.gov;* or William Winne, Office of the Chief Counsel, *william.winne@dot.gov,* Federal Highway Administration, 1200 New Jersey Ave. SE., Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or access all comments received by the DOT online through: *http://www.regulations.gov.* Electronic submission and retrieval help and guidelines are available on the Web site. It is available 24 hours each day, 365 days each year. Please follow the instructions. An electronic copy of this document may also be downloaded from the **Federal Register's** home page at: *http://www.federalregister.gov.*

Executive Summary

I. Purpose of the Regulatory Action

The Moving Ahead for Progress in the 21st Century Act (MAP–21) (Pub. L. 112–141) continues the Highway Safety Improvement Program (HSIP) under section 148, title 23 of the United States Code (U.S.C.) as a core Federal-aid program with the purpose to achieve a significant reduction in fatalities and serious injuries on all public roads. The MAP–21 amends the HSIP by requiring the DOT to establish several new requirements and remove several provisions that were introduced under Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). A revision to 23 CFR 924 is necessary to align with the MAP–21 provisions and clarify existing program requirements.

A key component of this proposal is the requirement for States to collect and use a set of proposed roadway data elements for all public roadways, including local roads. Example proposed data elements include elements to classify and delineate roadway segments (e.g., beginning and end point descriptors), elements to identify roadway physical characteristics (e.g., median type and ramp length), and elements to identify traffic volume. The purpose of this proposal, in addition to satisfying a statutory requirement, is to improve States' ability to estimate expected number of crashes at roadway locations, with the ultimate goal to improve States' allocation of safety resources.

II. Summary of the Major Provisions of the Regulatory Action in Question

This NPRM proposes to remove all existing references to the High Risk Rural Roads Program, 10 percent flexibility provisions, and transparency reports since MAP–21 eliminated these provisions.

The MAP–21 also requires the DOT to establish the update cycle for Strategic Highway Safety Plans (SHSP) [23 U.S.C. 148(d)(1)(A)], the content and schedule for the HSIP report [23 U.S.C. 148(h)(2)], and a subset of model roadway elements (a.k.a. Model Inventory of Roadway Elements (MIRE) fundamental data elements (FDE)) [23 U.S.C. 148(e)(2)(A)]. The NPRM proposes a 5-year SHSP update cycle, consistent with current practice in most States. The DOT proposes States continue to submit their HSIP reports on annual basis, by August 31 each year. In addition to existing reporting requirements and the proposed changes noted above, the DOT proposes that State DOTs document their safety performance targets in their annual HSIP report, and describe progress to achieve those safety performance targets in future HSIP reports. The DOT also proposes States use the HSIP online reporting tool to submit their annual HSIP reports, consistent with the Office of the Inspector General's recommendations in the recent HSIP Audit.[1] Currently, a

[1] Office of the Inspector General, FHWA Provides Sufficient Guidance and Assistance to Implement the Highway Safety Improvement Program but Could Do More to Assess Program Results, Report Number: MH–2013–055. March 26, 2013 is available at the following Internet Web site: *http://*

majority of States use the HSIP online reporting tool to submit their annual HSIP reports. We believe that the proposed roadway data elements are the fundamental set of data elements that an agency would need in order to conduct enhanced safety analyses to improve safety investment decisionmaking through the HSIP. We believe the proposed roadway elements also have the potential to support other safety and infrastructure programs in addition to the HSIP. The FHWA is proposing to require that States collect and use the same fundamental roadway elements that are recommended in the State Safety Data Systems Guidance published December 27, 2012.[2] We explain in more detail later in this proposed rule the reason(s) for proposing each individual roadway data element, but in general some of the elements are needed to address MAP–21 reporting requirements and some are needed in order to conduct improved analyses for predicting crashes. Later in this proposed rule we seek comments on whether we have selected the appropriate subset of roadway data elements in order to implement the statutory requirement and maximize net benefits.

The NRPM also proposes additions to clarify other MAP–21 provisions related to non-infrastructure projects and performance management requirements. The HSIP funds are now eligible for any type of highway safety improvement project (i.e. infrastructure or non-infrastructure). The DOT proposes that agencies should use all other eligible funding programs for non-infrastructure projects, prior to using HSIP funds for these purposes. The DOT also proposes language throughout the NPRM to be consistent with the performance management requirements under 23 U.S.C. 150.

III. Costs and Benefits

Of the three requirements mandated by MAP–21 (i.e. MIRE FDE, SHSP update cycle, and HSIP Report Content and Schedule) and addressed in this proposed rule, we believe that only the proposal regarding the MIRE FDE would result in additional costs. The SAFETEA–LU and the existing regulation require States to update their SHSP on a regular basis; the proposed rulemaking proposes that States update their SHSP every 5 years. The proposed rulemaking does not change the existing schedule for the HSIP report. The MAP–21 results in only minimal proposed changes to the HSIP report content related to reporting safety performance targets; however, additional costs as a result of this new content are negligible and the removal of the transparency report requirements reduces existing costs. Therefore, FHWA bases its cost-benefit analysis on the MIRE FDE component only and uses the ''MIRE Fundamental Data Elements Cost-Benefit Estimation'' Report [3] for this purpose.

Table 1 displays the estimated total net present value cost of the proposed requirements for States to collect, maintain, and use the proposed MIRE FDE for all public roadways. Total costs are estimated to be $228.8 million undiscounted, $220.6 million discounted at 0.5 percent (discount rate used in the MIRE FDE Cost-Benefit Estimation Report), $185.8 million discounted at 3 percent, and $146.1 million discounted at 7 percent. Although not a specific requirement of this NPRM, the cost estimate also includes an estimate of the cost for States to extend their statewide linear referencing system (LRS) to all public roads, since an all-public-roads LRS is a prerequisite to realizing the full benefits from collecting and using the MIRE FDE. This cost is estimated to be $17.2 million. The cost estimates reflect the additional costs that a State would incur based on what is not being collected through the Highway Performance Monitoring System (HPMS) or not already being collected through other efforts. In order for the rule to have net safety benefits, States would need to analyze the collected data, use it to identify locations with road safety improvement potential, shift project funding to those locations, and those projects would need to have more safety benefits than the projects invested in using current methods which do not incorporate the proposed MIRE FDE. We believe that this analysis and shifting of funding will not cost more than States' current methodology for choosing projects.

TABLE 1—TOTAL ESTIMATED NATIONAL COSTS FOR MIRE FDE

[2013–2029 Analysis period]

Cost components	Total national costs			
	Undiscounted	0.5%	3.00%	7.00%
Cost of Section 924.17:				
Linear Referencing System (LRS)	$17,239,277	$17,180,594	$16,895,724	$16,467,622
Initial Data Collection	53,172,638	52,319,704	48,367,784	42,980,809
Roadway Segments	37,941,135	37,332,527	34,512,650	30,668,794
Intersections	8,284,572	8,151,681	7,535,951	6,696,633
Interchange/Ramp locations	832,734	819,376	757,485	673,120
Volume Collection	6,114,197	6,016,120	5,561,698	4,942,262
Maintenance of data system	154,945,661	147,701,120	117,370,098	83,834,343
Management & administration	3,449,812	3,394,474	3,138,075	2,788,571
Total Cost	228,807,387	220,595,892	185,771,683	146,071,346

www.oig.dot.gov/sites/dot/files/FHWA's%20Highway%20Safety%20Improvement%20Program%5E3-26-13.pdf.

[2] Guidance Memorandum on State Safety Data Systems, issued December 27, 2012, can be viewed at the following Internet Web site: *http://www.fhwa.dot.gov/map21/guidance/guidesafetydata.cfm.*

[3] ''MIRE Fundamental Data Elements Cost-Benefit Estimation'', FHWA Report number: FHWA–SA–13–018, published March 2013 is available on the docket for this rulemaking and at the following Internet Web site: *http://safety.fhwa.dot.gov/rsdp/downloads/mire_fde_%20cbe_finalrpt_032913.pdf.*

The cost of data collection for an average State is estimated at $1,362,800 to complete the LRS and initial MIRE FDE collection efforts, $66,600 for management and administration costs,[4] and $2,896,100 for maintenance costs [5] over the analysis period of 2013–2029 (in 2013 U.S. dollars, at a 0.5% discount rate).[6] These estimates are net present value average costs on a per State basis. As such, across the 50 States and the District of Columbia, it is possible that the aggregate cost for LRS and initial data collection would be approximately $69.5 million, and the annual maintenance cost would approach $11.5 million.[7] This equates to approximately $225,000 on average for a State to maintain the data annually.

The MIRE FDE are beneficial because collecting this roadway and traffic data and integrating those data into the safety analysis process would improve an agency's ability to locate problem areas and apply appropriate countermeasures, hence improving safety. The FHWA did not estimate the benefits of this rule. Instead, FHWA has conducted a break-even analysis. Table 2 shows the reduction in fatalities and injuries due to improvements in safety investment decisionmaking with the use of the MIRE FDE that would be needed for the costs of the data collection to equal the benefits, and for the costs of the data collection to equal half of the benefits. Using the 2012 comprehensive cost of a fatality of $9,100,000 and $107,438 for an average injury, results in an estimated reduction of 0.38 fatalities and 24.77 injuries per average State over the 2013–2029 analysis period (at a 0.5% discount rate) would be needed to result in a benefit-cost ratio greater than 1:1.[8] To achieve a benefit/cost ratio of 2:1, fatalities would need to be reduced by 0.76 and injuries by 49.54 per average State over the same analysis period.[9]

TABLE 2—REDUCTION IN FATALITIES AND INJURIES NEEDED TO ACHIEVE COST-BENEFIT RATIOS OF 1:1 AND 2:1

Benefits	Number of lives saved/injuries avoided nationally			
	Undiscounted	0.5%	3.00%	7.00%
Benefit/Cost Ratio of 1:1:				
# of lives saved (fatalities)	19	19	21	23
# of severe injuries avoided	1246	1263	1353	1517
Benefit/Cost Ratio of 2:1:				
# of lives saved (fatalities)	38	39	42	47
# of severe injuries avoided	2493	2527	2706	3034

Based on a preliminary study that found relationships between State's use of roadway inventory data (in combination with their crash data in analyses supporting their safety investment decision making) and the magnitude of States' fatal-crash reduction,[10] and other anecdotal information, we believe that this level of benefit may be achievable.

Background

On July 6, 2012, President Obama signed into law MAP–21 (Pub. L. 112–141, 126 Stat. 405). Among other things, the law authorizes funds for Federal-aid highways. In Section 1112 of this Act, Congress amended the HSIP of section 148 of title 23 of the United States Code (U.S.C.). The HSIP is a core Federal-aid program with the purpose to achieve a significant reduction in fatalities and serious injuries on all public roads. The HSIP requires a data-driven, strategic approach to improving highway safety on all public roads that focuses on performance. The FHWA proposes to incorporate the MAP–21 amendments, as well as general updates, into 23 CFR Part 924 Highway Safety Improvement Program to provide consistency with 23 U.S.C. 148 and to provide State and local safety partners with clarity on the purpose, definitions, policy, program structure, planning, implementation, evaluation, and reporting of the HSIP. Specifically, MAP–21 removed the requirement for States to prepare a Transparency Report, removed the High Risk Rural Roads set-aside, and removed the 10 percent flexibility provision for States to use safety funding in accordance with 23 U.S.C. 148(e). The MAP–21 also adds data system and improvement requirements, State SHSP update requirements, and requirements for States to develop HSIP performance targets. The DOT will address specific requirements related to HSIP performance target requirements through a separate, but concurrent, rulemaking effort.

Stakeholder Outreach

The MAP–21 requires the Secretary of Transportation to establish a subset of the model inventory of roadway elements, or the MIRE FDE, that are useful for the inventory of roadway safety. Initial consideration of requiring collection of FDEs dates back to a report by the United States Government Accountability Office (GAO) on the progress made toward accomplishing the HSIP goals set forth in SAFETEA–LU. In November 2008, the GAO published ''Highway Safety Improvement Program: Further Efforts Needed to Address Data Limitations and Better Align Funding with States' Top Safety Priorities'' to document their findings. The GAO report recommended that the Secretary of Transportation direct FHWA Administrator to take the following three actions:

- Define which roadway inventory data elements—contained in its proposal for a Model Minimum Inventory of Roadway Elements, as appropriate—a State needs to meet Federal requirements for HSIP;
- Set a deadline for States to finalize development of the required roadway inventory data; and
- Require States to submit schedules to FHWA for achieving compliance with this requirement.

Following extensive work on accommodating GAO's recommendations, FHWA published, ''Guidance Memorandum on Fundamental Roadway and Traffic Data Elements to Improve the Highway

[4] DOT defines management and administration costs as the costs to administer contracts for data collection. The analysis estimates management and administration costs at 5 percent of the estimated initial MIRE FDE collection costs. The analysis assumes management and administration costs would not exceed $250,000 per State.

[5] DOT defines maintenance costs as the costs to update the data as conditions change. The analysis assumes that 2 percent of roadway mileage would need to be updated annually.

[6] Ibid.

[7] Ibid.

[8] Ibid.

[9] Ibid.

[10] Wu, K.-F., Himes, S.C., and Pietrucha, M.T., ''Evaluation of Effectiveness of the Federal Highway Safety Improvement Program,'' Transportation Research Record, Vol. 2318, pp. 23–34, 2013.

Safety Improvement Program'' [11] on August 1, 2011. As part of addressing GAO's recommendations, FHWA engaged in efforts to obtain public input. The FHWA hosted a peer exchange at the 2009 Asset Management Conference, two Webinars in December 2009, and one listening session at the January 2010 Transportation Research Board meeting to obtain input on possible approaches to address the GAO's recommendations. These sessions were designed to reach local and State transportation officials, as well as professional transportation safety organizations. These sessions were attended by over 150 representatives of Federal, State, and local jurisdictions from across the country, as well as professional organizations. The purpose of these sessions was to gather feedback from stakeholders regarding mandatory roadway inventory elements and scheduling inventory data improvements, and to discuss other approaches from stakeholders regarding the collection and use of data for HSIP. During the Webinars and the listening session, FHWA listened carefully to the comments and concerns expressed by the stakeholders and used that information when developing the August 1, 2011, Guidance Memorandum. The August 1, 2011, guidance memorandum formed the basis for the State Safety Data System guidance published on December 27, 2012.[12]

Discussion of Proposed Rulemaking

The proposed regulatory text follows the same format and section titles currently in 23 CFR 924, but FHWA proposes substantive changes to each section. Specifically, FHWA proposes to replace the existing 23 CFR Part 924 with new language in the following sections.

Discussion of Proposed Rulemaking to Section 924.1 Purpose

The FHWA proposes to clarify that the purpose of this regulation is to prescribe requirements for the HSIP, rather than to set forth policy on the development, implementation and evaluation of a comprehensive HSIP in each State.

Discussion of Proposed Rulemaking to Section 924.3 Definitions

The FHWA proposes to remove the following eight definitions, because they would no longer be used in the regulation: ''high risk rural road,'' ''highway-rail grade crossing protective devices,'' ''integrated interoperable emergency communication equipment,'' ''interoperable emergency communications system,'' ''operational improvements,'' ''safety projects under any other section,'' ''State,'' and ''transparency report.''

The FHWA proposes to remove the definition for ''high risk rural road'' because MAP–21 removed the High Risk Rural Road and associated reporting requirements.

The FHWA proposes to remove the definition for ''highway-rail grade crossing protective devices'' because this term was used in the definition of highway safety improvement projects as an example project and FHWA proposes removing the list of example projects. ''Highway-rail grade crossing protective devices'' was also used in sec. 924.11 (Implementation) to reference to the 23 U.S.C. 130(f) requirement for States to spend at least 50 percent of their Railway-Highway Crossing Funds on protective devices, which FHWA is proposing to remove.

The FHWA proposes to remove the definition for ''integrated interoperable emergency communication equipment'' because this term was only used in the definition of highway safety improvement project as an example project and defined separately for clarification. The FHWA proposes removing the example list of highway safety improvement projects. The FHWA proposes to remove the definition for ''interoperable emergency operations system'' because this term was only used in the definition of integrated interoperable emergency communication equipment, which FHWA is also proposing to remove.

The FHWA proposes to remove the definition for ''operational improvements'' because it was only used in the context of the High Risk Rural Roads Program, which MAP–21 removed. ''Operational improvements'' was also used in the definition of a highway safety improvement project as an example project, and FHWA proposes to remove the example list of highway safety improvement projects, as well.

The FHWA proposes to remove the definition for ''safety projects under any other section'' because this term was used in reference to the 10 percent flexibility provision which no longer exists under MAP–21.

The FHWA proposes to remove the definition for ''State'' because HSIP requirements apply to Puerto Rico under MAP–21; therefore, the definition of State in 23 U.S.C. 101(a) applies to HSIP, as well.

The FHWA proposes to remove the definition for ''transparency report'' because MAP–21 no longer requires States to submit a transparency report as part of the HSIP reporting requirements.

The FHWA proposes to revise eight definitions to provide clarity or consistency for each as related to the regulation.

The FHWA proposes to revise the definition for the term ''highway'' to match the definition of 23 U.S.C. 101(a) and clarify the provision that HSIP funds can be used for highway safety improvement projects on any facility that serves pedestrians and bicyclists pursuant to 23 U.S.C. 148(e)(1)(A). This clarification relates to HSIP funding and projects, and not to collection of MIRE FDEs. The proposed rule would not require the collection of MIRE FDE on pedestrian and bicycle facilities.

The FHWA proposes to revise the definition of ''highway safety improvement program'' by adding the acronym ''HSIP'' to indicate that, when the acronym HSIP is used in the regulation, it is referring to the program carried out under 23 U.S.C. 130 and 148, not individual projects. For further clarification, FHWA proposes to include a listing of the HSIP components—SHSP, Railway-Highway Crossings program, and program of highway safety improvement projects—to the definition.

The FHWA proposes to revise the definition of ''highway safety improvement project'' to specify that it includes strategies, activities, and projects and that such projects can include both infrastructure and non-infrastructure projects under 23 U.S.C. 148(a)(4)(A) and (c)(2)(C)(i). The FHWA also proposes to remove the listing of project types, and instead refer to 23 U.S.C. 148(a) for the example list of projects, because FHWA does not want States to consider a listing of projects in the regulation to be an exhaustive, all-inclusive list.

The FHWA proposes to revise the definition of ''public grade crossing'' in order to clarify that associated sidewalks and pathways and shared use paths are also elements of a public grade crossing pursuant to the Rail Safety Improvement Act of 2008, Public Law 110–432, Section 2(a)(1).

The FHWA proposes to add to the definition of ''public road'' that non-

[11] Guidance Memorandum on Fundamental Roadway and Traffic Data Elements to Improve the Highway Safety Improvement Program, issued August 1, 2011 can be viewed at the following Internet Web site: *http://safety.fhwa.dot.gov/tools/data_tools/memohsip072911/.*

[12] Guidance Memorandum on State Safety Data Systems, issued December 27, 2012, can be viewed at the following Internet Web site: *http://www.fhwa.dot.gov/map21/guidance/guidesafetydata.cfm.*

State-owned public roads and roads on tribal lands are considered public roads pursuant to 23 U.S.C. 148(a)(12)(D), (b)(2), (c)(2)(A)(i), (c)(2)(D)(ii) and (d)(1)(B)(viii).

The FHWA proposes to remove ''vehicle data'' from the listing of safety data components in the definition of ''safety data'' to be consistent with MAP–21. 23 U.S.C. 148(a)(9)(A).

The FHWA proposes to expand the definition of ''safety stakeholder'' to include a list of stakeholders. Although the list is not exhaustive, FHWA proposes including this list to ensure that States are aware of the range of stakeholders.

The FHWA proposes to revise the definition of ''serious injury'' to reference the latest edition of the Model Minimum Uniform Crash Criteria definition. The FHWA plans for the effective implementation date of this definition to align with the effective date of the same definition used in the safety performance management NPRM currently underway. Interested persons should refer to the safety performance management rulemaking for additional information (see Docket No. FHWA–2013–0020 or RIN 2125–AF49).

Finally, FHWA proposes to revise the definition of ''strategic highway safety plan'' to indicate that the SHSP is a multidisciplinary plan, rather than a data-driven one to be consistent with MAP–21. The FHWA proposes adding multidisciplinary to the definition since that is an important component of the SHSP. The FHWA would also include the acronym ''SHSP'' in the definition.

The FHWA proposes to add four definitions of terms used in the revised regulation. The FHWA proposes to add a definition for ''Model Inventory of Roadway Elements (MIRE) Fundamental Data Elements (FDE)'' because this listing of roadway and traffic data elements, needed to support advanced safety analyses, would be incorporated in this proposed regulation. The FHWA also proposes to add definitions for ''reporting year,'' ''spot safety improvement,'' and ''systemic safety improvement'' because these terms would be used in the proposed revised regulation. The FHWA proposes to define ''reporting year'' as a 1-year period defined by the State so that States have the flexibility to define the reporting year that best fits their budget and planning cycles. The FHWA proposes to define ''spot safety improvement'' and ''systemic safety improvement'' to clarify the difference between these two types of improvements. A ''spot safety improvement'' would be an improvement or set of improvements that is implemented at a specific location on the basis of location-specific crash experience or other data-driven means; whereas, a ''systemic safety improvement'' would be an improvement or set of improvements that is widely implemented based on high-risk roadway features correlated with particular severe crash types.

The FHWA proposes to maintain the current definitions without change for ''hazard index formula'' and ''road safety audit.''

Discussion of Proposed Rulemaking to Section 924.5 Policy

In paragraph (a), FHWA proposes minor editorial modifications to explicitly state that the HSIP's objective is to significantly reduce fatalities and serious injuries, rather than ''the occurrence of and potential for fatalities and serious injuries'' as written in the existing regulation.

The FHWA proposes to delete from paragraph (b) the provisions related to 10 percent flex funds, due to the removal of the flex fund provisions in MAP–21. The FHWA proposes to add language that funding shall be used for highway safety improvement projects that have the greatest potential net benefits and that achieve the State's fatality and serious injury performance targets in order to correlate this regulation with the provisions of section 1203 of MAP–21 regarding safety performance targets under 23 U.S.C. 150. The FHWA also proposes to clarify that prior to approving the use of HSIP funds for non-infrastructure related safety projects, FHWA will assess the extent to which other Federal funds provided to the States for non-infrastructure safety programs (including but not limited to those administered by the National Highway Traffic Safety Administration (NHTSA) and Federal Motor Carrier Safety Administration) are programmed. The FHWA expects States to fully program these non-infrastructure funds prior to seeking HSIP funds for such uses. The FHWA's intent is for States to use all available resources to support their highway safety needs and make progress toward a significant reduction in fatalities and serious injuries on all public roads. (In the case of non-infrastructure projects involving NHTSA grant funds, State DOTs should consult State Highway Safety Offices about the project eligibility requirements under 23 U.S.C. 402.)

The FHWA proposes to remove the first sentence of paragraph (c) regarding the use of other Federal-aid funds, since this information is repeated in section 924.11 (Implementation) and is better suited for that section. The FHWA also proposes minor edits to the paragraph to provide more accurate references to the National Highway Performance Program (NHPP) and the Surface Transportation Program (STP) Federal-aid programs, and remove references to the Interstate Maintenance, National Highway System, and Equity Bonus funding sources, since these funding programs have been consolidated into other program areas. As stated in the existing regulation, safety improvements that are provided as part of a broader Federal-aid project should be funded from the same source as the broader project. This provision remains unchanged by the proposed revisions.

Discussion of Proposed Rulemaking to Section 924.7 Program Structure

In paragraph (a), FHWA proposes to clarify the structure of the HSIP by specifying that the HSIP is to include a SHSP, a Railway-Highway Crossings Program, and a program of highway safety improvement projects (infrastructure and non-infrastructure). Currently, the existing regulation uses the term HSIP in reference to the program under 23 U.S.C. 148 as well as the State's HSIP as defined in 23 U.S.C. 148(a)(11). The existing program structure does not change; however, this has been a point of confusion so FHWA believes that listing the three main components will help States better understand the program structure.

The FHWA proposes to clarify paragraph (b) by specifying that the HSIP shall include a separate process for planning, implementation, and evaluation of the HSIP components described in section 924.7(a) on all public roads. The proposed revisions would clarify that these processes shall cover all public roads. The FHWA also proposes minor revisions to require that each process be developed in cooperation with the FHWA Division Administrator and in consultation with officials of the various units of local and tribal governments; it further adds that other safety stakeholders should also be consulted, as appropriate. The proposed changes clarify that each State would work with FHWA to develop appropriate processes and would consult with local governments and other stakeholders in the development of those processes. These changes reflect common practices in developing State Transportation Improvement Plans (STIP) under 23 CFR 450.216(b), (c), (d) and (f).'' In addition, FHWA proposes to clarify that the processes developed are in accordance with the requirements of 23 U.S.C. 148. Finally, FHWA proposes to remove the existing last sentence of

the regulation that references what the processes may include, since that language is more appropriate for guidance documents rather than regulation.

Discussion of Proposed Rulemaking to Section 924.9 Planning

The FHWA proposes to reorganize and revise paragraph (a) regarding the HSIP planning process so that it reflects the sequence of actions that States should take in the HSIP planning process. As a result of this reorganization, the HSIP planning process would now include six distinct elements, including a separate element for updates to the SHSP which currently exists under the safety data analysis processes. The FHWA also proposes removing existing item (a)(3)(iii) regarding the High Risk Rural Roads program to reflect the change in legislation. Proposed key revisions to each element of section 924.9(a) are described in the following paragraphs:

(a)(1) The proposed revision would group data as ''safety data,'' rather than specifying individual data components. The proposed language also would specify that roadway data shall include MIRE FDEs under 23 U.S.C. 148(a)(5) and (f)(1) and (2), and railway-highway grade crossing data including all fields from the DOT National Highway-Rail Crossing Inventory, consistent with 23 U.S.C. 130. The FHWA includes the use of MIRE FDEs consistent with guidance [13] issued by FHWA on December 27, 2012. The guidance memorandum provides background and guidance information on roadway and traffic data elements that can be used to improve safety investment decisionmaking through the HSIP. The *Model Inventory of Roadway Elements—MIRE, Version 1.0*,[14] report defines each roadway element and describes its attributes. The fundamental data elements are a basic set of elements on which an agency would need to conduct enhanced safety analyses regardless of the specific analysis tools used or methods applied. The elements are based on findings in the FHWA report ''Background Report: Guidance for Roadway Safety Data to Support the Highways Safety Improvement Program (Background Report).'' [15] The fundamental data elements have the potential to support other safety and infrastructure programs in addition to the HSIP. Further discussion of the MIRE FDEs is contained below in section 924.17.

(a)(2) The proposed revision would clarify that safety data includes all public roads.

(a)(3 [formerly 3(ii)]) The FHWA proposes to specify the SHSP update cycle, as required by MAP–21, and a process for updating the SHSP. The FHWA is proposing a 5-year update cycle, which is the current practice in most States. For example, 39 States updated their SHSP or had an SHSP update underway within a 5-year timeframe. A number of those States are on the third version of their SHSP. Of those States that have not delivered an SHSP update, they have an update planned or an update well underway. Many of the elements are currently contained in former item (a)(3)(ii); however, FHWA proposes reordering and combining some of the items to reflect the sequence of actions States should take in HSIP planning. The proposed revisions highlight the importance of the SHSP in the HSIP planning process and that it is a separate element. Proposed sub-item (v) would require the SHSP performance-based goals be consistent with 23 U.S.C. 150 performance measures and be coordinated with other State highway safety programs. This would provide a necessary link to MAP–21 performance goals, tying the safety goals together so that the SHSP goals are consistent with those in 23 U.S.C. 150 and are coordinated with the NHTSA safety goals.[16]

(a)(4(i) [formerly 3(i)]) The FHWA proposes to rephrase this item to specify that the program of highway safety improvement projects (rather than the HSIP) is to be developed in accordance with 23 U.S.C. 148(c)(2). The FHWA also proposes to remove the listing of the 23 U.S.C. 148(c)(2) elements from the regulation because it is repetitive.

(a)(4(ii) [formerly 3(iv)]) The FHWA proposes removing existing item (C) regarding consideration of dangers to larger numbers of people at public grade crossings, since this element is already included in the hazard index formula and is more appropriate for guidance.

(a)(5 [formerly 4]) The FHWA proposes to remove reference to ''hazardous locations, sections and elements'' to clarify that an engineering study is applicable to the development of all highway safety improvement projects, including those that address the potential for crashes.

(a)(6 [formerly 5]) The FHWA proposes removing the following existing items because these elements are integral components of the SHSP, not to individual projects: (iv) Regarding correction and prevention of hazardous conditions, (v) regarding other safety data-driven criteria as appropriate in each State, and (vi) regarding integration with the various transportation processes and programs, from the process for establishing and implementing highway safety improvement projects. The FHWA believes that removing these items would help ensure that the funds are being appropriately spent and are meeting the objectives of the HSIP.

The FHWA proposes to change the references for 23 U.S.C. 130 and 148 to 23 U.S.C. 104(b)(3) for consistency with other sections in this regulation; remove the reference to 23 U.S.C. 133, since this is not the primary intent of this program; and replace 23 U.S.C. 104(f) with 104(d) to reflect the change in legislation numbering. The FHWA also proposes to add language to clarify that use of these funding categories is subject to the individual program's eligibility criteria and the allocation of costs based on the benefit to each funding category.

In paragraph (c), FHWA proposes to add non-infrastructure safety projects, to be funded under 23 U.S.C. 104(b)(3), to the list of highway safety improvement projects that would be carried out as part of the STIP processes consistent with the requirements of 23 U.S.C. 134 and 135 and 23 CFR part 450. The FHWA also proposes to require States to be able to distinguish between infrastructure and non-infrastructure projects in the STIP in order to assist in tracking of the funds programmed on infrastructure and non-infrastructure projects for State and FHWA reporting purposes.

Discussion of Proposed Rulemaking to Section 924.11 Implementation

The FHWA proposes removing former paragraph (b) describing the 10 percent flex funds and former paragraph (c) describing funding set asides for improvements on high risk rural roads

[13] Guidance Memorandum on State Safety Data Systems, issued December 27, 2012, can be viewed at the following Internet Web site: *http://www.fhwa.dot.gov/map21/guidance/guidesafetydata.cfm.*

[14] *Model Inventory of Roadway Elements—MIRE, Version 1.0,* Report No. FHWA–SA–10–018, October 2010, *http://www.mireinfo.org/collateral/mire_report.pdf.*

[15] ''Background Report: Guidance for Roadway Safety Data to Support the Highways Safety Improvement Program (Background Report),'' FHWA Report number: FHWA–SA–11–39, published June 2011 is available at the following Internet Web site: *http://safety.fhwa.dot.gov/tools/data_tools/dcag.cfm.*

[16] According to MAP–21, the NHTSA safety performance goals are to be limited to those described in ''Traffic Safety Performance Measures for States and Federal Agencies'' (DOT HS 811 025). This report is available at the following Internet Web site: *http://www.nhtsa.gov/DOT/NHTSA/Traffic%20Injury%20Control/Articles/Associated%20Files/811025.pdf.* The document found at this link can also be found in the docket at *http://www.regulations.gov.*

to reflect changes associated with MAP–21.

The FHWA proposes adding new paragraph (b) to require States to incorporate an implementation plan by July 1, 2015, for collecting MIRE FDEs in their State's Traffic Records Strategic Plan. The FHWA proposes the implementation date to be the July 1 following the publication of the final rule, unless the final rule is published less than 6 months before July 1 in which case, the implementation date would be July 1 of the following calendar year. The FHWA proposes July 1 because that date reflects the annual due date for States' Highway Safety Plans. The Highway Safety Plans would include all grant applications, including those for 23 U.S.C. 405 funds, which require States to develop a multiyear traffic records strategic plan if they are applying for 23 U.S.C. 405(c) grants. The FHWA also proposes specifying that States shall complete collection of the MIRE FDEs on all public roads by the end of the fiscal year 5 years after the anticipated effective date of a final rule for this NPRM. For example, if the final rule is effective in August of 2016, then the collection would need to be completed by September 30, 2021. The FHWA believes that 5 years is sufficient for States to collect the MIRE FDEs. The FHWA plans to include a specific time period in the regulation based upon the effective date of a final rule for this NPRM.

The FHWA proposes to relocate and clarify existing requirements related to SHSP implementation in new paragraph (c). As part of the existing HSIP planning process, States are currently required to determine priorities for SHSP implementation (sec. 924.9(a)(3)(ii)(I)) and propose a process for implementation of the plan (sec. 924.9(a)(3)(ii)(L)). The FHWA proposes to clarify that the SHSP shall include actions that address how the SHSP emphasis area strategies would be implemented. The FHWA proposes this clarification to ensure that States develop actions that address how the SHSP emphasis area strategies would be implemented contributing to significant reductions in fatalities and serious injuries. The inclusion of action steps or plans in a State SHSP is common practice. A number of State SHSPs [17] currently include actions to implement the emphasis areas for their respective State. For example, a number of State SHSPs, including Pennsylvania, Minnesota, Nevada, and Rhode Island, contain actions to implement emphasis areas for their respective States. Each action step includes identification of the organization having primary responsibility in overseeing implementation of the associated action.

In paragraph (d), FHWA proposes removing language regarding specific use of 23 U.S.C. 130(f) funds for railway-highway grade crossings, because reference to 23 U.S.C. 130 as a whole is more appropriate than specifying just section (f). The FHWA would retain language about the Special Rule under 23 U.S.C. 130(e)(2) authorizing use of funds made available under 23 U.S.C. 130 for HSIP purposes if a State demonstrates to the satisfaction of the FHWA Division Administrator that the State has met its needs for installation of protective devices at railway-highway grade crossings, in order to ensure that all States are aware of this provision.

The FHWA proposes to revise paragraph (g) [formerly (h)] regarding the Federal share of the cost of a highway safety improvement project carried out with funds apportioned to a State under section 104(b)(3) to reflect 23 U.S.C. 148(j). The FHWA proposes to remove existing paragraphs (g) and (i) because the regulations are covered elsewhere and therefore do not need to be in this regulation. In particular, existing paragraph (g) is addressed in 23 CFR 450.216, which documents the requirements for the development and content of the STIP, including accounting for safety projects. In addition, existing paragraph (i) regarding implementation of safety projects in accordance with 23 CFR 630, Subpart A applies to all Federal-aid projects, not just HSIP, and is therefore not necessary in the HSIP regulation.

The FHWA proposes to retain existing paragraphs (a), (e), and (f) with minimal, editorial changes.

Discussion of Proposed Rulemaking to Section 924.13 Evaluation

The FHWA proposes the following changes to paragraph (a) regarding the evaluation of the HSIP and SHSP:

The FHWA proposes to revise item (1) to clarify that the process is to analyze and assess the results achieved by highway safety improvement projects generated from the SHSP and RHCP, and not the HSIP as stated in the existing regulation. This proposed change is consistent with the clarifications to the Program Structure, as described in the Discussion of Proposed Rulemaking to Section 924.7 Program Structure above. States currently evaluate highway safety improvement projects to support evaluation of the HSIP; therefore, FHWA does not believe this change will result in any additional cost to the States because it will not require them to change their current evaluation practices or the way they report evaluations to FHWA. The FHWA invites comments on the impact of this proposed clarification to the existing regulations. The FHWA also proposes to revise the outcome of this process to align with the performance targets established under 23 U.S.C. 150. This reflects the new requirement in section 1203 of MAP–21 for the establishment of performance targets; this requirement is the subject of a concurrent NPRM.

The FHWA proposes to revise item (2) to clarify that the evaluation of the SHSP is part of the regularly recurring update process that is already required under the current regulations. As part of this change, FHWA proposes to remove existing sub-item (i) because ensuring the accuracy and currency of the safety data is already part of regular monitoring and tracking efforts. The FHWA proposes to revise new sub-item (i) [formerly (ii)] to reflect that evaluation of the SHSP would include confirming the validity of the emphasis areas and strategies based on analysis of current safety data. Finally, in new sub-item (ii) [formerly (iii)] FHWA proposes to clarify that the SHSP evaluation must identify issues related to the SHSP's implementation and progress that should be considered during each subsequent SHSP update. Subsequent SHSP updates would need to take into consideration the issues experienced in implementing the previous plan and identify methods to overcome those issues. In addition, the SHSP evaluation and subsequent updates would ensure that HSIP resources are being aligned in a manner to reduce fatalities and serious injuries.

The FHWA proposes a minor revision to paragraph (b), item (1) to specify that safety data used in the planning process would be updated based on the results of the evaluation under paragraph 1 of section 924.13(a)(1). The FHWA proposes this change to reflect that current safety data be used in the planning process.

Finally, FHWA proposes minor revisions to paragraph (c) to remove references to the STP and NHS (now NHPP) since evaluation is not the primary intent of these programs; replace the reference to 23 U.S.C. 104(f) with 104(d) to reflect the change in legislation numbering; and update references to the U.S.C. The FHWA also proposes to add language to clarify that use of these funding categories is subject to the individual program's eligibility

[17] Individual State SHSPs are linked from the FHWA Office of Safety Web site at: *http://safety.fhwa.dot.gov/hsip/shsp/state_links.cfm.*

criteria and the allocation of costs based on the benefit to each funding category.

Discussion of Proposed Rulemaking to Section 924.15 Reporting

The FHWA proposes to remove the requirements for reporting on the High Risk Rural Roads program and the transparency report because MAP–21 removes these reporting requirements.

The FHWA proposes to revise the HSIP report requirements to specify what should be contained in those reports. In paragraph (a), FHWA proposes to require that the report be submitted via the HSIP online reporting tool. Additional information about the online reporting tool is available on the following Internet Web site: *http://safety.fhwa.dot.gov/hsip/resources/onrpttool/.* Submitting reports in this manner would lessen the burden on States and would assist FHWA in review and evaluation of the reports.

The FHWA proposes to replace sub-items (i) and (ii) of paragraph (1) in their entirety. In sub-item (i), FHWA proposes to indicate that the report needs to describe the structure of the HSIP, including how HSIP funds are administered in the State, and a summary of the methodology used to develop the programs and projects being implemented under the HSIP on all public roads. In sub-item (ii), FHWA proposes that the report describe the process in implementing the highway safety improvement projects and compare the funds programmed in the STIP for highway safety improvement projects with those obligated during the reporting year. The FHWA also proposes that the report include a list of highway safety improvement projects (and how each relates to the State SHSP) that were obligated during the reporting year, including non-infrastructure projects.

The FHWA proposes a new sub-item (iii) that would indicate that the report shall describe the progress in achieving safety performance targets (as required by MAP–21 section 1203), including the established safety targets (number and rate of fatalities and serious injuries), trends, and applicability of special rules defined in 23 U.S.C. 148(g). The safety performance targets in this new sub-item (iii) would be presented in the report for all public roads by calendar year consistent with 23 U.S.C. 150(d).

In new sub-item (iv), FHWA proposes that the report would assess improvements accomplished by describing the effectiveness of highway safety improvement projects implemented under the HSIP. Finally, FHWA proposes new sub-item (v) to require that the HSIP report be compatible with the requirements of 29 U.S.C. 794(d) (Section 508 of the Rehabilitation Act) whereas previously only the transparency report was required to be compatible.

The FHWA does not propose any changes to the report describing progress to implement railway-highway grade crossing improvements.

Discussion of Proposed Addition of Section 924.17 MIRE Fundamental Data Elements

The FHWA proposes to add section 924.17 containing the MIRE FDEs for the collection of roadway data. The FHWA proposes to include this section to comply with section 1112 of MAP–21 that amends 23 U.S.C. 148 to require model inventory of roadway elements as part of data improvement. As mandated under 23 U.S.C. 148(f)(2), the Secretary of Transportation shall (A) establish a subset of the model inventory of roadway elements that are useful for the inventory of roadway safety; and (B) ensure that States adopt and use the subset to improve data collection. The proposed MIRE FDEs have been published in several FHWA documents as discussed previously in the Discussion of Proposed Rulemaking to Section 924.9 Planning. This proposed section would consist of two tables of MIRE FDEs listing the MIRE name and number for roadway segments, intersections, and interchanges or ramps as appropriate. Table 1 contains the proposed MIRE FDEs for Roads with Average Annual Daily Traffic (AADT) greater than or equal to 400 vehicles per day. The FHWA recognizes that fewer data elements are required to characterize two-lane roads, which carry lower traffic volumes than other types of roadway. Therefore, FHWA proposes a reduced set of MIRE FDE for roadways with less than 400 AADT. Table 2 of Section 924.17 contains the proposed MIRE FDEs for Roads with AADT less than 400 vehicles per day. The *Model Inventory of Roadway Elements—MIRE, Version 1.0*,[18] report defines each roadway element and describes its attributes.

The FHWA proposes the 400 AADT breakpoint because it is used by FHWA and the American Association of State Highway Transportation Officials (AASHTO) to characterize low volume roads. In addition to the legislative requirement that the HSIP address all public roads, FHWA believes it is in the public's best interest to collect the MIRE FDE on low volume roads because a substantial number of fatalities occur on these roads. Based on an estimate of the number of fatalities using the FARS breakdown of crashes by roadway functional class and estimates from Iowa, Minnesota, and Missouri of the mileage of roadways by AADT range for various functional classes, nearly 15 percent of total fatalities occur on roads with AADT <100, as illustrated in Table 3 below.

TABLE 3—ESTIMATED PERCENT OF FATALITIES ON <400 AADT ROADS

AADT (vehicles per day)	Estimated percentage of total fatalities
<400	17.7
300–399	0.6
200–299	0.8
100–199	1.5
<100	14.6

The FHWA acknowledges that its estimates of fatalities on low volume are not based on a comprehensive data source. Therefore, FHWA seeks comments on other data sources and methodologies for analyzing the distribution of traffic accidents involving fatalities and serious injuries on low volume roads. While FHWA is mindful that it must satisfy the statutory requirement to collect information on all public roads, FHWA welcomes comments on whether there are some roads in which collecting certain MIRE FDE is not substantially beneficial to improving roadway safety, and if there are such roads, how the final rule might clearly distinguish between roads that require certain MIRE FDE and roads that may require only a smaller subset of MIRE FDE.

While FHWA is not proposing requirements for how States must collect and process the proposed MIRE FDE, FHWA envisions that States would do so using a variety of means, tools and technology, including, but not limited to: Data mining existing resources (e.g., existing State-maintained roadway inventories, as-built plans, and construction records), ground-based imaging (e.g., driving along roads and using mobile mapping and LiDAR), and aerial imaging (both with and without LiDAR). In addition, FHWA understands that State DOTs may need to work with local transportation authorities to collect the MIRE FDE. A description of various methodologies for collecting MIRE FDE is provided in the

[18] *Model Inventory of Roadway Elements—MIRE, Version 1.0,* Report No. FHWA–SA–10–018, October 2010, *http://www.mireinfo.org/collateral/mire_report.pdf.*

MIRE Data Collection Guidebook.[19] For each methodology, the guidebook includes a discussion of available and emerging technologies, data collection efficiencies and potential concerns. The guide also presents suggested data collection methodologies for specific MIRE data elements, and specific guidance on how the elements can be collected and considerations for collection. The FHWA seeks comments and cost data on the methods States plan to use to fulfill the proposed data collection requirements.

The MAP–21 requires that the subset of model inventory of roadway elements be useful for the inventory of roadway safety. The proposed MIRE FDE were developed based on stakeholder input and by identifying the data elements that are required to use safety analysis methods recommended in the AASHTO Highway Safety Manual. The FHWA believes that the collection and use of the proposed MIRE FDE, when integrated with crash data, will enable jurisdictions to better estimate expected crash frequencies compared to existing data and methods used by States. In addition to addressing a statutory requirement, the purpose of the proposed MIRE FDE collection is to improve the data and methods States currently use to predict crashes and allocate safety resources. The FHWA believes that as States use advanced analysis methods (i.e., incorporating the proposed MIRE FDE and using methods such as those presented in the AASHTO Highway Safety Manual) they will implement more effective safety improvement projects than they currently do. As described in Chapter 3, Fundamentals, of the AASHTO Highway Safety Manual, research and experience has shown that methods that attempt to predict a location's future crashes based solely on the location's past crashes are not as accurate as methods that attempt to predict a location's future crashes using the proposed MIRE FDE in combination with crash frequency data using analytical methods such as those recommended in the AASHTO Highway Safety Manual. The FHWA believes that current methods, which heavily emphasize past number and rate of crashes prompt States to consider safety projects in locations that may be less than optimal, because a location's past number of crashes is not a good predictor of its future number of crashes. For example, the addition of a school or a residential development may increase a location's traffic volume which in turn may increase the number of crashes at the site. Using past crash data alone would not account for such changes. The MIRE FDE improves a State's ability to predict future crashes using statistical methods that combine the recent crash history at a location with crash data from many other similar locations (in the form of a regression model of crash frequency versus traffic volume unique to the particular roadway type). The DOT requests comments on the extent to which use of the proposed MIRE FDE, in combination with crash frequency data, will substantially improve States' ability to predict future crashes and more effectively allocate safety resources relative to existing data and methods used by States which do not incorporate the proposed MIRE FDE.

A general description of how we expect States would use the proposed MIRE FDE is the following. First, the State would compile and monitor actual crash frequency data for each location. Next, the State would use the collected MIRE FDE to identify the roadway type and to use the safety performance function for that roadway type to estimate the predicted crash frequency for such a location. Then, the State would combine the predicted crash frequency for similar sites with the observed crash frequency at each particular location, using methods described in the AASHTO Highway Safety Manual, to derive the expected average crash frequency for each location along its roadway network. Finally, States would rank locations based on one, or preferably several measures identified in the AASHTO Highway Safety Manual. Examples of such measures include expected crash frequency or a measure of the ''excess'' crash frequency. The excess crash frequency may be computed as the difference between the predicted and expected crash frequency at the location or the difference between the observed and expected crash frequency at the location. For example, if a location's actual number of crashes is high compared to its expected number of crashes, that would be one indicator that a State should consider for deciding where to allocate safety resources. States would also consider other indicators when finally deciding when and where to allocation safety resources. Past number and rate of crashes, ''excess'' crash frequency, cost of countermeasure implementation and other factors would be considered in final project selection. States would use multiple indicators when deciding where and how to allocate safety resources with the ultimate goal to identify and implement projects that have the highest net benefits. We request comments on whether our understanding of how States would use the proposed MIRE FDE is correct.

For example, ''excess crashes'' (i.e., the actual number of crashes minus the expected number of crashes) may not be the only indicator used for deciding where and how to allocate safety resources. A location's absolute number of crashes is also an important indicator to consider when seeking to identify the most cost-beneficial projects. For example, a State implementing a safety project at a location that performs well relative to its expected number of crashes—but still has a high number of total crashes—may be a more effective use of safety resources than implementing a project at a location that performs poorly relative to its expected number of crashes but has a smaller number of total crashes.

The specific roadway data requirements to estimate expected average crash experience on our roadways using safety performance functions and related safety management methods include the (1) type of roadway (e.g., two-lane rural highway versus six-lane urban freeway) and (2) exposure to crash risk (traffic volume, as measured by AADT, and length for roadway segments and ramps). The FHWA believes that the proposed MIRE FDE is the minimum subset of data elements needed to characterize the type of roadway and exposure on all public roads. The proposed MIRE FDE are the data elements whose effects on safety are best understood and most commonly applied by the highway safety profession, as documented in the AASHTO Highway Safety Manual, and that are most appropriate for use in the initial screening of the State's roadway network for sites with the greatest potential for safety improvement through infrastructure investment. The FHWA acknowledges that other variables may be equally (or more) important for predicting future crashes. Because the proposed MIRE FDE are only a subset of variables that may be useful for estimating expected crashes, it is possible that using only the proposed MIRE FDE in prediction models may produce biased results of future crashes. After it issues a final rule, FHWA will continue to work with stakeholders to explore other data elements for inclusion in the regulations or guidance to improve prediction models, or data elements to remove from regulations in the future. The

[19] FHWA, MIRE Data Collection Guidebook, June 2013, *http://safety.fhwa.dot.gov/rsdp/downloads/datacollectionguidebook.pdf.*

FHWA invites comments on ways to minimize the cost of using the proposed MIRE FDE (e.g., incorporating the data into models), including any technical or other assistance that could be offered by FHWA.

The proposed MIRE FDE can be divided into the following categories: (1) MIRE FDE that define individual roadway segments, intersections, and interchange/ramps, (2) MIRE FDE that delineate basic information needed to characterize the roadway type and exposure, and (3) MIRE FDE that identify governmental ownership and functional classification (these data are needed to satisfy other MAP–21 reporting requirements.

Table 4 illustrates the MIRE FDE needed to uniquely identify individual segments, intersections and interchange/ramps in order to (a) associate crash data and traffic volume data to them, (b) locate them geospatially, and (c) conduct analyses on individual segments, intersections and interchange/ramps.

TABLE 4—MIRE FDE IDENTIFIERS

Segments	Intersections	Interchange/ramps
Segment Identifier	Unique junction identifier	Unique Interchange Identifier.
Route Number	Location Identifier for Road 1 Crossing Point	Location Identifier for Roadway at Beginning Ramp Terminal.
Route/Street Name	Location Identifier for Road 2 Crossing Point	Location Identifier for Roadway at End Ramp Terminal.
Federal-Aid/Route Type	Unique Approach Identifier.	
Begin Point Segment Descriptor.		
End Point Segment Descriptor.		
Direction of Inventory.		

Table 5 illustrates the MIRE FDE needed to characterize the roadway type and exposure. This information is used as inputs to estimate the expected crash frequency on individual segments, intersections and interchanges/ramps using the methods described in the AASHTO Highway Safety Manual.

TABLE 5—MIRE FDE ROADWAY CHARACTERISTICS

Segments	Intersections	Interchange/ramps
Rural/Urban Designation	Intersection/Junction Geometry	Ramp Length.
Surface Type	Intersection/Junction Traffic Control	Roadway Type at Beginning Ramp Terminal.
Segment Length	AADT [for each intersecting road]	Roadway Type at End Ramp Terminal.
Median Type	AADT Year [for each intersecting road]	Interchange Type.
Access Control		Ramp AADT.
One/Two-Operations		Year of Ramp AADT.
Number of Through Lanes.		
AADT.		
AADT Year.		

Table 6 presents the MIRE FDE needed to satisfy MAP–21 reporting requirements (23 U.S.C. 148(h)(c)(i) and (ii)).

TABLE 6—MIRE FDE FOR MAP–21 REPORTING REQUIREMENTS

Segments	Intersections	Interchange/ramps
Functional Class		Functional Class.
Type of Governmental Ownership		Type of Governmental Ownership.

Rulemaking Analysis and Notices

Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

The FHWA has determined that this proposed action is a significant regulatory action within the meaning of Executive Order 12866 and within the meaning of DOT regulatory policies and procedures due to the significant public interest in regulations related to traffic safety. It is anticipated that the economic impact of this rulemaking would not be economically significant within the meaning of Executive Order 12866 as discussed below. This action complies with Executive Orders 12866 and 13563 to improve regulation.

The FHWA has determined that this proposed rule would not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of greater than $100 million or more in any one year (2 U.S.C. 1532). Of the three requirements the Secretary was required to establish as a result of MAP–21 (i.e. MIRE FDE, SHSP update cycle, and HSIP Report Content and Schedule), FHWA believes that only the MIRE FDE would result in significant additional costs to the State DOTs.

The SAFETEA–LU and existing regulation currently require States to update their SHSP on a regular basis. This proposed rulemaking requires States to update their SHSP at least every 5 years. Thirty nine States updated their SHSP or had an SHSP update underway within a 5-year timeframe. A number of those States are on the third version of their SHSP. Of those States that have not delivered an

SHSP update, they have an update planned or an update well underway. The FHWA has not estimated the cost of this proposal on States that update their SHSP less frequently than every 5 years. The FHWA believes the cost of this proposal is small, but invites comments on whether it would result in substantial costs, and how those costs could be estimated.

The proposed rulemaking does not change the reporting schedule or frequency.

There were only minimal changes to the HSIP report content, specifically the proposed requirement for States to report their annual safety performance targets in the HSIP report. The Transportation Performance Management: Safety NPRM being published concurrently with this NPRM accounts for the cost to develop the safety targets that will be reported in the existing HSIP report. The actual cost to report the targets is negligible and offset by the elimination of the transparency report requirement, which was a previously estimated burden of 200 hours per State.

Therefore, FHWA bases its cost-benefit analysis for the NPRM on the cost to collect, maintain, and use MIRE FDE only. The ''MIRE Fundamental Data Elements Cost-Benefit Estimation'' [20] report was developed to support the MAP–21 State Safety Data Systems guidance published on December 27, 2012, and is the basis for the NPRM cost-benefit analysis since the proposed MIRE FDE in this NPRM are based upon the recommended MIRE FDE in the guidance. The objective of this report was to estimate the potential cost to States in extending their statewide linear referencing system (LRS) and collecting the MIRE FDEs for the purposes of implementing the HSIP on all public roadways. The cost estimates developed as part of this report reflect the additional costs that a State would incur based on what is not being collected through the HPMS or not already being collected for other purposes. The cost estimate does not include the cost of analyzing the MIRE FDE and performance measure data. States are currently required to conduct safety analysis using the best available data. States meet this requirement using a variety of methods, but most commonly States use crash frequency and crash rate to identify and prioritize potential locations for safety improvement. The MIRE FDE enables States to use advanced safety analysis methods to conduct this analysis. The FHWA does not believe that States will incur any additional costs from analyzing or otherwise using the proposed MIRE FDE. The FHWA believes that States will use methods incorporating the proposed MIRE FDE *in lieu* of existing methods. In other words, FHWA believes that States will discontinue using existing methods and, in place of these methods, conduct new analyses using the proposed MIRE FDE that will more accurately estimate the expected number of crashes at a location. The FHWA believes the overall net effect would be no new costs to States from using the MIRE FDE. The FHWA requests comments on whether this understanding is accurate, or whether States will incur new costs from using the proposed MIRE FDE to identify safety problems and projects. The basic cost-estimation methodology is to apply estimated unit costs to the public road mileage reported by States to the FHWA HPMS.[21] The MIRE Fundamental Data Element Cost-Benefit Estimation Report documents the various unit-cost estimates and assumptions applied to each State's public road mileage to estimate the breakouts of total mileage by AADT range and by LRS coverage, the number of intersections and ramps, and the corresponding cost of the various components. The data used as the basis for the MIRE FDE Cost-Benefit Estimation Report are available on the docket in a supplemental spreadsheet titled ''MIRE FDE Analysis Supplemental Tables.''

With the passage of MAP–21, States will be required to collect data on all public roads, including non-Federal-aid roads. To initiate this process, States will need to develop a common statewide relational LRS on all public roads that is linkable with crash data, as required by 23 CFR 1.5 and described in recent FHWA guidance [22] issued on August 7, 2012. Based on this criteria, the report estimated that the cost of data collection for an average State is $1,362,800 to complete the LRS and initial MIRE FDE collection efforts, $66,600 for management and administration costs and $2,896,100 for maintenance costs over the analysis period of 2013–2029 (in 2013 U.S. dollars). These are average net present value costs (at a 0.5 percent discount rate) on a per State basis. As such, across the 50 States and the District of Columbia, it is possible that the aggregate cost for initial data collection would be approximately $69.5 million, and the annual maintenance cost would approach $11.5 million. This equates to approximately $225,000 on average for a State to maintain the data annually. Table 7 displays the total national annual cost of the proposed rule. Total costs are estimated to be $228.8 million undiscounted, $220.6 million discounted at 0.5 percent (the discount rate used in the MIRE FDE Cost-Benefit Estimation Report), $185.8 million discounted at 3 percent, and $146.1 million discounted at 7 percent.

TABLE 7—TOTAL ESTIMATED NATIONAL COSTS FOR MIRE FDE

[2013–2029 Analysis period]

Cost components	Total national costs			
	Undiscounted	0.5%	3.00%	7.00%
Cost of Section 924.17:				
Linear Referencing System (LRS)	$17,239,277	$17,180,594	$16,895,724	$16,467,622
Initial Data Collection	53,172,638	52,319,704	48,367,784	42,980,809
Roadway Segments	37,941,135	37,332,527	34,512,650	30,668,794
Intersections	8,284,572	8,151,681	7,535,951	6,696,633
Interchange/Ramp locations	832,734	819,376	757,485	673,120
Volume Collection	6,114,197	6,016,120	5,561,698	4,942,262
Maintenance of data system	154,945,661	147,701,120	117,370,098	83,834,343

[20] ''MIRE Fundamental Data Elements Cost-Benefit Estimation'', FHWA Report number: FHWA–SA–13–018, published March 2013 is available on the docket for this rulemaking and at the following Internet Web site: *http://safety.fhwa.dot.gov/rsdp/downloads/mire_fde_%20cbe_finalrpt_032913.pdf*.

[21] HPMS, FHWA, *http://www.fhwa.dot.gov/policyinformation/statistics/2011/index.cfm#hm*.

[22] A copy of ''Guidance Memorandum on Geospatial Network for all Public Roads,'' issued August 7, 2012, can be viewed at *www.regulations.gov* under the docket number listed in the heading of this document.

TABLE 7—TOTAL ESTIMATED NATIONAL COSTS FOR MIRE FDE—Continued

[2013–2029 Analysis period]

Cost components	Total national costs			
	Undiscounted	0.5%	3.00%	7.00%
Management & administration of data system	3,449,812	3,394,474	3,138,075	2,788,571
Total Cost	228,807,387	220,595,892	185,771,683	146,071,346

The FHWA did not endeavor to estimate the difference in the cost between the safety projects that States would implement using the proposed MIRE FDE and the cost of the projects that States would implement using current data and methods which do not incorporate the proposed MIRE FDE. The FHWA welcomes comments to assist it in estimating such costs at the final rule stage.

The FHWA also welcomes comments from State DOTs and other interested members of the public on the economic, administrative, and operational impacts of this proposed rulemaking. Comments regarding specific burdens, impacts, and costs would assist FHWA in more fully appreciating and analyzing the impacts of these requirements. The FHWA also welcomes comments on the SHSP update cycle and related costs. In addition, FHWA seeks comments on whether agencies agree that the cost of collecting MIRE FDE as proposed in this NPRM is justified by the benefits, including the potential for improving roadway safety, if additional data should be required or if data proposed in this NPRM should be eliminated, and on alternative approaches to implementing the MIRE FDE statutory requirement in a way that increases net benefits. The FHWA also seeks comments on how long it would take a State to collect and implement the MIRE FDE requirements and other methods, tools, and technologies that could be used to support MIRE FDE data collection efforts, or the assumptions used in the MIRE Fundamental Data Elements Cost-Benefit Estimation report. We encourage comments on all facets of this proposed rulemaking.

The FHWA initiated this proposed rulemaking to address the MAP–21 requirements for the Secretary to establish the MIRE FDE, SHSP update cycle, and reporting content and schedule. Furthermore, MAP–21 requires States to report on their safety performance in relation to the national safety performance measures in 23 U.S.C. 150(e). The collection and use of the MIRE FDE information would enhance States ability to:

- Develop quantifiable annual performance targets
- Develop a strategy for identifying and programming projects and activities that allow the State to meet the performance targets
- Conduct data analyses supporting the identification and evaluation of proposed countermeasures

This proposed rulemaking will improve HSIP implementation efforts resulting in a significant impact on improving safety on our Nation's roads. Collecting the MIRE FDE data and integrating those data into the safety analysis process would support more effective safety investment decisionmaking by improving an agency's ability to locate problem areas with the greatest potential for safety improvement and apply the most appropriate countermeasures. More effective safety investments yield more lives saved and injuries avoided per dollar invested.

The benefits of this rule would be the monetized value of the crashes, fatalities, serious injuries, and property damage avoided by the projects identified and implemented using the proposed MIRE FDE minus the foregone monetized value of the crashes, fatalities, serious injuries, and property damage avoided by the projects identified and implemented using current data and methods used by States to allocate safety resources. The FHWA has not endeavored to estimate the benefits of this rule in this way, but welcomes comments on how it could estimate such benefits at the final rule stage. Instead, FHWA conducted a break-even analysis. The ''MIRE Fundamental Data Elements Cost-Benefit Estimation'' [23] report estimated the reduction in fatalities and injuries that would be needed to exceed 1:1 and 2:1 ratios of benefits to costs. Table 8 summarizes these needed benefits. The injury costs used in the report reflect the average injury costs based on the national distribution of injuries in the General Estimate System using a Maximum Abbreviated Injury Scale.

TABLE 8—ESTIMATED BENEFITS NEEDED TO ACHIEVE COST-BENEFIT RATIOS OF 1:1 AND 2:1

Benefits	Number of lives saved/injuries avoided nationally			
	Undiscounted	0.5%	3.00%	7.00%
Benefit/Cost Ratio of 1:1:				
# of lives saved (fatalities)	19	19	21	23
# of injuries avoided	1246	1263	1353	1517
Benefit/Cost Ratio of 2:1:				
# of lives saved (fatalities)	38	39	42	47
# of injuries avoided	2493	2527	2706	3034

Using the 2012 comprehensive cost of a fatality of $9,100,000 and $107,438 for

[23] ''MIRE Fundamental Data Elements Cost-Benefit Estimation,'' FHWA Report number: FHWA–SA–13–018, published March 2013 is available on the docket for this rulemaking and at the following Internet Web site: *http://safety.fhwa.dot.gov/rsdp/downloads/mire_fde_%20cbe_finalrpt_032913.pdf*. The document found at this link can also be found in the docket at *http://www.regulations.gov*.

an injury,[24] results in an estimated reduction of 0.38 fatalities and 24.77 injuries per average State over the 2013–2029 analysis period would be needed to result in a benefit/cost ratio greater than 1:1. To achieve a benefit-cost ratio of 2:1, fatalities would need to be reduced by 0.76 and injuries by 49.54 per average State over the same analysis period.

One study on the effectiveness of the HSIP found: [25]

The magnitude of States' fatal crash reduction was highly associated with the years of available crash data, prioritizing method, and use of roadway inventory data. Moreover, States that prioritized hazardous sites by using more detailed roadway inventory data and the empirical Bayes method had the greatest reductions; all of those States relied heavily on the quality of crash data system.''

For example, this study cites Colorado's safety improvements, noting ''Deployment of advanced methods on all projects and acquisition of high-quality data may explain why Colorado outperformed the rest of the country in reduction of fatal crashes.'' [26] Illinois was also high on this study's list of States with the highest percentage reduction in fatalities. In a case study of Illinois' use of AASHTO Highway Safety Manual methods, an Illinois DOT official noted that use of these methods ''requires additional roadway data, but has improved the sophistication of safety analyses in Illinois resulting in better decisions to allocate limited safety resources.'' [27] Another case study of Ohio's adoption of a tool to apply the roadway safety management methods described in the AASHTO Highway Safety Manual concluded, ''In Ohio, one of the benefits of applying various HSM screening methods was identifying ways to overcome some of the limitations of existing practices. For example, the previous mainframe methodology typically over-emphasized urban ''sites of promise''—locations identified for further investigation and potential countermeasure implementation. These locations were usually in the largest urban areas, often with a high frequency of crashes that were low in severity. Now, several screening methods can be used in the network screening process resulting in greater identification of rural corridors and projects. This identification enables Ohio's safety program to address more factors contributing to fatal and injury crashes across the State, instead of being limited to high-crash locations in urban areas, where crashes often result in minor or no injuries.'' [28] Another document quantified these benefits, indicating that the number of fatalities per identified mile is 67 percent higher, the number of serious injuries per mile is 151 percent higher, and the number of total crashes is 105 percent higher with these new methods than with their former methods.[29] In summary, all three States experienced benefits to the effectiveness of safety investment decisionmaking through the use of methods that included roadway data akin to the MIRE FDE and crash data in their highway safety analyses.

In 2010, 32,885 people died in motor vehicle traffic crashes in the United States, and an estimated 2.24 million people were injured.[30] [31] The decrease in fatalities needed to achieve a 1:1 cost-benefit ratio represent a 0.4 percent reduction of annual fatalities using 2010 statistics. The experiences to date in States that are already collecting and using roadway data comparable to the MIRE FDE suggests there is a very high likelihood that the benefits of collecting and using the proposed MIRE FDE will outweigh the costs. We believe that the proposed MIRE FDE in combination with crash data will support more cost-effective safety investment decisions and ultimately yield greater reductions in fatalities and serious injuries per dollar invested.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (RFA) (Pub. L. 96–354, 5 U.S.C. 601–612), FHWA has evaluated the effects of these changes on small entities and anticipates that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed rulemaking addresses the HSIP. As such, it affects only States, and States are not included in the definition of small entity set forth in 5 U.S.C. 601. Therefore, the RFA does not apply, and I hereby certify that the proposed action would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

The FHWA has evaluated this proposed rule for unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48, March 22, 1995). As part of this evaluation, FHWA has determined that this proposed rule would not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of greater than $100 million or more in any one year (2 U.S.C. 1532). The FHWA bases its analysis on the ''MIRE Fundamental Data Elements Cost-Benefit Estimation'' Report.[32] The objective of this report was to estimate the potential cost to States in developing a statewide LRS and collecting the MIRE FDEs for the purposes of implementing the HSIP on all public roadways. The cost estimates developed as part of this report reflect the additional costs that a State would incur based on what is not being collected through the HPMS or not already being collected through other efforts. The funds used to establish a data collection system, collect initial data, and maintain annual data collection are reimbursable to the States through the HSIP program.

Further, in compliance with the Unfunded Mandates Reform Act of 1995, FHWA will evaluate any regulatory action that might be proposed in subsequent stages of the proceeding to assess the effects on State, local, and tribal governments and the private sector. Additionally, the definition of ''Federal Mandate'' in the Unfunded Mandate Reform Act excludes financial assistance of the type in which State, local, or tribal governments have authority to adjust their participation in the program in accordance with changes made in the program by the Federal Government. The Federal-aid highway program permits this type of flexibility.

[24] Office of the Secretary of Transportation, Memorandum on Guidance on Treatment of the Economic Value of a Statistical Life in U.S. Department of Transportation Analyses, February 28, 2013. *http://www.dot.gov/regulations/economic-values-used-in-analysis.*

[25] Wu, K.-F., Himes, S.C., and Pietrucha, M.T., ''Evaluation of Effectiveness of the Federal Highway Safety Improvement Program,'' Transportation Research Record, Vol. 2318, pp. 23–34, 2013.

[26] Ibid.

[27] Highway Safety Manual Case Study 4: Development of Safety Performance Functions for Network Screening in Illinois. *http://safety.fhwa.dot.gov/hsm/casestudies/il_cstd.cfm.*

[28] Highway Safety Manual Case Study 2: Implementing a New Roadway Safety Management Process with SafetyAnalyst in Ohio. *http://safety.fhwa.dot.gov/hsm/casestudies/oh_cstd.cfm.*

[29] Hughes, J. and Council, F.M., ''How Good Data Lead to Better Safety Decisions,'' *ITE Journal,* April 2012.

[30] National Highway Traffic Safety Administration—Fatality Analysis Reporting System: can be accessed at the following Internet Web site: *http://www.nhtsa.gov/FARS.*

[31] National Highway Traffic Safety Administration—National Automotive Sampling System (NASS) General Estimates System (GES): can be accessed at the following Internet Web site: *http://www.nhtsa.gov/NASS.*

[32] ''MIRE Fundamental Data Elements Cost-Benefit Estimation'', FHWA Report number: FHWA–SA–13–018, published March 2013 is available on the docket for this rulemaking and at the following Internet Web site: *http://safety.fhwa.dot.gov/rsdp/downloads/mire_fde_%20cbe_finalrpt_032913.pdf.*

Executive Order 13132 (Federalism)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 dated August 4, 1999. The FHWA has determined that this proposed action would not have sufficient federalism implications to warrant the preparation of a federalism assessment. The FHWA has also determined that this proposed rulemaking would not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this proposed action under Executive Order 13175, dated November 6, 2000, and believes that it would not have substantial direct effects on one or more Indian tribes; would not impose substantial direct compliance costs on Indian tribal governments; and would not preempt tribal law. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

The FHWA has analyzed this proposed action under Executive Order 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 likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

Executive Order 12372 (Intergovernmental Review) Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) prior to conducting or sponsoring a ''collection of information'' as defined by the PRA. The FHWA currently has OMB approval under ''Highway Safety Improvement Programs'' (OMB Control No: 2125–0025) to collect the information required by State's annual HSIP reports. The FHWA desires to concurrently update this request to reflect MAP–21 requirements as proposed in this NPRM.[33] The FHWA invites comments about our intention to request OMB approval for a new information collection to include the additional components required in this NPRM to reflect MAP–21 requirements described in the Supplementary Information below. Any action that might be contemplated in subsequent phases of this proceeding will be analyzed for the purpose of the PRA for its impact to this current information collection. The FHWA will submit the proposed collections of information to OMB for review and approval at the time the NPRM is issued and, accordingly, seeks comments.

Supplementary Information

The HSIP requires a data-driven, strategic approach to improving highway safety on all public roads that focuses on performance. In accordance with 23 U.S.C. 148(h) and 23 U.S.C. 130(g), Railway-Highway Crossings Program, FHWA proposes in this NPRM to collect a report describing progress being made to implement the HSIP and a report describing progress being made to implement railway-highway grade crossing improvements. The FHWA proposes that the State DOTs continue to annually produce and submit these reports to FHWA by August 31. The FHWA proposes the HSIP report to (1) describe the structure of the HSIP; (2) describes the progress in implementing HSIP projects; (3) describes progress in achieving safety performance targets; and (4) assesses the effectiveness of the improvements. The States currently report this information, with the exception of the proposed requirement that State's document the established safety performance targets for the following calendar year in their annual HSIP report (that will be developed as per the Transportation Performance Management: Safety NPRM being published concurrently with this NPRM). Similarly, FHWA proposes the Railway-Highway Crossing Program Report continue to describe progress being made to implement railway-highway grade crossing improvements in accordance with 23 U.S.C. 130(g), and the effectiveness of these improvements.

The information contained in the annual HSIP reports provides FHWA with a means for monitoring the effectiveness of these programs and may be used by Congress for determining the future HSIP program structure and funding levels. In addition, FHWA uses the information collected as part of the HSIP reports to prepare an HSIP National Summary Report,[34] which summarizes the number of HSIP projects by type and cost. The Railway-Highway Crossing Program Reports are used by FHWA to produce and submit biennial reports to Congress.

To be able to produce these reports, State DOTs must have safety data and analysis systems capable of identifying and determining the relative severity of hazardous highway locations on all public roads, based on both crash experience and crash potential, as well as determining the effectiveness of highway safety improvement projects. As discussed in this NPRM, FHWA proposes to require States to collect and use a subset of MIRE as part of their safety data system for this purpose as mandated under 23 U.S.C. 148(f)(2).

Section 148(h)(3), of title 23, U.S.C., requires the Secretary to make the State's HSIP reports [35] and SHSP [36] available on the Department's Web site. The FHWA proposes States use the online reporting tool to support the annual HSIP reporting process. Additional information is available on the Office of Safety Web site at: *http://safety.fhwa.dot.gov/hsip/resources/onrpttool/.* Reporting into the online reporting tool meets all report requirements and DOT Web site compatibility requirements.

A burden estimate for the HSIP Reports and MIRE FDE is summarized below in Table 5. The HSIP Reports burden represents the annual burden per each collection cycle; whereas, the MIRE FDE burden represents the initial data collection and maintenance burdens over the 2013–2029 analysis period, consistent with the MIRE FDE Cost-Benefit Estimation Report. This report calculated the MIRE FDE costs as a dollar figure. To turn this into an equivalent hourly burden, we took the total costs (including technology and data collection by vendors) and turned them into labor hours ($55/hour, including overhead).

[33] This information collection request (ICR) can be viewed at the following Internet Web site: *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201308-2125-002.*

[34] *http://safety.fhwa.dot.gov/hsip/reports/nsbrpt_2009_2012.cfm.*

[35] *http://safety.fhwa.dot.gov/hsip/reports/.*

[36] *http://safety.fhwa.dot.gov/hsip/shsp/state_links.cfm.*

TABLE 5—BURDEN ESTIMATE FOR HSIP REPORTS AND MIRE FDE INFORMATION COLLECTION

	HSIP Reports	MIRE FDE (initial collection spread over 5 years)	MIRE FDE (maintenance for 16 years)
Respondents	51 State Transportation Departments, including the District of Columbia.		
Frequency	Annually, by August 31st	Once, within 5 years of HSIP final rule publication.	Annual.
Estimated Average Burden per Response.	250 hours	25,987 hours *	52,656 hours.**
Estimated total burden hours	12,750 hours	1,325,360 hours *	2,685,475 hours.**

* Over 5 years of data collection.
** Over 16 year (2013–2029) analysis period (from the MIRE FDE Cost-Benefit Estimation Report).

Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Executive Order 12988 (Civil Justice Reform)

This proposed action 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.

Executive Order 13045 (Protection of Children)

The FHWA has analyzed this proposed action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The FHWA certifies that this proposed action would not concern an environmental risk to health or safety that might disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

The FHWA does not anticipate that this proposed action would affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

National Environmental Policy Act

The agency has analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and has determined that it would not have any effect on the quality of the environment and meets the criteria for the categorical exclusion at 23 CFR 771.117(c)(20).

Executive Order 12898 (Environmental Justice)

Executive Order 12898 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. The FHWA has determined that this rule does not raise any environmental justice issues.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 924

Highway safety, Highways and roads, Motor vehicles, Railroads, Railroad safety, Safety, Transportation.

Issued on: March 21, 2014.

Gregory G. Nadeau,

Deputy Administrator, FHWA.

■ In consideration of the foregoing, FHWA proposes to revise title 23, Code of Federal Regulations part 924 as follows:

PART 924—HIGHWAY SAFETY IMPROVEMENT PROGRAM

Sec.
924.1 Purpose.
924.3 Definitions.
924.5 Policy.
924.7 Program structure.
924.9 Planning.
924.11 Implementation.
924.13 Evaluation.
924.15 Reporting.
924.17 MIRE fundamental data elements

Authority: 23 U.S.C. 104(b)(3), 130, 148, and 315; 49 CFR 1.85.

§ 924.1 Purpose.

The purpose of this regulation is to prescribe requirements for the development, implementation, and evaluation of a highway safety improvement program (HSIP) in each State.

§ 924.3 Definitions.

Unless otherwise specified in this part, the definitions in 23 U.S.C. 101(a) are applicable to this part. In addition, the following definitions apply:

Hazard index formula means any safety or crash prediction formula used for determining the relative likelihood of hazardous conditions at railway-highway grade crossings, taking into consideration weighted factors, and severity of crashes.

Highway means,

(1) A road, street, or parkway and all associated elements such as a right-of-way, bridge, railroad-highway crossing, tunnel, drainage structure, sign, guardrail, protective structure, etc.;

(2) A roadway facility as may be required by the United States Customs and Immigration Services in connection with the operation of an international bridge or tunnel; and

(3) A facility that serves pedestrians and bicyclists pursuant to 23 U.S.C. 148(e)(1)(A).

Highway Safety Improvement Program (HSIP) means a State safety program to implement the provisions of 23 U.S.C. 130 and 148, including the development of a Strategic Highway Safety Plan (SHSP), Railway-Highway Crossings Program and program of highway safety improvement projects.

Highway safety improvement project means strategies, activities, or projects on a public road that are consistent with a State strategic highway safety plan

(SHSP) and that either corrects or improves a hazardous road segment location or feature, or addresses a highway safety problem. Highway safety improvement projects can include both infrastructure and non-infrastructure projects. Examples of projects are described in 23 U.S.C. 148(a).

MIRE Fundamental data elements means the minimal subset of the roadway and traffic data elements established in FHWA's Model Inventory of Roadway Elements (MIRE) that are used to support a State's data-driven safety program.

Public grade crossing means a railway-highway grade crossing where the roadway (including associated sidewalks, pathways and shared use paths) is under the jurisdiction of and maintained by a public authority and open to public travel, including non-motorized users. All roadway approaches must be under the jurisdiction of a public roadway authority, and no roadway approach may be on private property.

Public road means any highway, road, or street under the jurisdiction of and maintained by a public authority and open to public travel, including non-State-owned public roads and roads on tribal land.

Reporting year means a one-year period defined by the State. It may be the Federal fiscal year, State fiscal year or calendar year, unless noted otherwise in this section.

Road safety audit means a formal safety performance examination of an existing or future road or intersection by an independent multidisciplinary audit team.

Safety data includes, but is not limited to, crash, roadway, and traffic data on all public roads. For railway-highway grade crossings, safety data also includes the characteristics of highway and train traffic, licensing, and vehicle data.

Safety stakeholder means, but is not limited to,

(1) A highway safety representative of the Governor of the State;

(2) Regional transportation planning organizations and metropolitan planning organizations, if any;

(3) Representatives of major modes of transportation;

(4) State and local traffic enforcement officials;

(5) A highway-rail grade crossing safety representative of the Governor of the State;

(6) Representatives conducting a motor carrier safety program under section 31102, 31106, or 31309 of title 49;

(8) Motor vehicle administration agencies;

(9) County transportation officials;

(10) State representatives of non-motorized users; and

(11) Other Federal, State, tribal and local safety stakeholders.

Serious injury means ''suspected serious injury'' as defined in the Model Minimum Uniform Crash Criteria (MMUCC), latest edition.

Spot safety improvement means an improvement or set of improvements that is implemented at a specific location on the basis of location-specific crash experience or other data-driven means.

Strategic highway safety plan (SHSP) means a comprehensive, multi-disciplinary plan, based on safety data developed by a State Department of Transportation in accordance with 23 U.S.C. 148.

Systemic safety improvement means an improvement or set of improvements that is widely implemented based on high-risk roadway features that are correlated with particular severe crash types.

§ 924.5 Policy.

(a) Each State shall develop, implement, and evaluate on an annual basis a HSIP that has the objective to significantly reduce fatalities and serious injuries resulting from crashes on all public roads.

(b) HSIP funds shall be used for highway safety improvement projects that maximize opportunities to advance safety consistent with the State's SHSP and have the greatest potential to reduce the State's fatality and serious injuries. Prior to approving the use of HSIP funds for non-infrastructure related safety projects, FHWA will assess the extent to which other eligible Federal funds provided to the State for non-infrastructure safety programs (including but not limited to those administered by the National Highway Traffic Safety Administration and Federal Motor Carrier Safety Administration) are programmed.

(c) Safety improvements should also be incorporated into projects funded by other Federal-aid programs, such as the National Highway Performance Program (NHPP) and the Surface Transportation Program (STP). Safety improvements that are provided as part of a broader Federal-aid project should be funded from the same source as the broader project.

(d) Eligibility for Federal funding of projects for traffic control devices under this part is subject to a State or local/tribal jurisdiction's substantial conformance with the National MUTCD or FHWA-approved State MUTCDs and supplements in accordance with part 655, subpart F, of this title.

§ 924.7 Program structure.

(a) The HSIP shall include:

(1) A Strategic Highway Safety Plan;

(2) A Railway-Highway Crossing Program; and

(3) A program of highway safety improvement projects.

(b) The HSIP shall include separate processes for the planning, implementation, and evaluation of the HSIP components described in section 924.7(a) for all public roads in the State. These processes shall be developed by the States in cooperation with the FHWA Division Administrator in accordance with this section and the requirements of 23 U.S.C. 148. Where appropriate, the processes shall be developed in consultation with other safety stakeholders and officials of the various units of local and tribal governments.

§ 924.9 Planning.

(a) The HSIP planning process shall incorporate:

(1) A process for collecting and maintaining safety data on all public roads. Roadway data shall include, at a minimum, the MIRE Fundamental Data Elements as established in section 924.17. Railway-highway grade crossing data shall include all fields from the US DOT National Highway-Rail Crossing Inventory.

(2) A process for advancing the State's capabilities for safety data collection by improving the timeliness, accuracy, completeness, uniformity, integration, and accessibility of their safety data on all public roads, resulting in improved analysis capabilities.

(3) A process for updating the SHSP that identifies and analyzes highway safety problems and opportunities in accordance with 23 U.S.C.148. An SHSP update shall:

(i) Be completed no later than five years from the date of the previous approved version;

(ii) Be developed by the State Department of Transportation in consultation with safety stakeholders;

(iii) Provide a detailed description of the update process, as approved by the FHWA Division Administrator;

(iv) Be approved by the Governor of the State or a responsible State agency official that is delegated by the Governor;

(v) Adopt performance-based goals that:

(A) Are consistent with performance measures established by FHWA in accordance with 23 U.S.C. 150; and

(B) Are coordinated with other State highway safety programs;

(vi) Analyze and make effective use of State, regional, local and tribal safety data and address safety problems and opportunities on all public roads and for all road users;

(vii) Identify key emphasis areas and strategies that significantly reduce highway fatalities and serious injuries, focus resources on areas of greatest need, and possess the greatest potential for a high rate of return on safety investments;

(viii) Address engineering, management, operations, education, enforcement, and emergency services elements of highway safety as key features when determining SHSP strategies;

(ix) Consider the results of State, regional, local, and tribal transportation and highway safety planning processes and demonstrate mutual consultation among partners in the development of transportation safety plans;

(x) Provide strategic direction for other State and local/tribal transportation plans, such as the HSIP, the Highway Safety Plan, and the Commercial Vehicle Safety Plan; and

(xi) Describe the process and potential resources for implementing strategies in the emphasis areas.

(4) A process for analyzing safety data to:

(i) Develop a program of highway safety improvement projects, in accordance with 23 U.S.C. 148(c)(2), to reduce fatal and serious injuries resulting from crashes on all public roads through the implementation of a comprehensive program of systemic and spot safety improvement projects.

(ii) Develop a Railway-Highway Crossings program that:

(A) Considers the relative hazard of public railway-highway grade crossings based on a hazard index formula;

(B) Includes onsite inspection of public grade crossings;

(C) Results in a program of highway safety improvement projects at railway-highway grade crossings giving special emphasis to the statutory requirement that all public crossings be provided with standard signing and markings.

(5) A process for conducting engineering studies (such as road safety audits and other safety assessments or reviews) to develop highway safety improvement projects.

(6) A process for establishing priorities for implementing highway safety improvement projects including:

(i) The potential reduction in the number and rate of fatalities and serious injuries;

(ii) The cost effectiveness of the projects and the resources available; and

(iii) The priorities in the SHSP.

(b) The planning process of the HSIP may be financed with funds made available through 23 U.S.C. 104(b)(3), and 505 and, where applicable in metropolitan planning areas, through 23 U.S.C. 104(d). The eligible use of the program funding categories listed for HSIP planning efforts is subject to that program's eligibility requirements and cost allocation procedures as per 2 CFR part 225 and 49 CFR 18.22.

(c) Highway safety improvement projects, including non-infrastructure safety projects, to be funded under 23 U.S.C. 104(b)(3), shall be carried out as part of the Statewide and Metropolitan Transportation Planning Process consistent with the requirements of 23 U.S.C. 134 and 135, and 23 CFR part 450. States shall be able to distinguish between infrastructure and non-infrastructure projects in the STIP.

§ 924.11 Implementation.

(a) The HSIP shall be implemented in accordance with the requirements of section 924.9 of this Part.

(b) States shall incorporate an implementation plan for collecting MIRE fundamental data elements in their State's Traffic Records Strategic Plan by July 1, 2015. States shall complete collection of the MIRE fundamental data elements on all public roads by September 30, 2020.

(c) The SHSP shall include or be accompanied by actions that address how the SHSP emphasis area strategies will be implemented.

(d) Funds set-aside for the Railway-Highway Crossings Program under 23 U.S.C. 130 shall be used to implement railway-highway grade crossing safety projects on any public road. If a State demonstrates to the satisfaction of the FHWA Division Administrator that the State has met its needs for the installation of protective devices at railway-highway grade crossings, the State may use funds made available under 23 U.S.C. 130 for other types of highway safety improvement projects pursuant to the Special Rule at 23 U.S.C. 130(e)(2).

(e) Highway safety improvement projects may also be implemented with other funds apportioned under 23 U.S.C. 104(b) subject to the eligibility requirements applicable to each program.

(f) Award of contracts for highway safety improvement projects shall be in accordance with 23 CFR part 635 and part 636, where applicable, for highway construction projects, 23 CFR part 172 for engineering and design services contracts related to highway construction projects, or 49 CFR part 18 for non-highway construction projects.

(g) Except as provided in 23 U.S.C. 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds apportioned to a State under 23 U.S.C. 104(b)(3) shall be 90 percent.

§ 924.13 Evaluation.

(a) The HSIP evaluation process shall include:

(1) A process to analyze and assess the results achieved by highway safety improvement projects, in terms of reducing the number and rate of fatalities and serious injuries contributing towards the performance targets established as per 23 U.S.C. 150.

(2) An evaluation of the SHSP as part of the regularly recurring update process to:

(i) Confirm the validity of the emphasis areas and strategies based on analysis of current safety data; and

(ii) Identify issues related to the SHSP's process, implementation and progress that should be considered during each subsequent SHSP update.

(b) The information resulting from 23 CFR 924.13(a)(1) shall be used:

(1) To update safety data used in the planning process in accordance with 23 CFR 924.9;

(2) For setting priorities for highway safety improvement projects;

(3) For assessing the overall effectiveness of the HSIP; and

(4) For reporting required by 23 CFR 924.15.

(c) The evaluation process may be financed with funds made available under 23 U.S.C. 104(b) (3), and 505, and for metropolitan planning areas, 23 U.S.C. 104(d). The eligible use of the program funding categories listed for HSIP evaluation efforts is subject to that program's eligibility requirements and cost allocation procedures as per 2 CFR part 225 and 49 CFR 18.22.

§ 924.15 Reporting.

(a) For the period of the previous reporting year, each State shall submit to the FHWA Division Administrator, via FHWA's HSIP online reporting tool, no later than August 31 of each year, the following reports related to the HSIP in accordance with 23 U.S.C. 148(h) and 130(g):

(1) A report describing the progress being made to implement the HSIP that:

(i) Describes the structure of the HSIP: This section shall describe how HSIP funds are administered in the State and include a summary of the methodology used to develop the programs and projects being implemented under the HSIP on all public roads.

(ii) Describes the progress in implementing highway safety improvement projects: This section shall:

(A) Compare the funds programmed in the STIP for highway safety improvement projects and those obligated during the reporting year; and

(B) Provide a list of highway safety improvement projects that were obligated during the reporting year, including non-infrastructure projects. Each project listed shall identify how it relates to the State SHSP.

(iii) Describes the progress in achieving safety performance targets: This section shall provide an overview of general highway safety trends, document the established safety performance targets for the following calendar year and present information related to the applicability of the special rules defined in 23 U.S.C. 148(g). General highway safety trends and safety performance targets shall be presented by number and rate of fatalities and serious injuries on all public roads by calendar year. To the maximum extent practicable, general highway safety trends shall also be presented by functional classification and roadway ownership.

(iv) Assesses the effectiveness of the improvements: This section shall describe the effectiveness of groupings or similar types of highway safety improvement projects previously implemented under the HSIP.

(v) Is compatible with the requirements of 29 U.S.C. 794(d), Section 508 of the Rehabilitation Act.

(2) A report describing progress being made to implement railway-highway grade crossing improvements in accordance with 23 U.S.C. 130(g), and the effectiveness of these improvements.

(b) The preparation of the State's annual reports may be financed with funds made available through 23 U.S.C. 104(b)(3).

§ 924.17 MIRE Fundamental Data Elements.

Fundamental data elements for the collection of roadway data

TABLE 1—MIRE FUNDAMENTAL DATA ELEMENTS FOR ROADS WITH AADT ≥400 VEHICLES PER DAY

MIRE Name (MIRE Number)^	
Roadway Segment	Intersection
Segment Identifier (12)	Unique Junction Identifier (120).
Route Number (8)*	Location Identifier for Road 1 Crossing Point (122).
Route/street Name (9)*	Location Identifier for Road 2 Crossing Point (123).
Federal Aid/Route Type (21)±*	Intersection/Junction Geometry (126)
Rural/Urban Designation (20)±*	Intersection/Junction Traffic Control (131).
Surface Type (23)*	AADT (79) [for Each Intersecting Road].
Begin Point Segment Descriptor (10)*	AADT Year (80) [for Each Intersecting Road].
End Point Segment Descriptor (11)*.	
Segment Length (13)*.	
Direction of Inventory (18)	Unique Approach Identifier (139).
Functional Class (19)*.	
Median Type (54).	
Access Control (22)*.	
One/Two-Way Operations (91)*	Interchange/Ramp
Number of Through Lanes (31)*	Unique Interchange Identifier (178).
Average Annual Daily Traffic (79)*	Location Identifier for Roadway at Beginning Ramp Terminal (197).
AADT Year (80)*	Location Identifier for Roadway at Ending Ramp Terminal (201).
Type of Governmental Ownership (4)*	Ramp Length (187).
	Roadway Type at Beginning Ramp Terminal (195).
	Roadway Type at Ending Ramp Terminal (199).
	Interchange Type (182).
	Ramp AADT (191)*.
	Year of Ramp AADT (192)*.
	Functional Class (19)*.
	Type of Governmental Ownership (4)*.

^ *Model Inventory of Roadway Elements—MIRE, Version 1.0,* Report No. FHWA–SA–10–018, October 2010, *http://www.mireinfo.org/collateral/mire_report.pdf.*

* Highway Performance Monitoring System full extent elements are required on all Federal-aid highways and ramps located within grade-separated interchanges, i.e., National Highway System (NHS) and all functional systems excluding rural minor collectors and locals.

TABLE 2—MIRE FUNDAMENTAL DATA ELEMENTS FOR ROADS WITH AADT <400 VEHICLES PER DAY

MIRE Name (MIRE Number)^	
Roadway Segment	Intersection
Segment Identifier (12)	Unique Junction Identifier (120).
Functional Class (19)*	Intersection/Junction Geometry (126).
Surface Type (23)*	Location Identifier for Road 1 Crossing Point (122).
Type of Governmental Ownership (4)*	Location Identifier for Road 2 Crossing Point (123).
Number of Through Lanes (31)*	Intersection/Junction Traffic Control (131).
Average Annual Daily Traffic (79)*.	
Begin Point Segment Descriptor (10)*.	
End Point Segment Descriptor (11)*.	
Rural/Urban Designation (20)*.	

^ *Model Inventory of Roadway Elements—MIRE, Version 1.0,* Report No. FHWA–SA–10–018, October 2010, *http://www.mireinfo.org/collateral/mire_report.pdf.*

* Highway Performance Monitoring System full extent elements are required on all Federal-aid highways and ramps located within grade-separated interchanges, i.e., National Highway System (NHS) and all functional systems excluding rural minor collectors and locals.

[FR Doc. 2014–06681 Filed 3–27–14; 8:45 am]
BILLING CODE 4910–22–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 1

[Docket No. USCG–2008–1259]

RIN 1625–AB32

Assessment Framework and Organizational Restatement Regarding Preemption for Certain Regulations Issued by the Coast Guard

AGENCY: Coast Guard, DHS.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Coast Guard is extending the comment period for the notice of proposed rulemaking (NPRM) entitled ''Assessment Framework and Organizational Restatement Regarding Preemption for Certain Regulations Issued by the Coast Guard,'' which published on December 27, 2013. For reasons discussed in this notice, the comment period is extended until May 26, 2014.

DATES: The comment period for the proposed rule published on December 27, 2013 (78 FR 79242), is extended. Comments and related material must be submitted to our online docket via *http://www.regulations.gov* on or before May 26, 2014, or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments, identified by Coast Guard docket number USCG–2008–1259, using any one of the following methods:

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

(2) Fax: 202–493–2251.

(3) Mail: Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these methods. For instructions on submitting comments, see the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Lieutenant Commander Lineka Quijano, Office of Maritime and International Law, Coast Guard, telephone 202–372–3865, email *Lineka.N.Quijano@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:

I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2008–1259), indicate the specific section of this document to which each comment applies, and provide the reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, search for the docket number USCG–2008–1259, and then click on the ''comment now'' link. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, search for the docket number USCG–2008–1259, and then click ''Open Docket Folder.'' If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

C. Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

D. Public Meeting

We intend to hold a public meeting on this topic. We will announce the time and place of that meeting in a later notice in the **Federal Register**.

II. Reasons for Extension

On December 27, 2013, the Coast Guard published its NPRM, ''Assessment Framework and Organizational Restatement Regarding Preemption for Certain Regulations Issued by the Coast Guard'' (78 FR 79242). The NPRM provided for a comment period of 90 days, which is now extended by an additional 60 days for a total comment period length of 150 days. This notice of extension is issued under authority of 5 U.S.C. 552(a).

The NPRM discusses existing law on preemption, and identifies the laws and regulations that have preemptive effect. It clarifies (but does not alter) the Coast Guard's application of statutes and case law regarding the preemptive effect of its regulations. It also sets forth a process the Coast Guard will use in future rulemakings for evaluating the preemptive impact of those future regulations.

The Coast Guard has received requests for extension of the comment period. Some of these requests are from members of the public and of State agencies who are concerned that the proposed rule would interfere with existing State permitting practices, or would require a thorough review of State regulations to find out what State regulations may be preempted by the proposed rule. The Coast Guard does not believe the proposed rule should raise such concerns. As stated here and throughout the NPRM, the proposed rule merely restates the current preemptive impact of our regulations as it exists today as a result of statute and court decisions. The proposed rule does not make any new determinations or assertions, but only summarizes in one

location existing law and the Coast Guard's statement of preemptive impact. The proposed rule does not alter in any way the rights of States. Likewise, it does not serve to prospectively give preemptive impact to any future regulatory effort. The proposed rule does not change the law as it exists today.

However, we are interested in better understanding the concerns expressed, and we want to allow ample time for the public to consider the proposed rule. Accordingly, we have extended the comment period. We encourage all members of the public, and especially States, to send comments explaining what, if any, impact the proposed rule could have. Please be as specific as possible in explaining how the proposed rule would affect you.

Dated: March 26, 2014.

F.J. Kenney,

Rear Admiral, U.S. Coast Guard, Judge Advocate General.

[FR Doc. 2014–07080 Filed 3–27–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–1005]

RIN 1625–AA09

Drawbridge Operation Regulation; Hackensack River, Jersey City, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the drawbridge operation regulations that govern the PATH Railroad Bridge, mile 3.0, and the Hack-Freight Bridge, mile 3.1, across the Hackensack River, New Jersey. The bridge owners, the Port Authority Trans-Hudson (PATH) and Conrail, submitted requests to revise the operation schedule for the PATH Railroad Bridge and to change the Conrail Hack-Freight to operate remotely. In addition, we will be removing obsolete unnecessary language and requirements from the existing regulation that are now listed under other regulations. It is expected that these changes will continue to meet the reasonable needs of navigation.

DATES: Comments and related material must be received by the Coast Guard on or before May 27, 2014.

ADDRESSES: You may submit comments identified by docket number USCG–2013–1005 using any one of the following methods:

(1) *Federal Rulemaking Portal: http://www.regulations.gov*.

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments. To avoid duplication, please use only one of these four methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mr. Joe Arca, Project Officer, First Coast Guard District Bridge Program, telephone 212–668–7165, email *joe.m.arca@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:

Tables of Acronyms

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

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2013–1005), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (*http://www.regulations.gov*), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number USCG–2013–1005 in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2013–1005) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit either the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why one would be beneficial. If

we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Basis and Purpose

The PATH Railroad Bridge, mile 3.0, has a vertical clearance of 40 feet at mean high water and 45 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.723.

The Hack-Freight Bridge, mile 3.1, has a vertical clearance of 11 feet at mean high water and 16 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.723.

The waterway users are commercial operators.

The owners of the bridges, Port Authority Trans-Hudson Corporation (PATH) and Conrail, submitted requests to the Coast Guard to operate the Conrail Hack-Freight Bridge from a remote location and to change the drawbridge operation for the PATH Bridge.

Under this notice of proposed rulemaking Conrail proposes to operate its Hack-Freight Bridge at mile 3.1, across the Hackensack River, from a remote location, the Conrail Leigh Valley Bridge Office, at all times when a draw tender is not stationed at the bridge. A draw tender may be stationed at the bridge at various times when it is deemed necessary for safety purposes such as during times when bridge maintenance is being performed.

Conrail operates several other bridges from its Leigh Valley Bridge Office, the Conrail Bridge at mile 2.0, across the Rahway River and the Arthur Kill Bridge at mile 11.6, across Arthur Kill.

Under this notice of proposed rulemaking, the Coast Guard is also changing the drawbridge operation regulations for the PATH Railroad Bridge.

The owner of the PATH Railroad Bridge, the Port Authority Trans-Hudson Corporation (PATH), asked the Coast Guard to change the drawbridge operation schedule for its Path Railroad Bridge, to require at least a two hour advance notice for bridge openings at all times.

In addition, PATH requested that the PATH Railroad Bridge be allowed to remain in the closed position during time periods when commuter rail traffic is heaviest from 6 a.m. to 10 a.m. and from 4 p.m. to 8 p.m.

PATH agreed to provide additional bridge openings during the commuter closure periods for commercial vessels, from 6 a.m. to 7:20 a.m., 9:20 a.m. to 10 a.m., 4 p.m. to 4:30 p.m. and from 6:50 p.m. to 8 p.m., upon a two hour advance notice, to help facilitate commercial vessel traffic. Notice may be provided by calling the number posted at the bridge.

As a result of all the above information, it is expected these proposed changes to the drawbridge operation regulations will continue to meet the reasonable needs of navigation.

C. Discussion of Proposed Rule

The Coast Guard proposes to change the drawbridge operation regulations at 33 CFR 117.723, to allow the Conrail Hack-Freight Bridge at mile 3.1, across the Hackensack River to be operated from a remote location, the Lehigh Valley Bridge Office, at all times.

Conrail operates several other Conrail bridges from its Leigh Valley Bridge Office and believes adding the Conrail Hack-Freight Bridge will help with operational efficiency and safety, as well as being a cost saving measure.

The Coast Guard is also proposing to change the drawbridge operation regulations for the PATH Railroad Bridge at mile 3.0, across the Hackensack River, to allow the PATH Railroad Bridge to require at least a two hour advance notice for bridge openings at all times.

The PATH Railroad Bridge seldom opens for vessel traffic due to its high vertical clearance of 40 feet at mean high water and 45 feet at mean low water and most of the commercial vessels that normally transit this waterway fit under the bridge without requiring a bridge opening.

The Coast Guard was also asked by PATH to allow its PATH Railroad Bridge to remain in the closed position from 6 a.m. to 10 a.m. and from 4 p.m. to 8 p.m., Monday through Friday, except Federal holidays, to help facilitate commuter train traffic during time periods when commuter rail traffic is heaviest.

PATH agreed to provide additional bridge openings between 6 a.m. and 7:20 a.m., 9:20 and 10 a.m., 4 p.m. and 4:30 p.m. and from 6:50 p.m. to 8 p.m., to help facilitate commercial vessel traffic, provided a two hour advance notice is given by calling the number posted at the bridge.

Also under this notice of proposed rulemaking we are removing obsolete language from the existing regulation. Paragraph (a)(1), regarding emergency bridge openings for public and local vessels in emergency situations will be removed because it is now listed at 33 CFR 117.31 of the General Drawbridge Operation Regulations.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866, or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. We believe that this rule is not a significant regulatory action because the PATH Railroad Bridge provides adequate clearance for commercial vessels in the closed position and the commercial vessels will be able to get additional openings provided advance notice is given by calling the number posted at the bridge. Additionally, the Hack-Freight Bridge can be transited at all times but will be tended remotely.

2. Impact on Small Entities

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

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

This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels needing to transit through the bridge.

This action will not have a significant economic impact on a substantial number of small entities for the following reasons: The high vertical clearance of the PATH Railroad Bridge of 40 feet at mean high water should accommodate all present vessel traffic except deep draft. Additionally, vessels may transit the bridge at all other times with a two hour advance notice and can plan their trips accordingly during any closure periods. As for the Hack-Freight Bridge, vessels may transit the bridge at all times.

If you think that your business, organization, or governmental

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

3. Assistance for Small Entities

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

The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01, and Commandant Instruction M16475.lD which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This proposed rule simply promulgates the operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule. We seek any comments or information that may lead to the discovery of significant environmental impact from the proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.723 to read as follows:

§ 117.723 Hackensack River.

(a) The following requirements apply to all bridges across the Hackensack River:

(1) The owners of each bridge shall provide and keep in good legible condition clearance gauges for each draw, with figures not less than 18 inches high for bridges below the turning basin at mile 4.0, and 12 inches high for bridges above mile 4.0. The gauges shall be designed, installed and maintained according to the provisions of section 118.160 of this chapter.

(2) Train and locomotives shall be controlled so that any delay in opening the draw shall not exceed 10 minutes. However, if a train moving toward the bridge has crossed the home signal for the bridge before the signal requesting the opening of the bridge is given, the train may continue across the bridge and must clear the bridge interlocks before stopping or reversing.

(3) New Jersey Transit Rail Operations' (NJTRO) roving crews shall consist of two qualified operators on each shift, each having a vehicle which is equipped with marine and railroad radios, a cellular telephone, and emergency bridge repair and maintenance tools. This crew shall be split with one drawtender stationed at Upper Hack and the other drawtender at the HX drawbridge. Adequate security

measures shall be provided to prevent vandalism to the bridge operating controls and mechanisms to ensure prompt openings of NJTRO bridges.

(4) Except as provided in paragraphs (b) through (j) of this section, the draws shall open on signal.

(b) The draw of the PATH Bridge, mile 3.0, at Jersey City, shall open on signal provided at least a two hour advance notice is provided by calling the number posted at the bridge. The draw need not open for the passage of vessel traffic Monday through Friday, except Federal holidays, from 6 a.m. to 10 a.m. and from 4 p.m. to 8 p.m. Additional bridge openings shall be provided for commercial vessels from 6 a.m. to 7:20 a.m.; 9:20 a.m. to 10 a.m.; 4 p.m. to 4:30 p.m. and from 6:50 p.m. to 8 p.m. provided at least a two hour advance notice is given by calling the number posted at the bridge.

(c) The draw of the Hack-Freight Railroad Bridge at mile 3.1, shall open on signal at all times, except as provided in paragraph (a) (2) of this section. The bridge shall be operated from a remote location at all times, except when it is tended locally. Sufficient closed circuit television cameras, approved by the Coast Guard, shall be operated and maintained at the bridge site to enable the remotely located bridge tender to have full view of both river traffic and the bridge.

(1) Radiotelephone Channel 13/16 VHF–FM shall be maintained and utilized to facilitate communication in both remote and local control locations. The bridge shall also be equipped with directional microphones and horns to receive and deliver signals to vessels.

(2) Whenever the remote control system equipment is partially disabled or fails for any reason, the bridge shall be physically tended and operated by local control as soon as possible, but no more than 45 minutes after malfunction or disability of the remote system. Mechanical bypass and override capability of the remote system shall be provided and maintained.

(d) Except as provided in paragraph (a)(2) of this section, the draw of the NJTRO Lower Hack Bridge, mile 3.4, at Jersey City shall open on signal if at least a one hour advance notice is given to the drawtender at the Upper Hack bridge, mile 6.9, at Secaucus, New Jersey by calling the number posted at the bridge. In the event the HX draw tender is at the Newark/Harrison (Morristown Line) Bridge, mile 5.8, on the Passaic River, up to an additional half hour delay is permitted.

(e) Except as provided in paragraph (a)(2) of this section, the draw of the Amtrak Portal Bridge, mile 5.0, at Little Snake Hill, need not open for the passage of vessel traffic Monday through Friday, except Federal holidays, from 6 a.m. to 10 a.m. and from 4 p.m. to 8 p.m. Additional bridge openings shall be provided for commercial vessels from 6 a.m. to 7:20 a.m.; 9:20 a.m. to 10 a.m.; 4 p.m. to 4:30 p.m. and from 6:50 p.m. to 8 p.m., if at least a one-hour advance notice is given by calling the number posted at the bridge. At all other times the draw shall open on signal.

(f) Except as provided in paragraph (a)(2) of this section, the draw of the NJTRO Upper Hack Bridge, mile 6.9 at Secaucus, N.J. shall open on signal unless the drawtender is at the HX Bridge, mile 7.7 at Secaucus, N.J. over the Hackensack River, then up to a half hour delay is permitted.

(g) Except as provided in paragraph (a)(2) of this section, the draw of the NJTRO HX Bridge at mile 7.7, shall open on signal if at least one half hour notice is given to the drawtender at the Upper Hack Bridge.

(h) Except as provided in paragraph (a)(2) of this section, the draw of the S46 Bridge, at mile 14.0, in Little Ferry, shall open on signal if at least a twenty four hour advance notice is given by calling the number posted at the bridge.

(i) The draw of the Harold J. Dillard Memorial (Court Street) Bridge, mile 16.2, Hackensack, shall open on signal if at least four hours notice is given.

(j) The draw of the New York Susquehanna and Western Railroad bridge, mile 16.3, and the Midtown bridge, mile 16.5, both at Hackensack, need not be opened for the passage of vessels, however, the draws shall be restored to operable condition within 12 months after notification by the District Commander to do so.

Dated: March 19, 2014.

V.B. Gifford, Jr.,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 2014–06844 Filed 3–27–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0077]

RIN 1625–AA00

Safety Zone, Pasquotank River; Elizabeth City, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone on the navigable waters of the Pasquotank River in Elizabeth City, NC in support of the fireworks display for the Potato Festival. This action is necessary to protect the life and property of the maritime public and spectators from the hazards posed by aerial fireworks displays. Entry into or movement within this safety zone during the enforcement period is prohibited without approval of the Captain of the Port.

DATES: Comments and related material must be received by the Coast Guard on or before April 28, 2014.

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email BOSN4 Joseph M. Edge, Coast Guard Sector North Carolina, Coast Guard; telephone 252–247–4525, email *Joseph.M.Edge@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. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov*, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, type the docket number [USCG–2014–0077] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number (USCG–2014–0077) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Regulatory History and Information

On April 24, 2013, we published a Temporary Final Rule (TFR) entitled ''Safety Zone, Pasquotank River, Elizabeth City, NC'' in the **Federal Register** (78 FR 24071).

C. Basis and Purpose

On May 17, 2014, the NC Potato Festival will sponsor a fireworks display from a barge anchored in the Pasquotank River at latitude 36°17′47″ N longitude 076°12′17″ W. The fireworks debris fallout area will extend over the navigable waters of the Pasquotank River. Due to the need to protect mariners and spectators from the hazards associated with the fireworks display, including accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris, vessel traffic will be temporarily restricted from transiting within fireworks launch and fallout area.

D. Discussion of Proposed Rule

The Coast Guard is proposing to establish a safety zone on the navigable waters of Pasquotank River in Elizabeth City, NC. The regulated area of this safety zone includes all water of the Pasquotank River within a 300 yards radius of latitude 36°17′47″ N longitude 076°12′17″ W.

This proposed safety zone will be established and enforced from 8 p.m. to 11 p.m. on May 17, 2014. In the interest of public safety, general navigation within the safety zone will be restricted during the specified date and times. Except for participants and vessels authorized by the Coast Guard Captain of the Port or his representative, no person or vessel may enter or remain in the regulated area.

E. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of 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 restricts access to a small segment of the Pasquotank River, the effect of this rule will not be significant because: (i) The safety zone will be in effect for a limited duration; (ii) the zone is of limited size; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in the Pasquotank River where fireworks events are being held. This regulation will not have a significant impact on a substantial number of small entities because it will be enforced only during the fireworks display event that has been permitted by the Coast Guard Captain of the Port. The Captain of the Port will ensure that small entities are able to operate in the regulated area when it is safe to do so. In some cases, vessels will be able to safely transit around the regulated area at various times, and, with the permission of the Patrol Commander, vessels may transit through the

regulated area. Before the enforcement period, the Coast Guard will issue maritime advisories so mariners can adjust their plans 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 proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves establishing a safety zone for a fireworks display launch site and fallout area and is expected to have no impact on the water or environment. This zone is designed to protect mariners and spectators from the hazards associated with aerial fireworks displays. This rule is categorically excluded from further review under paragraph 34 (g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 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 temporary § 165.T05–0077 to read as follows:

§ 165.T05–0077 Safety Zone, Pasquotank River; Elizabeth City, NC.

(a) Definitions. For the purposes of this section, *Captain of the Port* means the Commander, Sector North Carolina. *Representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized to act on the behalf of the Captain of the Port.

(b) Location. The following area is a safety zone: Specified waters of the Captain of the Port, Sector North Carolina, as defined in 33 CFR 3.25–20, all waters of the Pasquotank River within a 300 yard radius of the

fireworks launch barge in approximate position latitude 36°17′47″ N longitude 076°12′17″ W, located near Machelhe Island.

(c) Regulations. (1) The general regulations contained in § 165.23 of this part apply to the area described in paragraph (b) of this section.

(2) Persons or vessels requiring entry into or passage through any portion of the safety zone must first request authorization from the Captain of the Port, or a designated representative, unless the Captain of the Port previously announced via Marine Safety Radio Broadcast on VHF Marine Band Radio channel 22 (157.1 MHz) that this regulation will not be enforced in that portion of the safety zone. The Captain of the Port can be contacted at telephone number (910) 343–3882 or by radio on VHF Marine Band Radio, channels 13 and 16.

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

(e) Enforcement period. This section will be enforced on May 17, 2014 from 8 p.m. to 11 p.m. unless cancelled earlier by the Captain of the Port.

Dated: March 18, 2014.

S.R. Murtagh,

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

[FR Doc. 2014–06849 Filed 3–27–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2005–0011; FRL–9908–66–Region 5]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Eau Claire Municipal Well Field Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency (EPA) Region 5 is issuing a notice of intent to delete the Eau Claire Municipal Well Field Superfund Site located in Eau Claire, Wisconsin from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA and the State of Wisconsin, through the Wisconsin Department of Natural Resources (WDNR), have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by April 28, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–2005–0011, by one of the following methods:

- *http://www.regulations.gov:* Follow online instructions for submitting comments.
- *Email:* Gladys Beard, NPL Deletion Process Manager, at *beard.gladys@epa.gov* or Susan Pastor, Community Involvement Coordinator, at *pastor.susan@epa.gov*.
- *Fax:* Gladys Beard, NPL Deletion Process Manager, at (312) 697–2077.
- *Mail:* Howard Caine, Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 353–9685, or Susan Pastor, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 353–1325 or (800) 621–8431.
- *Hand delivery:* Susan Pastor, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 West Jackson Boulevard, Chicago, IL 60604. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The normal business hours are Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–HQ–SFUND–2005–0011. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

- U.S. Environmental Protection Agency—Region 5, 77 West Jackson Boulevard, Chicago, IL 60604, Phone: (312) 353–1063, Hours: Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.
- L.E. Phillips Memorial Public Library, 400 Eau Claire St., Eau Claire, WI 54701, Phone: (715) 839–5004, Hours: Monday through Thursday, 10:00 a.m. to 9: 00 p.m., Friday 10:00 a.m. to 6:00 p.m., Saturday 10:00 a.m. to 5:00 p.m., Sunday 1:00 p.m. to 5:00 p.m. However, the library is closed every Sunday from May 26—September 1.

FOR FURTHER INFORMATION CONTACT: Howard Caine, Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 353–9685, or *caine.howard@epa.gov*.

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' section of today's **Federal Register**, we are publishing a direct final Notice of Deletion of the Eau Claire Municipal Well Superfund Site without prior Notice of Intent to Delete because EPA views this as a noncontroversial revision and anticipates no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final Notice of Deletion,

and those reasons are incorporated herein. If we receive no adverse comment(s) on this deletion action, we will not take further action on this Notice of Intent to Delete. If we receive adverse comment(s), we will withdraw the direct final Notice of Deletion, and it will not take effect. We will, as appropriate, address all public comments in a subsequent final Notice of Deletion based on this Notice of Intent to Delete. We will not institute a second comment period on this Notice of Intent to Delete. Any parties interested in commenting must do so at this time.

For additional information, see the direct final Notice of Deletion which is located in the ''Rules and Regulations'' section of this **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Radiation protection, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: March 3, 2014.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2014–06818 Filed 3–27–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 11

[EB Docket No. 04–296; DA 14–336]

Comment Requested To Refresh the Record in EB Docket No. 04–296, on Petition Filed By the Minority Media and Telecommunications Council Proposing Changes to Emergency Alert System Rules To Support Multilingual Alerting and Emergency Information

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; request for comments.

SUMMARY: In this document the Federal Communication Commission's (Commission) Public Safety and Homeland Security Bureau (PSHSB), under authority delegated by the Commission, seeks to refresh the record in EB Docket No. 04–296 on issues raised in a Petition for Immediate Interim Relief (Petition) filed by the Independent Spanish Broadcasters Association, the Office of Communications of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council (hereinafter collectively or individually referred to as ''MMTC''), regarding the ability of non-English speakers to access emergency information and similar multilingual issues. The Commission initially sought comment on the petition in the Commission's First EAS Report and Order and Further Notice of Proposed Rulemaking (*First R&O and FNPRM* in EB Docket 04–296, and subsequently sought comment on the petition in the Commission's Second EAS Report and Order and Further Notice of Proposed Rulemaking (*Second R&O and FNPRM*), in that docket. MMTC also has expanded upon the petition in subsequent ex parte filings before the Commission.

DATES: The notices of proposed rulemaking published November 25, 2005 (70 FR 71072), and November 2, 2007 (72 FR 62195), are reopened. Comments are due on or before April 28, 2014 and reply comments are due on or before May 12, 2014.

ADDRESSES: You may submit comments, identified by EB Docket No. 04–296 by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Federal Communications Commission's Web site: *http://fjallfoss.fcc.gov/ecfs2/*. Follow the instructions for submitting comments.
- Mail: Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- People with Disabilities: Contact the Commission to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: FCC504@fcc.gov or phone: 202–418–0530 or TTY: 202–418–0432. For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street SW., Washington DC 20554.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

FOR FURTHER INFORMATION CONTACT: Lisa M. Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau at (202) 418–7452 or by email: *lisa.fowlkes@fcc.gov*; Gregory M. Cooke, Associate Chief, Policy Division, Public Safety and Homeland Security Bureau at (202) 418–2351 or by email: *gregory.cooke@fcc.gov;* or David Munson, Policy Division, Public Safety and Homeland Security Bureau at (202) 418–2921 or by email: david.munson@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communication Commission's document in EB Docket No. 04–296, DA 14–336, released on March 11, 2014. This document is available to the public at *http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0311/DA-14-336A1.pdf*.

Synopsis of This Document

1. In this document, PSHSB seeks to refresh the record in EB Docket No. 04–296 on various proposals and issues first raised in the MMTC Petition and expanded upon in subsequent *ex parte* filings, regarding the ability of non-English speakers to access emergency information and similar multilingual issues, both within and outside of the EAS context. As explained below, the Commission has sought comment on the Petition in this Docket originally in 2005 and subsequently in 2007.

I. Background

2. MMTC filed its Petition on September 22, 2005, in response to its perceived deficiencies in distributing multilingual emergency information in the aftermath of Hurricane Katrina. In its Petition, MMTC proposed that the Commission revise its EAS rules, 47 CFR 11.1, *et seq.* to: (i) ''provide that Primary Entry Point (PEP) stations air all Presidential level messages in both English and in Spanish''; '' include a [']Local Primary Spanish' ('LP–S') designation and provide that state and local EAS plans would designate an LP–S station in each of the local areas in which an LP–1 has been designated''; ''include a Local Primary Multilingual ('LP–M') designation in local areas where a substantial proportion of the population has its primary fluency in a language other than English or Spanish''; ''provide that at least one

broadcast station in every market would monitor and rebroadcast emergency information carried by local LP–S and LP–M stations''; and ''specify that if during an emergency a local LP–S or LP–M station loses its transmission capability, stations remaining on the air should broadcast emergency information in affected languages (at least as part of their broadcasts) until the affected LP–S or LP–M station is restored to the air.''

3. In November of 2005, the Commission released its EAS First Report and Order and Further Notice of Proposed Rulemaking (*First EAS R& O and FNPRM*) in EB Docket No. 04–296, 70 FR 71072, November 25, 2005, in which the Commission sought petition and incorporated it into the docket. Subsequently, in 2007, the Commission released its Second EAS Report and Order and Further Notice of Proposed Rulemaking in EB Docket No. 04–296, 72 FR 62195, November 2, 2007, in which it sought further comment on the petition.

4. In various *ex parte* filings, MMTC has further expanded upon the Petition, most recently in a December 12, 2013 filing, in MMTC stated that the Commission should require ''broadcasters to work together, and with state and market counterparts, to develop a plan that communicates each party's responsibility based on likely contingencies.'' Specifically, MMTC stated, ''Such a plan could be modeled after the current EAS structure that could include a ''designated hitter'' approach to identify which stations would step in to broadcast multilingual information if the original non-English speaking station was knocked off air in the wake of a disaster.'' MMTC added, ''One market plan might spell out the procedures by which non-English broadcasters can get physical access to another station's facilities to alert the non-English speaking community—*e.g.* where to pick up the key to the station, who has access to the microphones, how often multilingual information will be aired, and what constitutes best efforts to contact the non-English broadcasters during and after an emergency if personnel are unable to travel to the designated hitter station.'' To ensure accountability, MMTC proposed that broadcasters should be required to certify, on their license renewal application, their understanding of their role in the plan.

II. Discussion

A. MMTC's Proposals

5. The Commission seeks comment on MMTC's proposal, particularly as related to its December 12, 2013, *ex parte* filing, in which it suggested that broadcast stations within any given market be required to enter into emergency communications plans to support each other in the case of an emergency. MMTC believes that such a requirement would ensure that non-English speaking populations receive timely access to both EAS alerts and non-EAS emergency information. Is that correct? Are there other benefits? Drawbacks? How would such a requirement be implemented? For example, should it be prescriptive or should the requirement specify minimum standards to be included in emergency communications plans? What would be the costs of such a requirement?

6. If the Commission adopts MMTC's proposal, what would be the appropriate scope of such a requirement? For example, should such a requirement only apply in states or markets where there is at least one licensed broadcast station that serves non-English speaking populations? Alternatively, should it apply in any state that has sizeable populations that do not speak English as a primary language, irrespective of whether there is a broadcast station offering programming in those populations' primary languages? If so, what population size should trigger the requirement? In addition, should this requirement only apply in states that are more susceptible to certain types of events, such as hurricanes, tornadoes or earthquakes? Are there other limitations or applications of this requirement that the Commission should consider?

7. The Commission also seeks data and information on the extent to which emergency communications plans similar to that proposed by MMTC are already in existence. Are there any markets where such plans currently exist? If so, how are these plans implemented? Do such plans involve only broadcasters or do they involve other types of communications service providers as well? Are state and/or local governments included? To what extent do these plans involve markets served by at least one broadcast station that broadcasts in languages other than English? In such cases, do these agreements address how the EAS and emergency information needs of populations who do not speak English are served if the station(s) that serve them are knocked off the air during an emergency? If so, how? What has been the experience, including the costs associated, with such plans?

8. In its Petition and various *ex parte* filings, MMTC has advocated for what it calls a ''designated hitter'' approach in which designated stations in a given market would agree to air EAS alerts and non-EAS emergency information in the language of a non-English station if the latter station is rendered inoperable during an emergency. Is there any market where broadcast stations have implemented this approach? If so, have any stations actually performed the ''designated hitter'' function? The Commission seeks information and comment on the experiences of both broadcast stations in that scenario. The Commission also seeks comment on the consumer experience. For example, how are non-English speaking populations in the market informed to turn to the designated hitter station in such circumstances?

9. In the past, broadcast stakeholders have raised concerns that MMTC's designated hitter proposal would require broadcasters to retain personnel who could translate emergency information in the language of the downed station. MMTC has responded to these concerns by arguing that designated hitter stations could simply allow access to the employees of the downed non-English station. The Commission seeks updated comment on this view as well as specific cost information on the designated hitter proposal.

10. Finally, the Commission seeks updated comment and information on MMTC's other proposed changes to the EAS rules, as set forth in its Petition, particularly given the EAS's transition to CAP. For example, the Commission seeks updated comment on the feasibility of requiring that PEP stations deliver Presidential alerts in both English and Spanish. Have there been technical or other developments that would affect the feasibility for FEMA or the PEPs to provide a simultaneous translation of an EAS Presidential alert? Could any other entity provide translations of the Presidential audio while the EAN was in effect? Could automatic translation software or devices be used to provide non-English translation of a Presidential alert?

11. What about for non-Presidential EAS alerts? In previous comments, the National Association of Broadcasters and the Association For Maximum Service Television, Inc., asked how on-air stations would obtain non-English EAS content from non-English speaking LP–S or LP–M stations. Have there been any technical developments that would affect who would be responsible for the initial translation of the alert? Broadcast and cable industry representatives and EAS equipment manufacturers previously have maintained that

responsibility for issuing multilingual alerts must rest with alert message originators, and that it would be impractical for EAS Participants to effect timely and accurate alert translations at their facilities. Is this still the case?

12. In addition, the National Cable and Telecommunications Association (NCTA) has pointed out that under the EAS architecture a non-Presidential alert is limited to two minutes and that EAS equipment is programmed to reject duplicative alerts. According to NCTA, if MMTC's proposal were to be adopted, and alert originators sent out multiple non-English two-minute alerts, EAS Participants' equipment would reject all but the original alert as a duplicate. Thus, according to NCTA, under the current EAS architecture, a translation of a given alert, along with the English language version, would both have to fit within one two-minute timeframe, a result that would greatly reduce the amount of the substantive information that the alert could convey and thus diminish the effectiveness of the EAS overall. Is this the case?

13. On a more general basis, would implementing MMTC's proposals be compatible with the EAS architecture contemplated by the Commission's Fifth Report and Order in EB Docket No. 04–296, 77 FR 16688, March 22, 2012, wherein the broadcast-based EAS and the CAP-based EAS are both integrated into FEMA's IPAWS? Are there other changes to the Commission's EAS rules, beyond those proposed in MMTC's Petition that would be required to implement MMTC's original proposals? What would be the costs and benefits of such rule changes?

B. Alternative Approaches for Multilingual Alerting

14. In the *EAS First Report and Order,* the Commission sought ''comment on any other proposals regarding how to best alert non-English speakers.'' The Commission now seeks to refresh the record on potential avenues different from the one proposed by MMTC that would accomplish the same objective. Is one potential approach for the Commission to require that this issue be addressed as part of state EAS plans? As noted above, MMTC's proposal is intended, in part, to ensure that non-English speaking populations have access to timely and accurate alerts and other emergency communications before, during, and after a disaster. Would incorporating its latest proposal into the Commission's existing state EAS plan rules meet this objective? Under this approach, broadcasters and other EAS Participants would not be subject to a separate planning requirement. In addition, incorporating this requirement into the state EAS plan rules would ensure that this issue is addressed in a manner consistent with other parts of a state's overall EAS planning. The Commission seeks comment on this view and the perception that this approach is a reasonable path forward. Are there any drawbacks to this approach? Commenters arguing in favor or against the reasonableness of this approach should provide substantive and compelling information regarding burdens or the effectiveness of a requirement to include minority broadcast alert contingency planning within state plans.

15. If the Commission requires that multilingual alerting be addressed in state EAS plans, should the Commission continue to use the current standard for accountability? MMTC recommends that the Commission require broadcasters to certify in their license renewal applications that they understand their role under these communications plans. The Commission seek comment on this proposal.

C. Other Issues Raised by the MMTC Petition

16. In addition to refreshing the record on MMTC's proposal and other potential avenues to address, the Commission seeks to refresh the record on the current state of multilingual EAS alerts, and other possible solutions by which the Commission could facilitate multilingual EAS alerts. For example, the Commission seeks information on the extent to which EAS alerts are aired in languages other than English. The Commission understands that Florida regularly issues Spanish language alerts in parallel with English language alerts and has designated three Spanish Local Primary stations in its EAS plan. The Commission seeks more detailed information on how this works. What other jurisdictions have engaged in similar approaches? To what extent are EAS Participants able to translate English EAS alerts into other languages?

17. The Commission also seeks comment on the extent to which CAP-based alerting systems have been deployed, particularly at the state level, since the Commission first required EAS Participants to have the capability to receive CAP-based EAS alerts in 2007, and the multilingual alerting capabilities of these systems. For example, to what extent have states with CAP-based alerting systems issued EAS alerts in more than one language? In what languages, other than English, have CAP-based EAS alerts been issued? Is there a translation tool optimized for CAP-based alerting systems? What are the costs and benefits to jurisdictions that have implemented these CAP-based alerting systems? What about state, tribal, local and territorial governments that do not have CAP-based alerting systems?

18. The Commission seeks data and information on the advancement of possible technical solutions for multilingual alerting since 2007. For example, to what extent can text-to-speech technologies be used to provide multilingual EAS alerts? What examples, if any, exist of text-to-speech capabilities being used to provide EAS alerts in multiple languages? What is the status of other translation technologies? Do these technologies produce accurate versions of the original? Are they clear and understandable? What are the costs and benefits for use of this technology?

19. Finally, are there other technologies that are currently being developed that could be used to transmit EAS alerts in multiple languages? The Commission seeks data on these technologies, including their functionality and accuracy rate as well as their costs and benefits.

IV. Procedural Matters

A. Regulatory Flexibility Analysis

20. The EAS First R&O and FNPRM and Second R&O and FNPRM both included Initial Regulatory Flexibility Analyses (IRFA) pursuant to 5 U.S.C. 603, exploring the potential impact on small entities of the Commission's proposals. The Commission invites parties to file comments on the IRFAs in light of this additional document.

B. Paperwork Reduction Act Analysis

21. This document seeks comment on a potential new or revised information collection requirement. If the Commission adopts any new or revised information collection requirement, the Commission will publish a separate document in the **Federal Register** inviting the public to comment on the requirement, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501–3520). In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

C. Ex Parte Presentations

22. This proceeding has been designated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. 47 CFR 1.1200, *et seq.* Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with § 1.1206(b). In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

D. Comment Filing Procedures

23. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. All comments and reply comments should reference this *document* and EB Docket No. 04–296. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998.

24. Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/*.

25. Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

26. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

27. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

28. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

29. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

30. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (tty).

31. Copies of the Petition and any subsequently filed documents in EB Docket No. 04–296 are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St. SW., Room CY–A257, Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488–5300, facsimile (202) 488–5563, TTY (202) 488–5562, email *fcc@bcpiweb.com*.

32. For further information regarding this proceeding, please contact Lisa M. Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau at (202) 418–7452 or by email: *lisa.fowlkes@fcc.gov;* Gregory M. Cooke, Associate Chief, Policy Division, Public Safety and Homeland Security Bureau at (202) 418–2351 or by email: *gregory.cooke@fcc.gov;* or David Munson, Policy Division, Public Safety and Homeland Security Bureau at (202) 418–2921 or by email: *david.munson@fcc.gov*.

Federal Communications Commission.

David G. Simpson,

Rear Admiral, USN (Ret.), Chief, Public Safety and Homeland Security Bureau.

[FR Doc. 2014–06444 Filed 3–27–14; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 79, No. 60
Friday, March 28, 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.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 24, 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 28, 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 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Request for Credit Account Approval for Reimbursable Services.

OMB Control Number: 0579–0055.

Summary of Collection: The Debt Collection Improvement Act of 1996 (Pub. L. 104–134 Section 31001(x)) of 31 U.S.C. 3332, as amended, requires that agencies collect tax identification numbers from all person doing business with the Government for purposes of collecting delinquent debts. The services of an inspector to clear imported and exported commodities requiring release by Agency personnel are covered by user fees during regular working hours. If an importer/exporter wishers to have a shipment of cargo or animals cleared at other hours, such services will usually be provided on a reimbursable overtime basis, unless already covered by a user fee. The Animal and Plant Health Inspection Service (APHIS) will collect information using APHIS form 192, Application for Credit Account and Request for Service.

Need and Use of the Information: APHIS will collect information to conduct a credit check on prospective applicants to ensure credit worthiness prior to extending credit services. Without this information, customers including small businesses would have to pay each time a service was provided.

Description of Respondents: Business or other for-profit.

Number of Respondents: 225.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 56.

Animal and Plant Health Inspection Service

Title: Communicable Diseases in Horses.

OMB Control Number: 0579–0127.

Summary of Collection: Title 21, U.S.C. 117 Animal Industry Act of 1884 authorizes the Secretary to prevent, control and eliminate domestic diseases such as equine infectious anemia, as well as to take action to prevent and to manage exotic diseases such as contagious equine metritis and other foreign animal diseases. The Animal and Plant Health Inspection Service (APHIS) regulates the importation and interstate movement of animals and animal products, and conducts various other activities to protect the health of the nation's livestock and poultry. The regulations in 9 CFR 75.4 govern the interstate movement of equines that have tested positive to an official test for EIA and provide for the approval of laboratories, diagnostic facilities, and research facilities.

Need and Use of the Information: The information collected from forms, APHIS VS 10–11, Equine Infectious Anemia Laboratory Test; VS 10–12, Equine Infectious Anemia Supplemental Investigation; and VS 1–27, Permit for the Movement of Restricted Animals, will be used to prevent the spread of equine infectious anemia. Regulations also require the use an Agreement for Approved Livestock Facilities, Request for Hearing, and Written Notification of Approval Withdrawal. Without the information it would be impossible for APHIS to effectively regulate the interstate movement of horses infected with EIA.

Description of Respondents: Farms; Business or other for-profit; State, Local and Tribal Government.

Number of Respondents: 253,781.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 139,547.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–06872 Filed 3–27–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 24, 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), *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 within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food Safety and Inspection Service

Title: Advanced Meat Recovery Systems.

OMB Control Number: 0583–0130.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) This statutes mandate that FSIS protect the public by ensuring that meat products are safe, wholesome, not adulterated, and properly labeled and packaged. FSIS requires that official establishments that produce meat from Advanced Meat Recovery (AMR) systems ensure that bones used for AMR systems do not contain brain, trigeminal ganglia, or spinal cord; to test for calcium (at a different level than previously required), iron, spinal cord, and dorsal root ganglia (DRG); to document their testing protocols, to assess manner that does not cause product to be misbranded or adulterated; and to maintain records of their documentation and test results.

Need and Use of the Information: FSIS will collect information from establishments to ensure that the meat product produced by the use of AMR systems is free from Bovine Spongiform Encephalopathy (BSE).

Description of Respondents: Business or other for-profit.

Number of Respondents: 56.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 25,209.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–06871 Filed 3–27–14; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 24, 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 28, 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: Current Agricultural Industrial Reports (CAIR).

OMB Control Number: 0535—NEW.

Summary of Collection: The Current Industrial Reports program was for 47 different surveys previously conducted by the U.S. Census Bureau (0607–0476), but discontinued on April 30, 2012. NASS is requesting the authority to reinstate nine data collection instruments previously used by the Census Bureau. NASS will separate the ethanol production questionnaire into a wet mill and a dry mill version. The eleven surveys will be referred to collectively as the Current Agricultural Industrial Reports (CAIR). Under the authority of the Census of Agriculture Act of 1997 (Pub. L. 105–113) and defined under Title 7, Sec. 2204(g), these surveys will be mandatory.

Need and Use of the Information: The data from the CAIR surveys will supply data users with important information on the utilization of many of the crops, livestock, and poultry produced in the U.S. Data from these surveys is essential to measuring the consumption of agricultural products in the production of numerous consumer goods. The new data series will also supply vital information to data users on how much of these commodities were processed into fuels, cooking oils, flour, fabric, etc. The CAIR surveys will become an integral part of the 2012 Census of Agriculture and conducted as follow-on-surveys and will be conducted on relatively the same frequency and schedule as used by the Department of Commerce. These data are needed to provide a more complete picture of the importance of agriculture to the American population. Data from these instruments will be used to generate four separate publications.

Description of Respondents: Business or other for-profit.

Number of Respondents: 2,050.

Frequency of Responses: Reporting: One time.

Total Burden Hours: 14,106.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–06870 Filed 3–27–14; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2013–0009]

Notice of Availability of Treatment Evaluation Documents for Various Plant Commodities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that we have determined that it is necessary to immediately add to the Plant Protection and Quarantine Treatment Manual treatment schedules for various plant commodities. We have prepared four treatment evaluation documents that describe the new treatment schedules and explain why we have determined that they are effective at neutralizing certain target pests. We are making these treatment evaluation documents available to the public for review and comment.

DATES: We will consider all comments that we receive on or before May 27, 2014.

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2013-0009-0001.*
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS–2013–0009, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0009* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Inder P.S. Gadh, Senior Risk Manager–Treatments, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 851–2018.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR chapter III are intended, among other things, to prevent the introduction or dissemination of plant pests and noxious weeds into or within the United States. Under the regulations, certain plants, fruits, vegetables, and other articles must be treated before they may be moved into the United States or interstate. The phytosanitary treatments regulations contained in part 305 of 7 CFR chapter III (referred to below as the regulations) set out standards for treatments required in parts 301, 318, and 319 of 7 CFR chapter III for fruits, vegetables, and other articles.

In § 305.2, paragraph (b) states that approved treatment schedules are set out in the Plant Protection and Quarantine (PPQ) Treatment Manual.[1] Section 305.3 sets out the processes for adding, revising, or removing treatment schedules in the PPQ Treatment Manual. In that section, paragraph (b) sets out the process for adding, revising, or removing treatment schedules when there is an immediate need to make a change. The circumstances in which an immediate need exists are described in § 305.3(b)(1). They are:

- PPQ has determined that an approved treatment schedule is ineffective at neutralizing the targeted plant pest(s).
- PPQ has determined that, in order to neutralize the targeted plant pest(s), the treatment schedule must be administered using a different process than was previously used.
- PPQ has determined that a new treatment schedule is effective, based on efficacy data, and that ongoing trade in a commodity or commodities may be adversely impacted unless the new treatment schedule is approved for use.
- The use of a treatment schedule is no longer authorized by the U.S. Environmental Protection Agency or by any other Federal entity.

We have added five and removed one treatment schedule, and revised one treatment schedule. The proposed changes to the PPQ Treatment Manual are as follows:

Methyl Bromide Treatment of Asparagus Against External Pests

Treatment T101-b-1 in the PPQ Treatment Manual requires asparagus to be fumigated using 4 lbs MB/1,000 ft ^{3} for 2 hours at 40–49 °F. APHIS has determined that treatment T101-b-1 is not effective against eggs of *Copitarsia* sp. and that a longer treatment or higher dose of methyl bromide is needed to ensure treatment efficacy for all stages of that pest. Therefore, APHIS has revised treatment schedule T101-b-1 by increasing the treatment duration by 30 minutes for all temperature ranges.

Hot Water Dip Treatment of Plant Material Not Tolerant to Chemical Fumigation

Special permit conditions authorize PPQ to import some otherwise prohibited plant material, subject to certain conditions. For plant material intolerant to fumigation, these conditions are described in treatment schedule T201-p-3. APHIS has determined that treatment T201-p-3 is not effective for many pests of concern and that an alternate hot water treatment with a higher temperature and a longer treatment period is more effective against a wide range of pests that may accompany consignments. For this reason, we are removing treatment schedule T201-p-3 from the treatment manual and adding new treatment schedule T201-p-4 requiring hot water treatment at 52 °C (125.6 °F) for 30 minutes.

Cold Treatment for Snails on Articles Used for Food or Feed

The treatment manual lists several cold treatments (T403-a-2–3, T403-a-6–1, T403-a-6–2, and T403-a-6–3) to control quarantine significant snails on non-food or non-feed type commodities. In the absence of approved cold treatments to control snails on food or feed commodities, APHIS has allowed the cold treatments approved for non-food/non-feed commodities to be used on a case-by-case basis on food and feed commodities. Because the use of cold treatment in these circumstances has not resulted in the snail's introduction, APHIS has determined that those treatments could be used effectively to control snails on food and feed commodities without causing significant injury to the treated commodities and cover more families or genera of exotic snails. Therefore, we are adding treatments T110-c-1, T110-c-2, and T110-c-3 for use on food and feed commodities.

Heat Treatment for Plant Pathogenic Bacteria and Fungi on Dried Plant Parts, Including Wood and Articles Made From Wood

Section 319.40 of the regulations lays out the requirements for the importation of wood and articles made with wood. Because there are no broad spectrum heat treatments for plant pathogenic bacteria and fungi on dried plant parts, dried plant parts including wood and articles made with wood that are found to be infested with plant pathogenic bacteria and fungi are destroyed or sent

[1] The Treatment Manual is available at *http://www.aphis.usda.gov/import_export/plants/manuals/index.shtml* or by contacting the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Manuals Unit, 92 Thomas Johnson Drive, Suite 200, Frederick, MD 21702.

back to the country of origin. APHIS has decided to add a new treatment schedule (T521) for plant pathogenic bacteria and fungi on dried plant parts, including wood and articles made with wood.

Therefore, in accordance with § 305.3(a)(1), we are providing notice that we have determined that it is necessary to make the changes described above to the treatment manual. In order to have minimum adverse impact on ongoing trade and using the immediate process as provided in § 305.3(b), these changes are effective immediately upon publication of this notice. These treatment schedules will be listed in the PPQ Treatment Manual, which will indicate that these changes were made through the immediate process described in paragraph (b) of § 305.3 and that they are subject to change or removal based on public comment.

The reasons for these revisions to the treatment manual are described in detail in the treatment evaluation documents (TEDs) we have prepared to support this action. The TEDs may be viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for instructions for accessing Regulations.gov and information on the location and hours of the reading room). You may also request paper copies of the TEDs by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the subject of the TED when requesting copies.

After reviewing the comments we receive, we will announce our decision regarding the new treatment schedules described in the TEDs in a subsequent notice, in accordance with paragraph (b)(3) of § 305.3. If we do not receive any comments, or the comments we receive do not change our determination that the proposed changes are effective, we will affirm these changes to the PPQ Treatment Manual and make available a new version of the PPQ Treatment Manual reflecting these changes. If we receive comments that cause us to determine that additional changes need to be made to one or more of the treatment schedules discussed above, we will make available a new version of the PPQ Treatment Manual that reflects the changes.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 24th day of March 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–06948 Filed 3–27–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Black Hills National Forest, Bearlodge Ranger District; Wyoming; Bear Lodge Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: A Plan of Operation has been submitted by Rare Element Resources, Inc., for the purpose of constructing and operating a rare earth elements mine in the Black Hills National Forest, Bearlodge District in Crook County, Wyoming. The Bear Lodge Project proposed action consists of the Bull Hill Mine, the Miller Creek access road, the power line, and ongoing mineral exploration. The connected action, the Upton hydrometallurgical processing plant and the tailings storage facility are located 45 miles away on private lands outside of Upton in Weston County, Wyoming. Notice is hereby given that the U.S. Department of Agriculture, Forest Service, Black Hills National Forest, will prepare an Environmental Impact Statement (EIS) to determine and analyze the effects of construction and operation of a proposed rare earth elements mine and continued mineral exploration within mining claims held by Rare Element Resources, Inc. on National Forest System (NFS) land. While the Upton Plant is a connected action, there is no federal authorization for private land and therefore will not be analyzed in detail.

The Bear Lodge Project proposed action consists of the following components:

- Construction and operation of an open-pit mine operation at Bull Hill and associated support facilities, including, but not limited to, a Physical Upgrade (PUG) plant, access route, waste rock facility and sedimentation ponds, located approximately 12 miles (or 6 air miles) north of Sundance, Wyoming;
- Access road along County Roads 208, 266 and 8 and NFS Roads 854 and 851.
- A 69kV, above ground transmission line crossing approximately 1.5 miles NFS lands, while the remainder of the 13-mile line would be on private and State of Wyoming lands; and
- The continuation of mineral exploration by drilling, trenching and bulk sampling located on lands surrounding the proposed mine.

The Bear Lodge Project connected action includes:

- Construction and operation of a hydrometallurgical (Hydromet) plant for further concentration and recovery of the rare earth elements into a rare earth carbonate concentrate product on private land outside the city limits of Upton, Wyoming. This plant is recognized as a connected action, but will not be analyzed in detail in the EIS;

DATES: Comments concerning the scope of the analysis must be received by April 30, 2014. The draft environmental impact statement is expected January, 2015 and the final environmental impact statement is expected June, 2015.

ADDRESSES: Send written comments to Jeanette Timm, Project Coordinator, US Forest Service Black Hills National Forest; Bearlodge Ranger District; 101 S. 21st Street; PO Box 680 Sundance, WY 82729–0680; 307–283–1361. Electronic comments, with Bear Lodge Project on the subject line, may also be sent via email to: *comments-rocky-mountain-black-hills-bearlodge@fs.fed.us,* or via facsimile to 307–283–3727. Information will also be available on the project Web page at the Forest Service Web site: *http://www.fs.usda.gov/projects/blackhills/landmanagement/projects.*

FOR FURTHER INFORMATION CONTACT: Jeanette Timm, Project Coordinator, US Forest Service Black Hills National Forest Bearlodge Ranger District; 101 S. 21st Street; PO Box 680 Sundance, WY 82729–0680; *jmtimm@fs.fed.us;* 307–283–1361.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose of this project is to allow a statutory right in a manner consistent with federal laws and the 1997 Revised Land and Resource Management Plan for the Black Hills National Forest, as Amended by the Phase II Amendment (Forest Plan) to construct a rare earth mine as proposed in the Bear Lodge Project Plan of Operation, modified February 2014, on NFS lands. The statutory right of Rare Element Resources, Inc. to develop a mine on federally administered lands is recognized in the General Mining Law of 1872, as amended. Forest Service

surface management regulations (36 Code of Federal Regulations [CFR] part 228) require that all mining activities ''be conducted in a manner that minimizes adverse environmental impacts on National Forest surface resources'' (36 CFR 228.8). The Forest Service is therefore required to ensure that the Proposed Action is evaluated in accordance to the National Environmental Policy Act and 36 CFR part 228.

The proposed mine development is needed to provide a supply of rare earth elements to support today's evolving technologies. Rare earth elements are the technology metals, used in cell phones, TVs, lasers, and wind turbines. The proposed exploration activities are needed in order to continue evaluating the area for geological resources and possible expansion of the mine in the future.

Proposed Action

The proposed action is to approve the Bear Lodge Project Plan of Operation submitted by Rare Element Resources, Inc. to construct a mineable pit, waste rock facility, physical upgrade plant and roads to mine rare earth elements, and continued mineral exploration plan for additional geological resource data. Reasonable and appropriate mitigation measures will also be included.

The Bear Lodge Project is located approximately 12 miles (or 6 air miles) north of Sundance, Wyoming and consists of lands administered by the Black Hills National Forest and private lands. The project is located on NFS lands on portions or all of the following: Sections 5, 7, 8, 9, 10, 11, 14, 15, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29 and 30, Township 52 North, Range 63 West, 6th principal meridian (PM). Private lands are in portions or all of the following: Sections 9, 10, 15, and 16, Township 52 North, Range 63 West, 6th principal meridian.

The Plan of Operation is summarized as follows:

1. Proposed Bull Hill Mine and Associated Facilities in the Bearlodge Mountains

- The proposed mine area; including the open pit, waste rock disposal area, and PUG plant, would consist of about 1,700 acres: 1,060 acres of NFS lands and 640 acres private lands, within a larger analysis project boundary.
- The open pit mine would be approximately 232 acres in size within Section 17 of Township 52 North, Range 63 West, 6th PM. From the updated NI 43–101 compliant resource estimate, about 1,043 million pounds of measured and indicated rare earth oxides are available to support the mine plan. The mine pit is estimated to be 500 feet deep at its lowest point and approximately ¾-mile wide and 1.5 miles long.
- A main access road (Miller Creek Road) to the mine area is proposed along County Roads 208, 266 and 8 and National Forest System Roads 854 and 851. This 13 mile access route is proposed for upgrade to accommodate two-way driving traffic in 12 foot lanes with 4 foot shoulders. The total proposed width of the right-of-way for the access route is 80 feet. For the purposes of safety, the route would be designed with grades under 6 percent. The mining traffic is estimated between 13 to 17 round trips of semi-trucks of processed ore material each day during operation. This estimate does not include worker traffic or delivery supply vehicles.
- PUG Plant, located within the Mine Area, is designed to maximize concentration of the rare earth minerals and produce a pre-concentrate using a crushing, screening, and gravity separation process depending on the ore type. The PUG process is designed to concentrate the rare earth-bearing fines and reduce the physical mass. The PUG area (approximately 176 acres) would also include administration buildings for personnel, guard station, maintenance of vehicles, storage areas for blasting materials, and gas and diesel storage tanks for equipment. A 6-foot chain link fence would be constructed around the PUG area.
- The waste rock facility would be located on private property in Section 16 of Township 52 North, Range 63 West which is adjacent to the mineable pit and is estimated at 426 acres in size. This area includes a stock pile location for the low grade ore material. An underdrain water collection system would be constructed to control seepage and collect naturally occurring flows from seeps and springs. The collection system would be drained into sediment ponds. A diversion channel would also be constructed for approximately 4,000 feet of Beaver Creek within Section 16 of Township 52 North, Range 63 West.
- Conventional truck and excavator open pit mining methods would be utilized. The mineral material to be removed lies within the oxide layer of the soil. There are areas of the mineable pit that contain variable amounts of weathered oxide ores or oxide-carbonate (OxCa) ores, and that contain variable grades of stockwork mineralization adjacent to the higher grade ores. The pit would have a disturbance footprint of approximately 232 acres. Two haul routes from the pit would be constructed with a 100 foot width between the PUG plant and the waste rock facility. A 5-strand barbed wire fence would be constructed around the mine and waste rock facility.
- The production rate of the mine is estimated at 500 tons per day of high grade oxides for the first 9 years. As the operation continues, production rates are estimated to increase to 1,000 tons per day. It is estimated the mineable pit would be depleted by year 25. Processing of low grade and other stock piled ores would continue up through year 43.
- A production well is proposed to provide water for the PUG processing and dust control. The well would be located on NFS lands. The well would supply water to a water storage tank via a waterline. It is estimated that up to 74 gallons per minute of water would be required to maintain the operation of the PUG plant and mine, and provide potable water to mine workers.
- A 69kV, 5-strand transmission line would be constructed above ground to provide power needs for the mine area. The transmission line would require a right-of-way of 100 feet to manage vegetation. Approximately 1.5 miles of the power line crosses NFS lands, while the remainder would be on private and State of Wyoming lands. Voice and data communication are proposed for wireless connections.
- It is estimated at full staffing the mine area would employ about 70 workers, including 21 workers in the PUG Plant for the first 9 years and 27 for the remaining years. The mine operation is proposed for a 2 10-hour shifts a day, 5 days a week schedule; while the PUG plant would work an 8-hour shift, 5 days a week for the first 9 years and 2 shifts for the remaining years.
- For areas of ground disturbance, i.e. roads, mineable pit, waste rock facility; vegetation and topsoil would be removed. Topsoil would be stored in designated stockpiles within the waste rock facility and PUG area for future reclamation.
- Approximately 8.71 miles of NFS roads, maintenance level 1, 2, and 3; would be removed from public access.
- To manage the surface water runoff in the mine area, diversion channels would be constructed around the pit and waste rock facility and flow into 6 sediment ponds before being naturally discharged into the neighboring creeks. Sediment ponds have been designed for a 10-year frequency, 24 hour duration event and any discharges would be in accordance with State of Wyoming standards.
- Reclamation and closure are expected to take place progressively

during mining operations. It is assumed that all closure and reclamation (excluding monitoring) would be completed within 2 years following the completion of mining. Monitoring would continue following closure and reclamation until stabilization of soil, vegetation, and water quality have been reached.

2. Continued Exploration Plan Across 7,000 Acres of NFS lands

- To continue evaluation of the rare earth resource and other locatable minerals, additional exploration is proposed outside of the 1,700 acre Mine Area. Exploration is proposed by drilling, trenching, and bulk sampling. Site specific exploration plans, including access requirements would be developed and presented to the Forest Service for review. Forest Service would evaluate and approve the exploration plans prior to implementation.
- Approximately 2000 drill holes, by rotary or core drilling, are proposed with an average depth of 750 feet. Annually, about 48 holes per year are expected for the exploration program.
- Approximately 20,000 linear feet of trenching is proposed over the life of the mine.

3. Hydromet Plant—Upton, Wyoming (Connected Action)

While the Upton Hydromet Plant is proposed as a result of the Bull Hill Mine, it is recognized as a connected action to the project. However, since the Upton Hydromet Plant is located entirely on private lands, there is no Forest Service decision or authorization that can be made and therefore, will not be analyzed in detail for environmental effect analysis in the environmental impact statement.

- The Upton Hydromet Plant, located entirely on private land 45 miles south of the proposed Bull Hill Mine, would process the pre-concentrate from the PUG plant through acid leaching followed by additional chemical processing to remove impurities and finally precipitation to produce the final total rare-earth oxides product. The tailings produced from the process would be dewatered, neutralized, and stored in a double lined tailings storage facility (TSF) adjacent to the hydromet plant.
- Water for the Upton Hydromet Plant would be provided by a connection to the Upton municipal water system.
- It is estimated at full staffing the Upton Hydromet Plant would employ about 50 workers. The Plan of Operations proposes a 24 hours a day, 7 days a week work schedule for the Upton Hydromet Plant.

Lead and Cooperating Agencies

The Forest Service will serve as the lead agency for purposes of completing the EIS under the National Environmental Policy Act. The U.S. Army Corps of Engineers, the State of Wyoming, Crook County Natural Resource District and Crook County are cooperating agencies.

Responsible Official

Black Hills National Forest Supervisor Craig Bobzien, 1019 North 5th Street, Custer, South Dakota 57730–7239.

Decisions to be Made

The Black Hills National Forest Supervisor will decide whether the proposed action would proceed as proposed or as modified by an alternative. Also, the Forest Supervisor will decide which recommended mitigation measures and monitoring requirements would be applied, and whether a Forest Plan Amendment is required. The need for Forest Plan amendments will be determined through the EIS analysis. Specifically, the Forest Supervisor will approve, or approve with modifications the proposed Plan of Operations and appropriate land use authorizations for the powerline. Decisions will be based on the EIS and any recommendations the Forest Service may have regarding surface management of NFS lands.

Permits and licenses required by other agencies are listed below in the Permits or Licenses Required section.

Permits or Licenses Required

Rare Element Resources, Inc. will secure permits for all mining and reclamation activities as required by law. Several permits will be obtained pending the completion of the analysis and decision.

Bear Lodge Project Permitting Summary

Prior to implementation of the Bear Lodge Project, permits or licenses would be required from local, State, and Federal agencies in accordance with State and Federal regulations and laws. Below; but not limited to, is a list of the permits or licenses expected with this project.

- The Mine Safety and Health Administration (MSHA) would be responsible for enforcing mine safety regulations.
- Wyoming Department of Environmental Quality (WDEQ): Water Quality Division (WQD), Land Quality Division (LQD), Air Quality Division, State Engineering Office (SEO) and Industrial Siting Council (ISC) Division permits. The LQD would be responsible for the issuance of the Permit-to-Mine. The permit application would include both the Bull Hill Mine and the Upton Hydromet Plant. The WQD would be responsible for permits to discharge surface water into nearby streams. The SEO would be responsible for issuing a permit for the production well.
- U.S. Army Corps of Engineers would be responsible for issuing a permit for Section 404 of the Clean Water Act.
- Nuclear Regulatory Commission would be responsible for permitting the Upton Hydromet Plant for possessing source materials.
- U.S. Bureau of Alcohol, Tobacco, and Firearms (ATF) would be responsible for issuing a permit for storage of explosives.
- The Forest Service would be responsible for issuing special use permits for the power line construction and maintenance to Powder River Energy Corp and a Forest Road and Trail Easement to the County for maintenance of the main access route.
- Crook County would be responsible for issuing any permits, agreements, and policy with regards to the construction, reconstruction, maintenance, or use of County roads. The County may also have other permits or agreements in conjunction with State of Wyoming regulations.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the EIS. The scoping procedure to be used for the EIS will involve notification in the **Federal Register**; a mailing to potentially interested and affected individuals, groups, Federal, State, tribal, and local government entities requesting input by way of comments, issues and concerns; news releases or legal notices; and public scoping meetings. The Forest Service is seeking information and written comments concerning the proposed action from Federal, State, tribal, and local agencies, individuals, and organizations interested in, or affected by, the Proposed Action or Alternatives. To assist the Forest Service in identifying issues and concerns related to the Proposed Action, scoping comments should be as specific as possible.

Through development of this EIS, the Forest Service will analyze environmental impacts of the proposed mining and exploration activities and reasonable alternatives to the proposed action.

Public scoping meetings are planned to be held in Upton and Sundance, Wyoming. The dates, times, and locations of the public scoping meetings will be announced in mailings and public notices issued by the Forest Service. This information will also be posted on the project Web page at the Forest Web site.

- Sundance = Crook County Court House, Community Room, 309 Cleveland St., Sundance, WY 82729
- Upton = Upton Community Center, 917 N Hwy 116, Upton, WY 82730

It is important that reviewers provide their comments at such times and in such manner that they are useful to the Agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered; however, anonymous comments will not provide the Agency with the ability to provide the respondent with subsequent environmental documents.

Dated: March 20, 2014.

Dennis L. Jaeger,

Deputy Forest Supervisor.

[FR Doc. 2014–06916 Filed 3–27–14; 8:45 am]

BILLING CODE 3410–11–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Massachusetts Advisory Committee

DATES: *Date And Time:* Friday, April 11, 2014, 2:00 p.m. [EST].

Place: Via Teleconference. Public Dial-in 1–877–446–3914; Listen Line Code: 3430453.

TDD: Dial Federal Relay Service 1–800–977–8339 give operator the following number: 202–376–7533—or by email at *ero@usccr.gov.*

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the Massachusetts Advisory Committee to the Commission will convene via conference call. The purpose of the meeting is project planning to discuss potential speakers for its June briefing on the criminalization of school discipline. The Advisory Committee will also review a summary report on the briefing meeting held on September 25, 2013 in which the Advisory Committee heard from advocates, experts, and government officials on the criminalization of school discipline.

The meeting will be conducted via conference call. Members of the public, including persons with hearing impairments, who wish to listen to the conference call should contact the Eastern Regional Office (ERO), ten days in advance of the scheduled meeting, so that a sufficient number of lines may be reserved. You may contact the Eastern Regional Office by phone at 202–376–7533. Persons with hearing impairments would first call the Eastern Regional Office at the number listed above. Those contacting ERO will be given instructions on how to listen to the conference call.

Members of the public who call-in can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number.

Members of the public are entitled to submit written comments. The comments must be received in the regional office by Monday, May 12, 2014. Comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to Melanie Reingardt at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at 202–376–7533.

Records generated from this meeting may be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

The meetings will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated on March 24, 2014.

David Mussatt,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2014–06858 Filed 3–27–14; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–22–2014]

Foreign-Trade Zone 26—Atlanta, Georgia, Application for Additional Production Authority PBR, Inc. d/b/a SKAPS Industries, (Non-Woven Geotextiles), Athens, Georgia

Correction

In notice document 2014–06248, appearing on pages 15725–15726, in the issue of Friday, March 21, 2014, make the following correction:

On page 15725, in the third column, in the last paragraph, on the last line, ''May 20, 2014.'' should read ''June 4, 2014.''

[FR Doc. C1–2014–06248 Filed 3–27–14; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–28–2014]

Foreign-Trade Zone 107—Des Moines, Iowa, Expansion of Subzone 107A, Winnebago Industries, Inc., Lake Mills, Iowa

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Iowa Foreign Trade Zone Corporation, grantee of FTZ 107, requesting an expansion of Subzone 107A on behalf of Winnebago Industries, Inc. (Winnebago), to include a site in Lake Mills, Iowa. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on March 24, 2014.

Subzone 107A was approved on September 4, 1984 (Board Order 273, 49 FR 3597l, 9–13–1984), and expanded on January 17, 2008 (Board Order 1539, 73 FR 5175, 1–29–2008). The subzone currently consists of two sites: Site 1 (237.32 acres)—605 W. Crystal Lake Road in Forest City; and, Site 2 (21 acres)—1200 Rove Avenue, Charles City.

The current request would add a site (7.49 acres) located at 808 N. Lake Street in Lake Mills, to the subzone. No additional authorization for production activity has been requested at this time.

In accordance with the FTZ Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to review the application and make 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 7, 2014. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to May 22, 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 Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: March 24, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–06988 Filed 3–27–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* March 28, 2014.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave. NW., Washington, DC 20230, telephone: (202) 482–3692.

SUPPLEMENTARY INFORMATION: Section 702 of the Trade Agreements Act of 1979 (as amended) (the Act) requires the Department of Commerce (the Department) to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(h) of the Act, and to publish quarterly updates to the type and amount of those subsidies. We hereby provide the Department's quarterly update of subsidies on articles of cheese that were imported during the periods July 1, 2013, through September 30, 2013.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies, as defined in section 702(h) of the Act, being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available. The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Ave. NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: March 20, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

APPENDIX

SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross [1] Subsidy ($/lb)	Net [2] Subsidy ($/lb)
27 European Union Member States [3]	European Union Restitution Payments	$0.00	$0.00
Canada	Export Assistance on Certain Types of Cheese	0.26	0.26
Norway	Indirect (Milk) Subsidy	0.00	0.00
	Consumer Subsidy	*0.00*	*0.00*
	Total	0.00	0.00
Switzerland	Deficiency Payments	0.00	0.00

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).
[3] The 27 member states of the European Union are: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

[FR Doc. 2014–06978 Filed 3–27–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–469–814]

Chlorinated Isocyanurates from Spain: Preliminary No Shipments Determination 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 conducting an administrative review of the antidumping duty order on chlorinated isocyanurates (chlorinated isos) from Spain.[1] The period of review (POR) is June 1, 2012, through May 31, 2013. The review covers one producer/exporter of the subject merchandise, Ercros S.A. We preliminarily determine that Ercros S.A. had no shipments of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* March 28, 2014.

FOR FURTHER INFORMATION CONTACT: Sean Cary or Gene Calvert, 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) 482–3964 or (202) 482–3586, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The products covered by the order are chlorinated isocyanurates. Chlorinated isocyanurates are derivatives of cynauric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isocyanurates: (1) Trichloroisocyanuric acid (Cl3(NCO)3), (2) sodium dichloroisocyanurate (dihydrate) (NaCl2(NCO)3 2H2O), and (3) sodium dichloroisocyanurate (anhydrous) (NaCl2(NCO)3). Chlorinated isocyanurates are available in powder, granular, and tableted forms. The order covers all chlorinated isocyanurates. Chlorinated isocyanurates are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, and 2933.69.6050 of the Harmonized Tariff Schedule of the United States (HTSUS). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isocyanurates and other compounds including an unfused triazine ring. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Preliminary Determination of No Shipments

The Department published in the **Federal Register** a notice of initiation of this administrative review of the antidumping duty order on chlorinated isos from Spain covering one company, Ercros S.A.[2] The Department received a timely submission from Ercros S.A. reporting to the Department that it did not sell or export the subject merchandise to the United States during the POR.[3] On December 17, 2013, we transmitted a ''No-Shipment Inquiry'' to U.S. Customs and Border Protection (CBP) regarding this company. Pursuant to this inquiry, the Department received no notification from CBP of entries of subject merchandise from Ercros S.A. within the ten-day deadline. Accordingly, based on record evidence, we preliminarily determine that Ercros S.A. had no shipments of subject merchandise during the POR. Consistent with our practice, the Department finds that it is not appropriate to rescind the review with respect to Ercros S.A., but rather to complete the review with respect to Ercros S.A. and issue appropriate instructions to CBP based on the final results of this review.[4]

Public Comment

Interested parties may submit cases briefs no later than 30 days after the date of publication of this notice.[5] Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[6] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[7]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce. All documents must be filed electronically using IA ACCESS.[8] An electronically-filed request must be received successfully in its entirety by IA ACCESS by 5:00 p.m. Eastern Standard Time, within 30 days after the date of publication of this notice.[9] Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

The Department will issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

The Department clarified its ''automatic assessment'' regulation on May 6, 2003.[10] This clarification will apply to entries of subject merchandise during the POR produced by Ercros for which this company did not know that the merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. Further, instead of rescinding the review with respect to Ercros S.A., we find it appropriate to complete the review and issue liquidation instruction to CBP concerning entries for Ercros S.A. following issuance of the final results of review. If we continue to find that Ercros S.A. had no shipments of subject merchandise in the final results, we will instruct CBP to liquidate any existing entries of merchandise produced by

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 46566 (August 1, 2013).

[2] *See id.*

[3] *See* Ercros S.A.'s letter entitled ''Certification of No Shipments and Request to Rescind Review, dated September 13, 2013.

[4] *See, e.g., Magnesium Metal From the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review,* 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal From the Russian Federation: Final Results of Antidumping Duty Administrative Review,* 75 FR 56989 (September 17, 2010) (collectively, *Magnesium Metal From the Russian Federation*).

[5] *See* 19 CFR 351.309(c)(ii).

[6] See 19 CFR 351.309(d).

[7] *See* 19 CFR 351.309(c)(2) and (d)(2).

[8] IA ACCESS is available at *https://iaaccess.trade.gov.*

[9] *See* 19 CFR 351.310(c).

[10] For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

Ercros S.A., but exported by other parties at the rate for the intermediate reseller, if available, or at the all-others rate.[11]

We intend to issue instructions to CBP 15 days after the publication date of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Ercros S.A. will remain unchanged from the rate assigned to the company in the most recently completed review of that company; (2) for other manufacturers and exporters covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 24.83 percent, the all-others rate established in the investigation.[12] These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

[11] *See, e.g., Magnesium Metal From the Russian Federation.*

[12] *See Chlorinated Isocyanurates From Spain: Notice of Final Determination of Sales at Less Than Fair Value,* 70 FR 24506 (May 10, 2005).

Dated: March 19, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–07002 Filed 3–27–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–816]

Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2011–2012

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to requests from interested parties, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on corrosion-resistant carbon steel flat products (CORE) from the Republic of Korea (Korea). The period of review (POR) is August 1, 2011, through February 14, 2012,[1] [2] and covers Dongbu Steel Co., Ltd., (Dongbu), and Hyundai HYSCO (HYSCO), and five non-examined companies.[3] We determine that Dongbu sold subject merchandise at less than normal value (NV) during the POR. We determine that HYSCO did not sell subject merchandise at less than NV during the POR.

DATES: *Effective Date:* March 28, 2014.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore (Dongbu) or Christopher Hargett (HYSCO), Enforcement and Compliance, Office III, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3692 or (202) 482–4161, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 9, 2013, the Department published the *Preliminary Results,*[4] and invited interested parties to comment. On November 8, 2013, Hysco, Dongbu, Union, and LG Hausys filed case briefs. On November 13, 2013, Nucor Corporation filed a rebuttal brief. On November 14, 2013, U.S. Steel Corporation filed a rebuttal brief, which was rejected by the Department as past the deadline for the submission of rebuttal briefs.[5]

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013. Therefore, all deadlines in this segment of the proceeding have been extended by 16 days.[6] Pursuant to the Tolling Memo, the deadline for the final results of this review was revised with a due date of January 23, 2014.

On January 2, 2014, the Department issued a memorandum extending the time period for issuing the final results of this administrative review from January 23, 2014 to March 24, 2014.[7]

Period of Review

The POR covered by this review is August 1, 2011, through February 14, 2012.[8]

Scope of the Order

Imports covered by the order are shipments of flat-rolled carbon steel products. The merchandise subject to

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 77 FR 59168 (September 26, 2012).

[2] The period of review ends on February 14, 2012 because the antidumping duty order on CORE from Korea was revoked effective on this date. *See Corrosion-Resistant Carbon Steel Flat Products from Germany and the Republic of Korea: Revocation of Antidumping and Countervailing Duty Orders,* 78 FR 16832 (March 19, 2013) (*CORE Revocation*).

[3] The non-examined companies are: Dongkuk Industries Co., Ltd. (Dongkuk), Haewon MSC Co. Ltd. (Haewon), LG Chem., Ltd. (LG Chem), LG Hausys, Ltd. (Hausys), and Union Steel Manufacturing Co., Ltd. (Union); *see* Memorandum to Melissa G. Skinner, Director, Office 3, AD/CVD Operations through Eric Greynolds, Program Manager, Office 3, AD/CVD Operations from Christopher Hargett, Senior International Trade Compliance Analyst, Office 3, AD/CVD Operations, titled ''Selection of Respondents for Individual Review,'' dated November 19, 2012.

[4] See Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2011– 2012, 78 FR 55057 (September 9, 2013) (Preliminary Results).

[5] *See* Memorandum to the File through Eric Greynolds, Program Manager, Office 3, AD/CVD Operations from Christopher Hargett, International Trade Compliance Analyst, Office 3, AD/CVD Operations, titled ''Rejection of Rebuttal Brief,'' dated November 20, 2013.

[6] *See* Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (October 18, 2013) (Tolling Memo).

[7] *See* Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations through Melissa Skinner, Director, Office III, Antidumping and Countervailing Duty Operations from Christopher Hargett, Sr. International Trade Compliance Analyst, Office III, AD/CVD Operations, titled ''Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review,'' dated January 2, 2014.

[8] *See Preliminary Results,* 78 FR at 55057 n.2.

review is currently classifiable under items 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, and 7217.90.5090 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 subject to the order is dispositive.[9]

Analysis of Comments Received

All issues raised in the case briefs by parties to this proceeding are listed in the Appendix to this notice. Parties' rebuttal comments and the Department's response to these issues are addressed in the Issues and Decision Memorandum, dated concurrently with this notice.[10] The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce Building, as well as electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaacess.trade.gov* and is available to all parties in the CRU. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Final Results of the Review

As a result of this review, we determine the following weighted-average dumping margins [11] exist for the period August 1, 2011, through February 14, 2012:

Producer or exporter	Weighted-average dumping margin (percent)
Dongbu Steel Co., Ltd.	7.64
Hyundai HYSCO	0.00
Dongkuk Industries Co., Ltd.	7.64
Haewon MSC Co. Ltd.	7.64
LG Chem., Ltd.	7.64
LG Hausys, Ltd.	7.64
Union Steel Manufacturing Co., Ltd.	7.64

Disclosure

In accordance with 19 CFR 351.224(b), we will disclose the calculation memorandums used in our analysis to parties to this review within five days of the date of publication of this notice.

Assessment Rates

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[12] Since the weighted-average dumping margin is not zero or *de minimis* for Dongbu, we calculated importer-specific *ad valorem* antidumping duty assessment rates based on the ratio of the total amount of dumping calculated for an importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1). Where an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.[13]

For HYSCO, we will instruct CBP to liquidate its appropriate entries without regard to antidumping duties because HYSCO's weighted-average dumping margin is zero percent. For the five non-examined respondents in this review, we will instruct CBP to liquidate their entries at a rate of 7.64%.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003.[14] This clarification will apply to entries of subject merchandise during the POR produced by each respondent for which they did not know that their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[15]

We intend to issue instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The Department notified CBP to discontinue the collection of cash deposits on entries of the subject merchandise, entered or withdrawn from warehouse, on or after February 14, 2012.[16] Therefore, no cash deposit requirements will be imposed in response to these final results.

Reimbursement of Duties

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties pursuant to 19 CFR 351.402(f)(3).

[9] For a full description of the scope of the order, *see* the ''Decision Memorandum for the Final Results of Antidumping Duty Administrative Review: Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea'' from Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, (Issues and Decision Memorandum) dated concurrently with these results and hereby adopted by this notice.

[10] *See* the Issues and Decision Memorandum.

[11] Because there was only one rate that was not zero, *de minimis,* or based on total facts available, we are using this weighted-average dumping margin (Dongbu's) as the rate for the non-examined companies.

[12] *See* 19 CFR 351.212(b)(1).

[13] *See* 19 CFR 351.106(c)(2).

[14] See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[15] For a full discussion of this clarification, *see id.*

[16] *See CORE Revocation,* 78 FR at 16833.

Notification to Interested Parties

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 APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

These final results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h).

Dated: March 24, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

Issues in Issues and Decision Memorandum

[FR Doc. 2014–06995 Filed 3–27–14; 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: Initiation of Antidumping Duty New Shipper Review; 2013–2014

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* March 28, 2014.

SUMMARY: The Department of Commerce (the Department) received a timely request for a new shipper review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China (PRC) from Dezhou Kaihang Agricultural Science Technology Co., Ltd. (Dezhou Kaihang). The Department determined that the request meets the statutory and regulatory requirements for initiation. As a consequence, in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(d)(1), the Department is initiating an antidumping duty new shipper review of Dezhou Kaihang. The period of review (POR) of this new shipper review is February 1, 2013, through February 28, 2014, as explained further in the ''Period of Review'' section below.

FOR FURTHER INFORMATION CONTACT: John Drury or Ilissa Shefferman, 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) 482–0195 or (202) 482–4684, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 19, 1999, the Department published the antidumping duty order on certain preserved mushrooms from the PRC.[1] The antidumping duty order on certain preserved mushrooms from the PRC therefore has a February anniversary month. On February 27, 2014, Dezhou Kaihang timely filed a request for a new shipper review.[2] In its request for review, Dezhou Kaihang identified itself as the exporter of the subject merchandise, while listing the producer as Shandong Fengyu Edible Fungus Co., Ltd. (Fengyu).

Pursuant to the requirements set forth in section 751(a)(2)(B)(i) of the Act and 19 CFR 351.214(b)(2), Dezhou Kaihang certified that: (1) it did not export subject merchandise to the United States during the period of investigation (POI) (*see* section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(ii)(A)); (2) since the initiation of the investigation it has never been affiliated with any company that exported subject merchandise to the United States during the POI, including those companies not individually examined during the investigation (*see* section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A)); and (3) its export activities were not controlled by the central government of the PRC (*see* 19 CFR 351.214(b)(2)(iii)(B)). Dezhou Kaihang and Fengyu also certified that Fengyu did not export the subject merchandise to the United States during the POI (*see* 19 CFR 351.214(b)(2)(ii)(B)).[3]

With respect to the certifications by and on behalf of Fengyu, the Department notes that Fengyu was subject to a prior new shipper review. In that review, the Department rescinded the review because the Department was ''unable to make an affirmative determination that subject merchandise produced and exported by Fengyu actually entered the United States for consumption during the POR.''[4] The Department intends to explore the circumstances behind Fengyu's certifications and documentation during the course of the instant review.

Moreover, in accordance with 19 CFR 351.214(b)(2)(iv), Dezhou Kaihang submitted documentation establishing the following: (1) the date on which it first shipped subject merchandise to the United States; (2) the volume of its first shipment; and (3) the date of its first sale to an unaffiliated customers in the United States.[5]

Finally, the Department conducted a U.S. Customs and Border Protection (CBP) database query and, except as explained below, confirmed the price, quantity, date of sale, and date of entry of the sale at issue.[6]

Period of Review

Pursuant to 19 CFR 351.214(c), an exporter or producer may request a new shipper review within one year of the date on which its subject merchandise was first entered. In terms of timing, 19 CFR 351.214(d) explains that where the new shipper review was requested in the six-month period ending with the end of the anniversary month the Department initiates the review in the calendar month immediately following the anniversary month. Moreover, 19 CFR 351.214(g)(1)(i)(A) states that if the new shipper review was initiated in the month immediately following the anniversary month, the review will normally cover, as appropriate, entries,

[1] *See Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Preserved Mushrooms From the People's Republic of China,* 64 FR 8308 (February 19, 1999).

[2] *See* Letter from Dezhou Kaihang to Secretary of Commerce, dated February 27, 2014 (Dezhou Kaihang Request).

[3] *Id.* at 2 and Attachment 1.

[4] *See Certain Preserved Mushrooms From the People's Republic of China; Final Results and Final Rescission in Part, of Antidumping Duty New Shipper Reviews,* 76 FR 16604, 16606 (March 24, 2011).

[5] *See* Dezhou Kaihang Request at Attachment 2.

[6] *Id.; see also* Memorandum to the File from the Case Analyst, ''Certain Preserved Mushrooms from the People's Republic of China: U.S. Customs and Border Protection Information for New Shipper Review Request,'' dated March 21, 2014 (Customs Data File), and herein incorporated by reference.

exports, or sales during the 12-month period immediately preceding the anniversary month. Therefore, because Dezhou Kaihang requested a new shipper review in February, the anniversary month, the Department is initiating this review in March, and the POR is February 1, 2013, through January 31, 2014.

In this instance, Dezhou Kaihang's sale of subject merchandise was made during the POR specified by the Department's regulations,[7] but the subject shipment entered within the 30 days after the end of this POR.[8] When the sale of subject merchandise occurs within the POR, but the entry occurs after the POR, the POR may be extended unless it would be likely to prevent the completion of the review within the time limits set by the Department's regulations.[9] Additionally, the preamble to the Department's regulations states that both the entry and the sale should occur during the POR.[10] The Department finds that extending the POR to capture this entry would not prevent the completion of the review within the time limits set by the Department's regulations. Therefore, the Department extended the POR for the new shipper review of Dezhou Kaihang by 28 days, or until February 28, 2014.

Initiation of Review

Based upon information on the record, and pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(d)(1), the Department finds that Dezhou Kaihang's request meets the statutory and regulatory requirements for initiation of a new shipper review.[11] Accordingly, the Department is initiating a new shipper review of the antidumping duty order on certain preserved mushrooms from the PRC for subject merchandise produced by Fengyu and exported by Dezhou Kaihang. This review covers the period February 1, 2013, through February 28, 2014.[12] Absent a determination that the case is extraordinarily complicated, the Department intends to issue the preliminary results of this review within 180 days after the date on which this review is initiated and the final results within 90 days after the date on which the Department issues the preliminary results.[13]

In cases involving non-market economies, the Department requires that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate provide evidence of *de jure* and *de facto* absence of government control over the company's export activities.[14] Accordingly, the Department will issue a questionnaire to Dezhou Kaihang that will include a separate rates section. This review may proceed if the response provides sufficient indication that Dezhou Kaihang is not subject to either *de jure* or *de facto* government control with respect to its exports of preserved mushrooms. However, if Dezhou Kaihang does not demonstrate eligibility for a separate rate, it will be deemed not to have met the requirements of section 751(a)(2)(B)(i) of the Act and 19 CFR 351.214(b)(2)(iii)(B) and, therefore, not separate from the PRC-wide entity. Under such circumstances, consistent with its practice, the Department will rescind the new shipper review.[15]

Upon initiation, the Department will direct CBP to suspend liquidation of any unliquidated entries of subject merchandise produced by Fengyu and exported by Dezhou Kaihang. The Department will instruct CBP to allow (at the option of the importer) the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of subject merchandise exported by Dezhou Kaihang and produced by Fengyu in accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e). Because Dezhou Kaihang certified that the sales which form the basis for its request were produced by Fengyu, the Department will instruct CBP to permit the use of a bond only for entries of subject merchandise produced by Fengyu and exported by Dezhou Kaihang.

Interested parties requiring access to business proprietary information in this new shipper review should submit applications for disclosure under administrative protective order, in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are published in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.221(c)(1)(i).

Dated: March 20, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–07001 Filed 3–27–14; 8:45 am]

BILLING CODE 3510–DS–P

[7] *See* Dezhou Kaihang Request at 2 and Attachment 2.

[8] *See* Customs Data File at Attachment 1, Line 10191.

[9] *See* 19 CFR 351.214(f)(2)(ii).

[10] *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27319–27320 (May 19, 1997).

[11] *See* Memorandum from John Drury and Ilissa Kabak Shefferman to the File through Richard O. Weible entitled, ''Initiation of Antidumping Duty New Shipper Review: Certain Preserved Mushrooms from the People's Republic of China (A–570–851),'' dated March 20, 2014.

[12] *See* 19 CFR 351.214(g)(1)(i)(A) and discussion above concerning extending the POR.

[13] *See* section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(h)(i).

[14] *See, e.g., Wooden Bedroom Furniture from the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Reviews,* 75 FR 72794, 72796 (November 26, 2010), unchanged in *Wooden Bedroom Furniture from the People's Republic of China: Final Results of Antidumping Duty New Shipper Reviews,* 76 FR 9747 (February 22, 2011).

[15] *See Certain Preserved Mushrooms from the People's Republic of China: Notice of Initiation of Antidumping Duty New Shipper Reviews,* 75 FR 62108, 62108 (October 7, 2010).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–847]

Persulfates From the People's Republic of China: Continuation of Antidumping Duty Order

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') and the International Trade Commission (''ITC'') determined that revocation of the existing antidumping duty (''AD'') order on persulfates from the People's Republic of China (''PRC'') would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States. Therefore, the Department is publishing this notice of continuation of the AD order.

DATES: *Effective Date:* March 28, 2014.

FOR FURTHER INFORMATION CONTACT: Magd Zalok or Charles Riggle, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202–482–4162 or 202–482–0650, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2013, the Department initiated [1] and the ITC instituted [2] a five-year (sunset) review of the AD order on persulfates from the PRC pursuant to sections 751(c) and 752(a) of the Tariff Act of 1930, as amended (''the Act''). As a result of its review, the Department determined that revocation of the AD

[1] *See Initiation of Five-Year* (''*Sunset*'') *Review,* 78 FR 13862 (March 1, 2013).

[2] *See Persulfates From China; Institution of a Five-Year Review Concerning the Antidumping Duty Order on Persulfates From China,* 78 FR 13891 (March 1, 2013).

order would likely lead to continuation or recurrence of dumping and notified the ITC of the magnitude of the margins likely to prevail should the order be revoked.[3] On March 14, 2014, pursuant to section 751(c) of the Act, the ITC determined that revocation of the AD order on persulfates from the PRC would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[4]

Scope of the Order

The products covered by this order are persulfates, including ammonium, potassium, and sodium persulfates. The chemical formula for these persulfates are, respectively, $(NH_4)_2S_2O_8$, $K_2S_2O_8$, and $Na_2S_2O_8$. Potassium persulfates are currently classifiable under subheading 2833.40.10 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Sodium persulfates are classifiable under HTSUS subheading 2833.40.20. Ammonium and other persulfates are classifiable under HTSUS subheadings 2833.40.50 and 2833.40.60. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Continuation of Order

As a result of the determinations by the Department and the ITC that revocation of the AD order on persulfates from the PRC would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to sections 751(c) 751(d)(2) of the Act, the Department hereby orders the continuation of the AD order on persulfates from the PRC. U.S. Customs and Border Protection will continue to collect AD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of continuation of this AD order will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of this order not later than 30 days prior to the fifth anniversary of the effective date of continuation.

This sunset review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: March 20, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–06713 Filed 3–27–14; 8:45 am]

BILLING CODE 3510–DS–P

[3] *See Persulfates From the People's Republic of China: Final Results of Expedited Third Sunset Review of Antidumping Duty Order,* 78 FR 40695 (July 8, 2013) (''*Persulfates Final*'').

[4] *See* USITC Publication of Investigation No. 731–TA–749 (March 2014), 79 FR 14536, March 14, 2014.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Science Advisory Board (SAB)

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of open meeting.

SUMMARY: The Science Advisory Board (SAB) was established by a Decision Memorandum dated September 25, 1997, and is the only Federal Advisory Committee with responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere on strategies for research, education, and application of science to operations and information services. SAB activities and advice provide necessary input to ensure that National Oceanic and Atmospheric Administration (NOAA) science programs are of the highest quality and provide optimal support to resource management.

Time and Date: The meeting will be held Tuesday, April 15, 2014, from 1:00 p.m. to 5:20 p.m. EDT and Wednesday, April 16, 2014, from 8:00 a.m. to 12:30 p.m. EDT. These times and the agenda topics described below are subject to change. Please refer to the Web page *http://www.sab.noaa.gov/Meetings/meetings.html* for the most up-to-date meeting agenda.

Place: The meeting will be held at the Sheraton Silver Spring, 8777 Georgia Ave., Silver Spring, Maryland 20910. Please check the SAB Web site *http://www.sab.noaa.gov/Meetings/meetings.html* for directions to the meeting location.

Status: The meeting will be open to public participation with a 15-minute public comment period on April 15 from 5:05–5:20 p.m. (check Web site to confirm time). The SAB expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of two (2) minutes. Individuals or groups planning to make a verbal presentation should contact the SAB Executive Director by April 11, 2014, to schedule their presentation. Written comments should be received in the SAB Executive Director's Office by April 11, 2014, to provide sufficient time for SAB review. Written comments received by the SAB Executive Director after April 11, 2014, will be distributed to the SAB, but may not be reviewed prior to the meeting date. Seating at the meeting will be available on a first-come, first-served basis.

Special Accommodations: These meetings are physically accessible to people with disabilities. Requests for special accommodations may be directed no later than 12:00 p.m. on April 11, 2014, to Dr. Cynthia Decker, SAB Executive Director, SSMC3, Room 11230, 1315 East-West Hwy., Silver Spring, MD 20910; Email: *Cynthia.Decker@noaa.gov.*

Matters To Be Considered: The meeting will include the following topics: (1) Ecosystem Sciences and Management Working Group (ESMWG Ecosystem-Based Fisheries Management Recommendations (2) Review Report on the Cooperative Institute for Marine Ecosystems and Climate (CIMEC3) NOAA Observing System Integrated Analysis Capability II (NOSIA II); (4) NOAA Science Talk: Improving Prediction of Extreme Weather Events using Multi-Model Ensembles; (5) NOAA Response to the SAB Portfolio Review Task Force Report; (6) NOAA Response to the SAB External Review of the Ocean Exploration Program; (7) NOAA Science Career Track; (8) Ecosystem Sciences and Management Working Group (ESMWG) Coastal Habitat Restoration Recommendations; (9) NOAA Update and (10) Working Group Updates.

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Executive Director, Science Advisory Board, NOAA, Rm. 11230, 1315 East-West Highway, Silver Spring, Maryland 20910. (Phone: 301–734–1156, Fax: 301–713–1459). Email: *Cynthia.Decker@noaa.gov*; or visit the NOAA SAB Web site at *http://www.sab.noaa.gov.*

Dated: March 24, 2014.

Jason Donaldson,

Chief Financial Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2014–07000 Filed 3–27–14; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD209

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of workshop and meetings.

SUMMARY: The South Atlantic Fishery Management Council (SAFMC) will hold a meeting of its Scientific and Statistical Committee (SSC) and Social and Economic Sciences Panel (SEP). See **SUPPLEMENTARY INFORMATION.**

DATES: The SSC will hold an assessment planning workshop and a meeting from 1 p.m. on Monday, April 28, 2014 until 2 p.m. on Thursday, May 1, 2014. The SEP will meet from 12 noon until 4 p.m. on Monday, April 28, 2014.

ADDRESSES:

Meeting address: The meetings and workshop will be held at the Crowne Plaza Airport Hotel, 4831 Tanger Outlet Boulevard, North, Charleston, SC 29418; telephone: (877) 227–6963 or (843) 744–4422; fax: (843) 744–4472.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; telephone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: The items of discussion in the individual meeting agendas are as follows:

SSC Assessment Planning Workshop, 1 p.m. on Monday, April 28, 2014 until 12 noon on Tuesday, April 29, 2014

1. Review assessment priorities, prioritization approaches and scheduling considerations.
2. Consider long term assessment priorities and scheduling.

SEP Meeting, Monday, April 28, 2014, 12 noon until 4 p.m.

1. Review Fishery Management Plans (FMPs) including: Dolphin-Wahoo Amendment 7; Snapper Grouper Amendment 33; Generic Accountability and Dolphin Allocation Amendment; and Coastal-Migratory Pelagics Amendment 24.
2. Review economic analysis and allocations methods and data availability.
3. Consider research needs.

SSC Meeting, 1 p.m. on Tuesday, April 29, 2014 until 2 p.m. on Thursday, May 1, 2014

1. Receive an update on recent Southeast Data, Assessment and Review (SEDAR) activities.
2. Receive a report on the Assessment Planning Workshop and recommend future assessment priorities.
4. Receive a report from the SEP meeting.
5. Review stock assessments of Gag Grouper, Snowy Grouper, and Wreckfish and develop fishing level recommendations.
6. Review the SAFMC Peer Review Process.
7. Review stock projections of Blueline Tilefish and provide fishing level recommendations.
8. Review SAFMC annual research priorities.
9. Receive an update on the MRIP program.
10. Review FMPs including: Dolphin-Wahoo Amendment 7; Snapper Grouper Amendments 29 and 33; Generic Accountability and Dolphin Allocation Amendment; and Coastal-Migratory Pelagics Amendment 24.
11. Receive a report from on evaluation of the Oculina closed area.
12. Receive a report on fishery dependent sampling efforts in 2013.
13. Receive updates and progress reports on other ongoing projects and FMP amendments.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Written comment on SSC agenda topics is to be distributed to the Committee through the Council office, similar to all other briefing materials. Written comment to be considered by the SSC shall be provided to the Council office no later than one week prior to an SSC meeting. For this meeting, the deadline for submission of written comment is 12 noon on Tuesday, April 22, 2014. Two opportunities for comment on agenda items will be provided during SSC meetings and noted on the agenda. The first will be at the beginning of the meeting, and the second near the conclusion, when the SSC reviews its recommendations.

Special Accommodations

These meetings are accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 10 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: March 25, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–06944 Filed 3–27–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD208

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council's (Council) Joint VMS/Enforcement Committee and Advisory Panel will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Tuesday, April 15, 2014 at 9:30 a.m.

ADDRESSES:

Meeting address: The meeting will be held at the Sheraton Colonial, One Audubon Road, Wakefield, MA 01880; Phone: (781) 245–9300; Fax: (781) 245–0842.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The items of discussion in the committee and advisory panel's agenda are:

Review alternatives under consideration in Framework Adjustment 4 to the Atlantic Herring FMP and provide recommendations; Framework 4 alternatives include management

measures to address dealer weighing/reporting and net slippage. The Committee and Advisory Panel will review the NOAA Office of General Council Policy for the Assessment of Civil Administrative Penalties and Permit Sanctions. They may review the gear stowage and Vessel Monitoring System proposed rules based on their availability. Other business may be discussed as necessary.

Although non-emergency issues not contained in this agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: March 25, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–06943 Filed 3–27–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD177

Fisheries of the Gulf of Mexico and Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 39 data webinar for HMS Smoothhound sharks.

SUMMARY: The SEDAR assessment of the HMS Smoothhound sharks will consist of several workshops and a series of webinars. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 39 data webinar will be held on Thursday, April 23, 2014, from 10 a.m. until 12 p.m. central standard time (EST).

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT** below) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of the webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; telephone: (843) 571–4366; email: *julie.neer@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop; (2) Assessment Workshop and a series of Assessment webinars; and (3) Review Workshop. The product of the Data Workshop is a report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The Assessment Workshop and webinars produce a report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Consensus Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include: Data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the data webinar are as follows:

Participants will present summary data and will discuss data needs and treatments.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SEDAR office (see **ADDRESSES**) at least 10 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: March 25, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–06942 Filed 3–27–14; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions From the Procurement List.

SUMMARY: The Committee is proposing to add products and a service to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes products previously furnished by such agencies.

DATES: *Comments Must Be Received On Or Before:* 4/28/2014.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products and service are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

NSN: 4510–00–NIB–0049—Bag, Disposable, Polyethylene, Feminine Hygiene, Pink.
NSN: 4510–00–NIB–0050—Dispenser, Stainless Steel, Feminine Hygiene Disposal Bags.
NPA: Envision, Inc., Wichita, KS.
Contracting Activity: DEFENSE LOGISTICS AGENCY, DLA TROOP SUPPORT.
Coverage: C-List for 100% of the requirement of the Department of Defense, as aggregated by the Defense Logistics Agency Troop Support, Philadelphia, PA.

Service

Service Type: 3d Party Logistics Service.

Description of Service: Provide Contract Management Services and Warehousing and Supply Chain Management (Integration, Warehousing, Refurbishment) Services. 3d Party Logistics (3PL) Service will be provided, as directed by the Contracting Activity, in support of the requirements of Product Manager Force Sustainment System (PMFSS), Natick, MA that are not supported through existing DoD contracting actions or stock programs.

For the purpose of this proposed addition to the Procurement List, 3PL Service is defined as an AbilityOne Program associated nonprofit agency that will have sufficient capabilities in house, or with agreements in place, to provide all management, supervision, labor, materials, supplies and equipment (except as Government provided), to plan, schedule, coordinate and assure effective performance of tasks within an identified timeframe and at a cost no greater than a cost structure identified for similar tasks.

PMFSS provides the Army with centralized management, program oversight and direction for the development, production and deployment of more than 50 product lines of Soldier support systems and equipment. The equipment covered by this scope of work supports Soldiers individually or collectively in a tactical or operational environment and is broken down into five specific product lines. These product lines are further broken down into teams, Force Provider, Aerial Delivery, Field Services equipment, Field Feeding Equipment, and Shelter Systems which individually have requirements for provision of some or all of the following services.

Contract Management Services: The 3PL Service shall provide the Federal Government's need for qualified contract specialists to support an expanding contract workload. The provider will be responsible for various functions to include providing best value procurement strategies for all items or services identified per PMFSS delivery order.

Warehousing and Supply Chain Management: The 3PL Service will provide three separate types of services needed to meet PMFSS requirements. The following describes the three separate services.

Integration: The 3PL Service will be responsible for combining Government Furnished Equipment (GFE) and new purchases into various configurations, packaging and kitting per PMFSS delivery order.

Warehousing: The 3PL Service will have storage space available not only to accomplish the Integration and refurbishment efforts but to hold equipment until such time as the PM needs to deploy the end items in support of a mission. The Facility will be easily accessible, secure, and environmental protective to ensure PMFSS requirements are met.

Refurbishment: The 3PL Service will have refurbishment capability to receive items after deployment and repair or replace defective or missing items to original configuration or specification.

Location: Product Manager, Force Sustainment System, Natick, MA.
NPA: ReadyOne Industries, Inc., El Paso, TX.
Contracting Activity: Dept of the Army, W6QK–ACC–APG Natick, Natick MA.

Deletions

The following products are proposed for deletion from the Procurement List:

Products

NSN: 7510–00–582–5398—Binder, Loose-leaf, Presentation, Letter, Blue, 3/8″.
NSN: 7510–00–582–5399—Binder, Loose-leaf, Presentation, Letter, Gray, 3/8″.
NSN: 7510–00–582–5400—Binder, Loose-leaf, Presentation, Letter, Tan, 3/8″.
NPA: Vision Corps, Lancaster, PA.
Contracting Activity: GSA/FSS OFC SUP CTR—PAPER PRODUCTS, NEW YORK, NY.
NPA: 7930–01–517–2727—Cleaner, Bathroom, Non-Acid, SKILCRAFT Savvy, 32 oz.
NPA: 7930–01–517–5916—Cleaner, Bathroom, Non-Acid, SKILCRAFT Savvy, 5 GL
NPA: 7930–01–517–5917—Cleaner, Bathroom, Non-Acid, SKILCRAFT Savvy, 55 GL.
NPA: Vision Corps, Lancaster, PA.
Contracting Activities: NAC, HINES, IL and GSA/FAS SOUTHWEST SUPPLY CENTER (QSDAC), FORT WORTH, TX.
NPA: 8540–01–350–6417—Napkin, Table, Paper.
NPA: 8540–01–351–2150—Napkin, Table, Paper.
NPA: UNKNOWN.
Contracting Activity: GSA/FAS SOUTHWEST SUPPLY CENTER (QSDAC), FORT WORTH, TX.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2014–06920 Filed 3–27–14; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds products and a service to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* 4/28/2014.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 11/22/2013 (78 FR 70022–70023); 1/6/2014 (79 FR 645); 1/17/2014 (79 FR

3181–3182) and 1/24/2014 (79 FR 4154–4155), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and service and impact of the additions on the current or most recent contractors, the Committee has determined that the products and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and service to the Government.

2. The action will result in authorizing small entities to furnish the products and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products and service proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and service are added to the Procurement List:

Products

NSN: 5180–01–441–6698—Tool Kit, Highway Safety, Compact.
NPA: Development Workshop, Inc., Idaho Falls, ID.
Contracting Activity: General Services Administration, Kansas City, MO.
Coverage: B-List for the Broad Government Requirement as aggregated by the General Services Administration.

NSN: 7045–01–482–7540—CD–R Silver w/ Jewel Case, 10pk.
NPA: North Central Sight Services, Inc., Williamsport, PA.
Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA.
COVERAGE: B-List for the Broad Government Requirement as aggregated by Defense Logistics Agency Troop Support, Philadelphia, PA.

NSN: 7350–00–290–0593—Plate, Paper, White, Round, 6½″ Diameter.
NSN: 7350–00–290–0594—Plate, Paper, White, Round, 9″ Diameter.
NPA: The Lighthouse for the Blind in New Orleans, Inc., New Orleans, LA.
Contracting Activity: General Services Administration, Fort Worth, TX.
Coverage: A-List for the Total Government Requirement as aggregated by the General Services Administration.

NSN: 7510–00–579–2751—Binder, Round Ring, Rigid Cover, Black, 2″ Capacity, 8½″ x 11″.
NPA: South Texas Lighthouse for the Blind, Corpus Christi, TX.
Contracting Activity: General Services Administration, New York, NY.
Coverage: B-List for the Broad Government Requirement as aggregated by the General Services Administration.

Service

Service Type/Location: Base Supply Center, San Diego Naval Base, 3985 Cummings Road, San Diego, CA.
NPA: The Lighthouse for the Blind, Inc. (Seattle Lighthouse), Seattle, WA.
Contracting Activity: DEPT OF THE NAVY, NAVSUP FLT LOG CTR SAN DIEGO, CA.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2014–06921 Filed 3–27–14; 8:45 am]

BILLING CODE 6353–01–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 renewal of AmeriCorps National Civilian Community Corp's NCCC Team Leader Application. This Application was developed to collect applicant information for the hiring of NCCC Team Leaders at each of the five NCCC campuses. The application will be completed by prospective NCCC Team Leaders, during each campus hire cycle. Completion of this information collection is required to be selected as an NCCC Team Leader.

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 27, 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 National Civilian Community Corps; Attention: Doug Hale, Selection and Placement Coordinator, Room 9811B; 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: Doug Hale, 202–606–7530, or by email at *dhale@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

This NCCC Team Leader application was developed to provide information pertinent to the selection of Team Leaders for AmeriCorps NCCC. Specifically, NCCC engages approximately 2,800 corps members each year in community service. In order to achieve this goal, NCCC utilizes Team Leaders as project leaders and project developers, as well as on site team supervision and reporting. There is at least one Team Leader for each team of approximately ten corps members. The application is available electronically for all Team Leader applicants.

Current Action

CNCS seeks to renew the current information collection. The information collection will otherwise be used in the same manner as the existing application. CNCS also seeks to continue using the current application until the revised application is approved by OMB. The current application is due to expire on 6/30/2014.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: NCCC Team Leader Application.

OMB Number: 3045–0005.

Agency Number: None.

Affected Public: AmeriCorps NCCC Team Leader applicants.

Total Respondents: 800.

Frequency: Bi-annual application.

Average Time per Response: Averages 2 hours.

Estimated Total Burden Hours: 1,600 hours.

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: March 24, 2014.

Kate Raftery,

Director, AmeriCorps National Civilian Community Corps.

[FR Doc. 2014–06982 Filed 3–27–14; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2014–HA–0001]

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 28, 2014.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Prospective Department of Defense Studies of U.S. Military Forces: The Millennium Cohort Study; OMB Control Number 0720–0029.

Type of Request: Revision.

Millennium Cohort Follow-Up Study:

Number of Respondents: 46,747.

Responses per Respondent: 1.

Annual Responses: 46,747.

Average Burden per Response: 45 minutes.

Annual Burden Hours: 35,060.

Millennium Cohort Family Follow-Up Study:

Number of Respondents: 3,576.

Responses per Respondent: 1.

Annual Responses: 3,576.

Average Burden per Response: 45 minutes.

Annual Burden Hours: 2,682.

Combined Burden for Millennium Cohort Studies:

Number of Respondents: 50,323.

Responses per Respondent: 1.

Annual Responses: 50,323.

Average Burden per Response: 45 minutes.

Annual Burden Hours: 37,742.

Needs and Uses: The Millennium Cohort Study responds to recent recommendations by Congress and by the Institute of Medicine to perform investigations that systematically collect population-based demographic and health data so as to track and evaluate the health of military personnel throughout the course of their careers and after leaving military service. The Millennium Cohort Study will also evaluate family impact by adding a spouse assessment component to the Cohort, called the Millennium Cohort Family Study.

Affected Public: Individuals and Households.

Frequency: On Occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. John Kraemer.

Written comments and recommendations on the proposed information collection should be sent to Mr. John Kraemer 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: March 25, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–06910 Filed 3–27–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Turnaround School Leaders Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

Overview Information

Turnaround School Leaders Program

Notice inviting applications for new awards for fiscal year (FY) 2013 funds.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.377B.

DATES: *Applications Available:* March 28, 2014.

Date of Pre-Application Webinar: April 9, 2014.

Further information will be available at *http://www2.ed.gov/programs/sif/index.html.*

Deadline for Notice of Intent to Apply (optional): April 25, 2014.

Deadline for Transmittal of Applications: May 23, 2014.

Deadline for Intergovernmental Review: July 22, 2014.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Turnaround School Leaders Program supports projects to develop and implement or enhance and implement a leadership pipeline that selects, prepares, places, supports, and retains school leaders (which may include leadership teams) for School Improvement Grant (SIG) schools (as defined in this notice) and/or SIG-eligible schools (as defined in this notice) in a local educational agency (LEA) or consortium of LEAs.

Background: Effective leaders trained to lead turnaround efforts in the Nation's lowest-performing schools are essential to improving student outcomes in these schools. In particular, after teacher effectiveness, leadership is found to be the most important school-based factor in explaining variation in student learning.[1] Yet, interviews with external partners engaged in leadership pipeline development, as well as monitoring of performance of State educational agencies (SEAs) and LEAs under the SIG program, as authorized under the Elementary and Secondary Education Act of 1965 (ESEA), as amended, Title I, Part A, Section 1003(g), 20 U.S.C. 6303(g), indicate that many LEAs do not have the capacity or resources to recruit or develop school leaders able to undertake successful turnaround efforts. In addition, it has become clear that State-approved certification programs are not preparing school leaders with the specialized skills needed to turn around schools identified as low-performing[2] and that LEAs, in turn, struggle to identify the right competencies in leader candidates for turnaround schools and lack a comprehensive system that uses data to support the ongoing development of effective turnaround school leaders.[3] Further, rural LEAs face unique challenges in recruiting strong leaders to guide school turnaround efforts due to the social and economic isolation of their communities.

As of November 1, 2013, the U.S. Department of Education (Department) has approved 42 States, Puerto Rico and the District of Columbia for ''ESEA Flexibility.'' As a condition of this flexibility, States have committed, among other things, to turning around their lowest–performing schools over a three-year period. Similarly, under SIG, LEAs with low-performing schools implement models designed to turn around the State's lowest-performing schools. To address the need for leaders who are prepared to lead effectively in these turnaround schools, and consistent with the authority provided by Congress to use up to five percent of SIG funds for activities to build SEA and LEA capacity to implement the SIG program, the Department is using a portion of the fiscal year (FY) 2013 SIG funds to initiate the Turnaround School Leaders Program.

The Turnaround School Leaders Program supports efforts to develop and implement or enhance and implement a leadership pipeline (as defined in this notice) for SIG schools and/or SIG-eligible schools in an LEA or consortium of LEAs. Grantees under this program will—

- Recruit and select promising current and prospective school leaders, using locally adopted competencies (as defined in this notice) identified by the applicant as necessary to turn around a SIG school or SIG-eligible school;
- Provide high-quality training to selected school leaders to prepare them to successfully lead turnaround efforts in SIG schools and/or SIG-eligible schools;
- Place school leaders in SIG schools and/or SIG-eligible schools and provide them with ongoing professional development and other support that focuses on instructional leadership and school management and is based on individual needs consistent with the LEA's plan for turning around its SIG schools and/or SIG-eligible schools; and
- Retain effective school leaders, using financial or other incentives, and replace ineffective school leaders.

Priorities: This notice establishes two absolute priorities and two competitive preference priorities. We are establishing these priorities for the FY 2014 grant competition and any subsequent year in which we make awards from the list of unfunded applicants from this competition, in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1).

Absolute Priorities: These priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that meet one of these priorities. An applicant may apply under only one absolute priority and must indicate in its application the priority under which it is applying.

The Department seeks to encourage high-quality applications from applicants serving LEAs that are diverse in size and location. For this reason, the Department establishes two priorities—Absolute Priorities 1 and 2—through which the Department intends to support leadership pipelines in both rural and non-rural communities with no fewer than five schools in each community that are SIG schools and/or SIG-eligible schools.

If an otherwise eligible applicant applying under Absolute Priority 2 is determined not to have met the priority because it has misidentified the designation of one or more schools as rural, the Department reserves the authority to review the applicant's submission with all other applications submitted for funding that meet Absolute Priority 1.

These priorities are:

Absolute Priority 1: Non-Rural Turnaround School Leader Selection, Preparation, Placement, Support, and Retention Program

To meet this priority, the applicant must submit a plan to develop and implement or enhance and implement a leadership pipeline for at least one LEA with no fewer than five SIG schools and/or SIG-eligible schools.

Absolute Priority 2: Rural Turnaround School Leader Selection, Preparation, Placement, Support, and Retention Program

To meet this priority, the applicant must submit a plan to develop and implement or enhance and implement a leadership pipeline for at least one LEA with no fewer than five SIG schools and/or SIG-eligible schools designated as rural. A school is designated as rural if it is assigned a locale code of 41 (located in a census-defined rural territory less than 5 miles from an urban cluster), a locale code of 42 (located in a census-defined rural territory more than 5 miles but less than or equal to 25 miles from an urban cluster), or a locale code of 43 (located in a census-defined rural territory that is more than 25 miles from an urban cluster) by the National Center for Education Statistics (NCES).

Note 1: To identify the locale code of any school to be served by the proposed project, access the NCES public school database here: *http://nces.ed.gov/ccd/schoolsearch/.*

[1] Mendels, Pamela. (June 2012, Vol. 33, No. 3). Principals in the Pipeline. Oxford, Ohio: Learning Forward. Retrieved from *http://learningforward.org/docs/jsd-june-2012/mendels333.pdf.*

[2] Young, M. et al. (2013). Change Agents: How States Can Develop Effective School Leaders. Dallas, TX: George W. Bush Institute. Retrieved from *www.bushcenter.org/bush-institute/education-reform.*

[3] Rhim, Lauren Morando. (2012). No time to lose: Turnaround leader performance assessment. Charlottesville: University of Virginia's Darden School Foundation. Retrieved from *www.centerii.org.*

Note 2: An applicant may apply under only one absolute priority and must indicate in its abstract the priority under which it is applying as well as the schools, and NCES identification numbers of those schools, the applicant intends to serve.

Note 3: Applicants that fail to clearly identify in the abstract section the absolute priority for which it is seeking to apply will have its application reviewed with all other applications submitted for funding that under Absolute Priority 1.

Competitive Preference Priorities: These priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award three additional points to an application that meets Competitive Preference Priority 1 and five additional points to an application that meets Competitive Preference Priority 2. A total of eight points may be awarded.

These priorities are:

Competitive Preference Priority 1: Existing Policy Conditions That Can Be Leveraged To Ensure Success and Sustainability of a Turnaround Leadership Pipeline

To meet this priority, the applicant must provide documentation that the LEA or consortium of LEAs already has in place policies that provide school leaders (as defined in this notice) with decision-making autonomy (with regard to staffing, school schedules, and budgeting) and provide the LEA or consortium of LEAs with flexibility in the selection, preparation, placement, support, and retention of school leaders to successfully turn around SIG schools and/or SIG-eligible schools. This may include, for example, School Board meeting minutes recording the adoption of policies, guidance documents, or trainings provided to school leaders.

Competitive Preference Priority 2: Record of Preparing and Supporting Turnaround School Leaders Who Have Demonstrated Success in Increased Graduation Rates and Academic Growth

To meet this priority, the applicant must provide documentation of previous success in preparing and supporting school leaders or leadership teams in SIG schools and/or SIG-eligible schools as demonstrated by increased graduation rates and academic growth on State assessments in reading/language arts and in mathematics for the ''all students'' group and for each subgroup, as specified in section 1111(b)(3)(C)(xiii), 20 U.S.C. 6311(b)(3)(C)(xiii).

Note 1: Applicants may address either of the competitive preference priorities, both, or neither. In order to be eligible for earning competitive preference priority points, an applicant must identify in the abstract section of its application the competitive preference priority or priorities for which it is seeking points.

Note 2: Applicants that fail to clearly identify in the abstract section the competitive preference priority or priorities for which it is seeking to earn points will not have its application reviewed against the competitive preference priority and will not be awarded competitive preference priority points.

Application Requirements: The applicant must provide the following.

Requirement 1—Demonstrating Capacity To Develop and Implement a Leadership Pipeline System

In its application, an applicant must demonstrate its capacity to develop and implement or enhance and implement a leadership pipeline for SIG schools and/or SIG-eligible schools. The applicant must demonstrate such capacity by providing evidence of each of the following:

a. An existing evaluation system that measures teacher and leader effectiveness.

b. Commitment to implement and sustain the proposed plan by the applicant. To demonstrate this commitment, an applicant must include with its application a Memorandum of Understanding (MOU), or, if the applicant is an LEA, a letter of commitment, signed by the superintendent and (if applicable) school board president of each LEA to be served by the project and by an appropriate representative of the applicant (if not an LEA) and any other partner entity, outlining the terms and conditions of the partnership.

c. A reasonable opportunity for the public, including teachers and school leaders, to provide feedback on the applicant's proposed leadership pipeline plan as demonstrated by evidence, for instance, that forums designed to inform and engage school staff and community stakeholders have been held.

Requirement 2—Sustaining the Leadership Pipeline

The applicant must describe its plan for sustaining the leadership pipeline it will implement as a result of this grant. The sustainability plan must include each of the following:

a. A description of the data that the applicant will use, and how the applicant will use the data, to inform its continuous improvement of the leadership pipeline after the grant award period ends.

b. A description of the actions that the applicant will undertake to continue to select, prepare, place, support, and retain school leaders in SIG schools and/or SIG-eligible schools after the grant award period ends.

c. A budget narrative that identifies and aligns resources to sustain the system after the grant award period ends.

Program Requirements: The following are program requirements. In its application, the applicant must describe its plan to carry out the following program requirements:

Requirement 3—Describing the Leadership Pipeline

The grantee must use grant funds to develop and implement or enhance and implement a leadership pipeline that:

a. Selects school leaders using locally adopted competencies identified by the applicant as necessary to turn around a SIG school or SIG-eligible school;

b. Provides comprehensive and differentiated professional development to selected school leaders to prepare them to successfully lead turnaround efforts in SIG schools and/or SIG-eligible schools;

c. Places school leaders in SIG schools and/or SIG-eligible schools, and provides them with ongoing individualized support based on the LEA's plan for turning around its SIG schools and/or SIG-eligible schools; and

d. Retains effective school leaders, using financial or other incentives, and replaces ineffective school leaders.

Requirement 4—Determining Leadership Effectiveness

The grantee must use data (which may include data from the evaluation system that measures teacher and leader effectiveness) to inform selection, placement, retention and incentive decisions.

Requirement 5—Continuous Project Improvement

The grantee must identify and use data to inform continuous improvement of its leadership pipeline during the award period.

Requirement 6—Extension of Autonomy to School Leaders

The grantee must ensure that school leaders placed in SIG schools and/or SIG-eligible schools have decision-making autonomy (with regard to staffing, school schedules, and budgeting).

Definitions

The following definitions apply to the competition announced in this notice.

Leadership pipeline means a system through which an LEA or consortium of

LEAs is able to select, prepare, place, support, and retain school leaders, including leadership teams, for SIG schools and/or SIG-eligible schools.

Locally adopted competencies means the knowledge, skills and abilities, developed by an LEA or school, which are associated with effective performance as a turnaround leader and supported by research-based evidence.

Logic model (also referred to as theory of action) means a well-specified conceptual framework that identifies key components of the proposed process, product, strategy, or practice (i.e., the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the relationships among the key components and outcomes, theoretically and operationally.

Relevant outcome means the student outcome(s) (or the ultimate outcome if not related to students) the proposed process, product, strategy, or practice is designed to improve; consistent with the specific goals of a program.

School leader means a school's principal and may also include other members of a school's leadership team.

SIG school means either:

(1) A Tier I or Tier II school as defined in the SIG final requirements published in the **Federal Register** on October 28, 2010 (75 FR 66363) (*http://www.gpo.gov/fdsys/pkg/FR-2010-10-28/pdf/2010-27313.pdf*) that is, as of the date of the application, implementing a SIG model, or

(2) For a State that has received approval of its ESEA Flexibility request, a priority school that is, as of the date of the application, implementing a SIG model.

SIG-eligible school means either:

(1) A school that meets the definition of a Tier I or Tier II school as defined in the SIG final requirements published in the **Federal Register** on October 28, 2010 (75 FR 66363) (*http://www.gpo.gov/fdsys/pkg/FR-2010-10-28/pdf/2010-27313.pdf*), or

(2) For States that have received approval of their ESEA Flexibility request, a priority school identified by an SEA in the list of schools in the SEA's approved FY 2013 SIG application.

Strong theory means a rationale for the proposed process, product, strategy, or practice that includes a logic model.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities, selection criteria, definitions, and other requirements. Section 437(d)(1) of GEPA, however, allows the Secretary to exempt from rulemaking requirements, regulations governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program under the Consolidated and Further Continuing Appropriations Act, 2013 (Pub. L. 113–6) and the Consolidated Appropriations Act, 2012 (Pub. L. 112–74) and therefore qualifies for this exemption. In order to ensure timely grant awards, the Secretary has decided to forego public comment on the priorities, selection criteria, definitions, and other requirements under section 437(d)(1) of GEPA. These priorities, selection criteria, definitions, and other requirements will apply to the FY 2013 grant competition and any subsequent year in which we make awards from the list of unfunded applicants from this competition.

Program Authority: 20 U.S.C. 6303(g); the Consolidated and Further Continuing Appropriations Act, 2013 (Pub. L. 113–6); and the Consolidated Appropriations Act, 2012 (Pub. L. 112–74).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 86, 97, 98, and 99. (b) The Education Department suspension and debarment regulations in 2 CFR part 3485.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $14,000,000.

Contingent upon the availability of funds and the quality of applications, the Department may make additional awards in future years from the list of unfunded applicants from this competition.

Estimated Range of Awards: $1,000,000 to $2,000,000.

Estimated Average Size of Awards: $1,500,000.

Estimated Number of Awards: 8–12.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* (1) An LEA or consortium of LEAs with at least five SIG schools and/or SIG-eligible schools; (2) A State educational agency (SEA) in partnership with an LEA or consortium of LEAs with at least five SIG schools and/or SIG-eligible schools; (3) An institution of higher education (IHE) in partnership with an LEA or consortium of LEAs with at least five SIG schools and/or SIG-eligible schools; (4) Another public or private nonprofit or for-profit organization in partnership with an LEA and/or consortium of LEAs with at least five SIG schools and/or SIG-eligible schools; and, (5) A combination of the above eligible applicants in partnership. Eligible applicants seeking to apply as a consortium or partnership must comply with the regulations in 34 CFR 75.127–75.129, which address group applications.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov*.

If you request an application package from ED Pubs, be sure to identify this program or competition as follows: CFDA number 84.377B.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the person listed under *Accessible Format* in section VIII of this notice.

2.a. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Notice of Intent to Apply: The Department will be able to develop a more efficient process for reviewing grant applications if it has a better understanding of the number of entities that intend to apply for funding under this program. Therefore, the Secretary strongly encourages each potential applicant to notify the Department by sending a short email message indicating the applicant's intent to submit an application for funding. The email need not include information regarding the content of the proposed application, only the applicant's intent to submit it. This email notification should be sent to the Office of School Turnaround at: *leadership.pipeline@ed.gov.*

Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. Panel readers will award points only for an applicant's response to a given selection criterion that is contained within the section of the application designated to address that particular selection criterion. Readers will not review, or award points for responses to a given selection criterion that is located in any other section of the application or the appendices. You must limit the application narrative to no more than 40 pages, using the following standards:

- A ''page'' is 8.5'' x 11'', on one side only, with 1'' margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the page limit does apply to all of the application narrative section.

We will reject your application if you exceed the page limit.

2.b. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the Turnaround School Leaders Program an application may include business information that the applicant considers proprietary. The Department's regulations define ''business information'' in 34 CFR 5.11.

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you feel is exempt from disclosure under Exemption 4 of the Freedom of Information Act. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Submission Dates and Times:*

Applications Available: March 28, 2014.

Date of Pre-Application Webinar: April 9, 2014. Further information will be available at *http://www2.ed.gov/programs/sif/index.html*.

Deadline for Notice of Intent to Apply: April 25, 2014.

Deadline for Transmittal of Applications: May 23, 2014.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in a paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV.7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: July 22, 2014.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one-to-two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov. and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov*. To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html*.

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/applicants/get_registered.jsp*.

7. *Other Submission Requirements:* Applications for grants under this

program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. Electronic Submission of Applications

Applications for grants under the Turnaround School Leaders Program, CFDA number 84.377B, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Turnaround School Leaders Program at *www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.326, not 84.326A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *http://www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Janine Rudder, U.S. Department of Education, 400 Maryland Avenue SW., Room 3W252, Washington, DC 20202.

FAX: (202) 205–5870.

Alternatively, you may email a PDF of your statement to the Office of School Turnaround. Email: *leadership.pipeline@ed.gov*.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. Submission of Paper Applications by Mail

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.377B), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. Submission of Paper Applications by Hand Delivery

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.377B), 550 12th Street SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are as follows:

a. *Quality of the project design* (up to 40 points). In determining the quality of the design of the proposed project, we consider the following factors:

1. The extent to which the applicant proposes to select and place school leaders using locally adopted competencies identified by the applicant as being necessary to turn around SIG schools and/or SIG-eligible schools (up to 7 points).

2. The extent to which the applicant will provide comprehensive and differentiated professional development to prepare and support school leaders who are placed in SIG schools and/or SIG-eligible schools (up to 9 points).

3. The extent to which the proposed project is supported by a strong theory (as defined in 34 CFR 77.1(c)) (up to 5 points).

4. The extent to which the design of the applicant's proposed project will address the needs of traditionally underserved populations (including students with disabilities and English learners), such as by recruiting, incentivizing, and selecting special education teachers and those in language instruction educational programs to be school leaders (up to 5 points).

5. The extent to which the applicant will use data to inform professional development, retention and incentive decisions (up to 7 points).

6. The extent to which the applicant plans to identify and use data to inform continuous improvement of its proposed leadership pipeline during the award period (up to 7 points).

b. *Significance of the project* (up to 5 points). In determining the significance of the proposed project, we consider the extent to which the applicant's proposed leadership pipeline is likely to produce best practices and lessons learned that promote and support reforms in the turnaround field (up to 5 points).

c. *Capacity to implement the proposed project* (up to 20 points). We consider the following factors in determining the applicant's capacity in implementing the proposed project:

1. The extent to which the applicant has a system in place that determines teacher and leader effectiveness (up to 5 points).

2. The extent to which the applicant demonstrates that decision-making autonomy (with regard to staffing, school schedules, and budgeting) will be extended to school leaders placed in SIG schools and/or SIG-eligible schools (up to 5 points).

3. The extent to which the proposed project will be coordinated with committed partners as evidenced by Memoranda of Understanding, signed by the superintendent and (if applicable) school board president of each LEA to be served by the project and by an appropriate representative of the applicant (if not an LEA) and any other partner entity, which outline the terms and contributions each partner will make to support full and effective implementation of the leadership pipeline for SIG schools and/or SIG-eligible schools (up to 5 points).

4. The extent to which the applicant offers a reasonable opportunity for the public, including teachers and school leaders, to provide feedback on the applicant's proposed leadership pipeline plan as demonstrated by evidence, for instance, that forums designed to inform and engage

stakeholders have been held (up to 5 points).

d. *Sustainability of the proposed project after the award period ends* (up to 25 points). We consider the following factors in determining the sustainability of the leadership pipeline:

1. The adequacy of the applicant's plan to sustain the leadership pipeline it develops and implements or enhances as a result of the grant (up to 10 points).

2. The adequacy of the proposed budget that indicates how the applicant will identify and align resources to sustain the leadership pipeline after the grant award period ends (up to 10 points).

3. The adequacy of the applicant's plan to sustain stakeholder support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of the LEA's superintendent, local school board president, and any other partner entities (up to 5 points).

e. *Quality of the management plan* (up to 10 points). In determining the quality of the management plan for the proposed project, we consider the following factors:

1. The extent to which the applicant's plan is likely to achieve the objectives of the proposed project on time and within budget, including how likely the plan is to result in the applicant carrying out clearly defined responsibilities, meeting articulated timelines, and achieving specified and measurable milestones for developing and implementing the leadership pipeline for SIG schools and/or SIG-eligible schools (up to 5 points).

2. The adequacy of the time commitment and qualifications of the project director and key personnel, including relevant training and experience, to continuously implement the proposed project and to support project participants (up to 5 points).

2. *Review and Selection Process:* To ensure that grantees under this program serve both rural and non-rural communities, the Department may separately consider for funding applications meeting Absolute Priority 1 and those meeting Absolute Priority 2.

We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html*.

4. *Performance Measures:* The Secretary has established measures for assessing the effectiveness of the Turnaround School Leaders Program. Unless otherwise noted, we intend to collect from grantees data responsive to these measures for each project year. The measures are:

a. The number and percent of school leaders placed in SIG schools and/or SIG-eligible schools who have increased graduation rates and academic growth on State assessments in reading/language arts and in mathematics for the ''all students'' group.

b. The teacher attendance rate for each school for every year through the 2018–2019 school year for the SIG schools and/or SIG-eligible schools in which school leaders are placed and retained by the LEA or consortium of LEAs.

c. The student attendance rate for each school for every year through the 2018–2019 school year for the SIG schools and/or SIG-eligible schools in which school leaders are placed and retained by the LEA or consortium of LEAs.

d. The graduation rate, as applicable, for each school for every year through the 2018–2019 school year for the SIG schools and/or SIG-eligible schools in which school leaders are placed and retained by the LEA or consortium of LEAs.

e. The number and percent of school leaders selected, from all applicants for the project, to begin professional development to prepare for placement in SIG schools and/or SIG-eligible schools.

f. The number and percent of school leaders that complete the preparation component of the pipeline for every year through the 2017–2018 school year.

g. The number and percent of school leaders placed in SIG schools and/or SIG-eligible schools for every year through the 2017–2018 school year.

h. The leadership pipeline cost per school leader who increased graduation rates and academic growth on State assessments in reading/language arts and in mathematics, by grade, for the ''all students'' group and for each subgroup served by the project.

5. *Continuation Awards:* The Department may provide full funding for the entire project period to successful applicants from the FY 2013 funds currently available or may provide funding for an initial budget period from the FY 2013 funds.

Depending upon the amount of funding provided in the initial awards and the availability of funds, the Department may make continuation awards for subsequent fiscal years in accordance with 34 CFR 75.253. In making such continuation awards, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Janine Rudder, U.S. Department of Education, 400 Maryland Avenue SW., Room 3W252, Washington, DC 20202. Telephone: (202) 205–3785, or by email: *leadership.pipeline@ed.gov*. or

Christopher Tate, U.S. Department of Education, 400 Maryland Avenue SW., Room 3W231, Washington, DC 20202. Telephone: (202) 260–8103, or by email: *leadership.pipeline@ed.gov*.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person persons listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: March 21, 2014.

Deborah S. Delisle,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2014–06695 Filed 3–27–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Quadrennial Energy Review: Notice of Public Meeting

AGENCY: Office of Energy Policy and Systems Analysis, Secretariat, Quadrennial Energy Review Task Force, Department of Energy.

ACTION: Notice of public meeting.

SUMMARY: At the direction of the President, the U.S. Department of Energy (DOE or Department), as the Secretariat for the Quadrennial Energy Review Task Force (QER Task Force), will convene a series of public meetings to discuss and receive comments on issues related to the Quadrennial Energy Review.

DATES: The Department, as the Secretariat for the QER Task Force, will convene a series of meetings relating to the Quadrennial Energy Review. The first public meeting will be held on Friday April 11, 2014, from 10 a.m. to 5 p.m. Written comments are welcome, especially following the public meeting, and should be submitted within 60 days of the meeting.

The precise, time, date and address of subsequent meetings will be announced in later **Federal Register** notices.

ADDRESSES: The meeting will be held at United States Capitol Visitors Center, Congressional Auditorium, located at East Capitol Street NE., and First Street NE., Washington, DC 20001.

You may submit written comments, to: *QERComments@hq.doe.gov* or by U.S. mail to the Office of Energy Policy and Systems Analysis, EPSA–60, QER Meeting Comments, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0121.

For the April 11th, 2014, Public Meeting, please title your comment ''Quadrennial Energy Review: Comment on the Public Meeting ''Enhancing Infrastructure Resiliency,'' held April 11, 2014, Washington, DC''.

FOR FURTHER INFORMATION CONTACT: Ms. Adonica Renee Pickett, EPSA–90, U.S. Department of Energy, Office of Energy Policy and Systems Analysis, 1000 Independence Avenue SW., Washington, DC 20585–0121. *Telephone:* (202) 586–916. *Email: Adonica.Pickett@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On January 9, 2014, President Obama issued a *Presidential Memorandum—Establishing a Quadrennial Energy Review.* To accomplish this review, the Presidential Memorandum establishes a Quadrennial Energy Review Task Force to be co-chaired by the Director of the Office of Science and Technology Policy, and the Director of the Domestic Policy Council. Under the Presidential Memorandum, the Secretary of Energy shall provide support to the Task Force, including support for coordination activities related to the preparation of the Quadrennial Energy Review Report, policy analysis and modeling, and stakeholder engagement.

The DOE, as the Secretariat for the Quadrennial Energy Review Task Force, will hold a series of public meetings to discuss and receive comments on issues related to the Quadrennial Energy Review. The general location and topic for each of these meetings are listed below.

Topic	Location
Infrastructure Resilience and Vulnerabilities (Cyber, Physical, Climate, Interdependencies).	Washington, DC.
Infrastructure Constraints—New England.	New England TBD.
Infrastructure Constraints—Bakken.	North Dakota.
Electricity Transmission Storage & Distribution—West.	Portland, OR.
Petroleum Product Transmission & Distribution (including CO_2/EOR).	Louisiana.
Rail, Barge, Truck Transportation.	Chicago, IL.

The initial focus for the Quadrennial Energy Review will be our Nation's infrastructure for transporting, transmitting, storing and delivering energy. Our current infrastructure is increasingly challenged by transformations in energy supply, markets, and patterns of end use; issues of aging and capacity; impacts of climate change; and cyber and physical threats. Any vulnerability in this infrastructure may be exacerbated by the increasing interdependencies of energy systems with water, telecommunications, transportation, and emergency response systems. The first Quadrennial Energy Review Report will

serve as a roadmap to help address these challenges.

The Department of Energy has a broad role in energy policy development and the largest role in implementing the Federal Government's energy research and development portfolio. Many other executive departments and agencies also play key roles in developing and implementing policies governing energy resources and consumption, as well as associated environmental impacts. In addition, non-Federal actors are crucial contributors to energy policies. Because most energy and related infrastructure is owned by private entities, investment by and engagement of the private sector is necessary to develop and implement effective policies. State and local policies; the views of nongovernmental, environmental, faith-based, labor, and other social organizations; and contributions from the academic and non-profit sectors are also critical to the development and implementation of effective energy policies.

An interagency Quadrennial Energy Review Task Force, which includes members from all relevant executive departments and agencies (agencies), will develop an integrated review of energy policy that integrates all of these perspectives. It will build on the foundation provided in the Administration's *Blueprint for a Secure Energy Future* of March 30, 2011, and *Climate Action Plan* released on June 25, 2013. The Task Force will offer recommendations on what additional actions it believes would be appropriate. These may include recommendations on additional executive or legislative actions to address the energy challenges and opportunities facing the Nation.

April 11, 2014 Public Meeting: Enhancing Infrastructure Resiliency and Addressing Vulnerabilities

On April 11, 2014, the DOE will hold a public meeting in Washington, DC. The April 11, 2014 public meeting will feature facilitated panel discussions, followed by an open microphone session. Persons desiring to speak during the open microphone session at the public meeting should come prepared to speak for no more than 3 minutes and will be accommodated on a first-come, first-serve basis, according to the order in which they register to speak on a sign-in sheet available at the meeting location, on the morning of the meeting.

In advance of the meeting, DOE anticipates making publicly available a briefing memorandum providing useful background information regarding the topics under discussion at the meeting. DOE will post this memorandum on its Web site: *http://energy.gov.*

Submitting comments via email. Submitting comments by email to the QER email address will require you to provide your name and contact information in the transmittal email. Your contact information will be viewable to DOE 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). 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 the QER email address (*QERcomments@hq.doe.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 to the QER email address cannot be claimed as CBI. Comments received through the email address will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section, below.

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, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English, and 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.

Confidential Business Information. Pursuant 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. Confidential information should be submitted to the Confidential QER email address: *QERConfidential@hq.doe.go.*

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest. It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

Issued in Washington, DC, on March 25, 2014.

Carl Pechman,

QER Secretariat, QER Interagency Task Force, U.S. Department of Energy.

[FR Doc. 2014–06941 Filed 3–27–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2680–108]

Consumers Energy Company and DTE Electric Company; Notice of Intent To File License Application, Filing of Pre-Application Document (Pad), Commencement of Pre-Filing Process, and Scoping; Request for Comments on the Pad and Scoping Document, and Identification of Issues and Associated Study Requests

a. *Type of Filing:* Notice of Intent to File License Application for a New License and Commencing Pre-filing Process.

b. *Project No.:* 2680–108.

c. *Dated Filed:* January 21, 2014.

d. *Submitted By:* Consumers Energy Company and DTE Electric Company (Consumers Energy and DTE Companies).

e. *Name of Project:* Ludington Pumped Storage Project.

f. *Location:* On the east shore of Lake Michigan in the townships of Pere Marquette and Summit in Mason County, Michigan and in Port Sheldon, Ottawa County, Michigan. The Ottawa County portion is a 1.8-acre satellite recreation site, located about 70 miles south of the project. The Ludington Project is not located on federal lands.

g. *Filed Pursuant to:* 18 CFR Part 5 of the Commission's Regulations.

h. *Potential Applicant Contact:* David McIntosh, Consumers Energy Company, Hydro and Renewable Generation, 330 Chestnut St., Cadillac, MI 49601, phone 231 779–5506, email—*David.McIntosh@cmsenergy.com*.

i. *FERC Contact:* Janet Hutzel at (202) 502–8675 or email at *janet.hutzel@ferc.gov*.

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item o. below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 C.F.R., Part 402 and (b) the Michigan State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Consumers Energy and DTE Companies as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act and section 106 of the National Historic Preservation Act.

m. Consumers Energy and DTE Companies filed with the Commission a Pre-Application Document (PAD; including a proposed process plan and schedule), pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov*, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are soliciting comments on the PAD and Commission's staff Scoping Document 1 (SD1), as well as study requests. All comments on the PAD and SD1, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application must be filed with the Commission.

The Commission strongly encourages electronic filing. Please file all documents using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2680–108.

All filings with the Commission must bear the appropriate heading: ''Comments on Pre-Application Document,'' ''Study Requests,'' ''Comments on Scoping Document 1,'' ''Request for Cooperating Agency Status,'' or ''Communications to and from Commission Staff.'' Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by May 21, 2014.

p. Although our current intent is to prepare an environmental assessment (EA), there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, this meeting will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

Scoping Meetings

Commission staff will hold two scoping meetings in the vicinity of the project at the time and place noted below. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the evening meeting is primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend one or both of the meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. The times and locations of these meetings are as follows:

Daytime Scoping Meeting

Date and Time: April 17, 2014 at 1 p.m.
Location: Comfort Inn & Suites, 7576 S. Pere Marquette Hwy, Pentwater, MI 49449, Phone Number: (231) 869–8000

Evening Scoping Meeting

Date and Time: April 17, 2014 at 6 p.m.
Location: Comfort Inn & Suites, 7576 S. Pere Marquette Hwy, Pentwater, MI 49449, Phone Number: (231) 869–8000

Scoping Document 1 (SD1), which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 will be available at the scoping

meetings, or may be viewed on the web at *http://www.ferc.gov,* using the ''eLibrary'' link. Follow the directions for accessing information in paragraph n. Based on all oral and written comments, a Scoping Document 2 (SD2) may be issued. SD2 may include a revised process plan and schedule, as well as a list of issues, identified through the scoping process.

Environmental Site Review

The potential applicant and Commission staff will conduct an environmental site review of the project on July 30, 2014, starting at 9:00 a.m. All participants should meet at the Ludington Pumped Storage Project's upper reservoir parking lot located within the picnic area. The address is 3525 South Lakeshore Drive, Ludington, MI 49431. Attendees will be bused to the project for the environmental site review.

Please notify Melissa Sherman at *MELISSA.SHERMAN@cmsenergy.com* or via phone (231) 843–5226 by June 30, 2014, if you plan to attend the environmental site review. Persons not providing an RSVP by June 30, 2014, will not be allowed on the environmental site review. Also, persons attending the environmental site review must adhere to the following requirements: (1) Persons must be 16 years or older; (2) persons must have a current valid government issued or school photo id; (3) persons with open toe shoes/sandals/flip flops/high heels, etc. will not be allowed on the environmental site review; (4) no cameras or cell phones with cameras will be allowed on-site, if discovered they may be confiscated; (5) no back packs/duffle bags/shoulder bags will be allowed (purses are allowed, but are subject to search); (6) no weapons are allowed on-site; (7) no alcohol/drugs are allowed on-site (or persons exhibiting the effects thereof); (8) all persons coming on-site are subject to search; and (9) no animals (except for service animals) are allowed on the environmental site review.

Meeting Objectives

At the scoping meetings, staff will: (1) Initiate scoping of the issues; (2) review and discuss existing conditions and resource management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of federal, state, and tribal permitting and certification processes; and (5) discuss the appropriateness of any federal or state agency or Indian tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and SD1 are included in item n. of this document.

Meeting Procedures

The meetings will be recorded by a stenographer and will be placed in the public records of the project.

Dated: March 20, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–06878 Filed 3–27–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–100–000]

National Fuel Gas Supply Corporation; Notice of Application

Take notice that on March 7, 2014, National Fuel Gas Supply Corporation (National Fuel), 6363 Main Street, Williamsville, New York 14221, filed in Docket No. CP14–100–000, an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act and Part 157 of the Commission's regulations, for a certificate of public convenience and necessity authorizing National Fuel to construct and operate its Northern Access 2015 Project located in New York. Specifically, the Project consists of: (i) Construct a new 15,400 horsepower (hp) compressor station at Hinsdale, NY, (ii) add a new 7,700 hp compressor unit to the existing Concord, NY compressor station, (iii) install over-pressure protection facilities at National Fuel's East Eden Station, (iv) a tap and side valve on the high pressure Line-X at National Fuel's Eden, NY measurement and regulator station (''East Eden Station''); and (v) other appurtenant facilities along with the facilities required to tie the National Fuel Line X tap and side valve at the East Eden Station into Tennessee Gas Pipeline Company, L.L.C.'s (''Tennessee'') Hamburg Station. National Fuel requests authorization to abandon by lease to Tennessee 140,000 Dth per day of capacity, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. 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, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Alice A. Curtiss, Deputy General Counsel for National Fuel, 6363 Main Street, Williansville, New York 14221, phone: (716) 857–7075, fax: (716) 857–7206, email: *curtissa@natfuel.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in

the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: April 11, 2014.

Dated: March 21, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–06874 Filed 3–27–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI14–1–000]

Jay Larry Moyer; Notice of Declaration of Intention and Soliciting Comments, Protests, and/or Motions To Intervene

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No:* DI14–01–000.

c. *Date Filed:* February 6, 2014.

d. *Applicant:* Jay Larry Moyer.

e. *Name of Project:* Moyer Micro-hydro Facility Project.

f. *Location:* The proposed Moyer Micro-hydro Facility Project will be located on a mountain feeder stream twice removed from Mahantango Creek, a tributary of the Susquehanna River, in Schuylkill County, Pennsylvania.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b) (2012).

h. *Applicant Contact:* Jay Larry Moyer, 370 W. Johnson Street (C–1), Philadelphia, PA 19144; telephone: (267) 693–2633; mailto: *mpdpe@aol.com.*

i. *FERC Contact:* Any questions on this notice should be addressed to Jennifer Polardino, (202) 502–6437, or Email address: *Jennifer.Polardino@ferc.gov.*

j. *Deadline for filing comments, protests, and/or motions is:* April 21, 2014, 30 days from the issuance of this notice by the Commission.

Comments, Motions to Intervene, and Protests may be filed electronically via the Internet. See 18 CFR 385.2001(a)(l)(iii) (2013) and the instructions on the Commission's Web site under the ''eFiling'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. For more information on how to submit these types of filings, please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.*

Please include the docket number (DI14–1–000) on any comments, protests, and/or motions filed.

k. *Description of Project:* The proposed run-of-river Moyer Micro-hydro Facility will consist of: (1) An intake chamber, making use of a unnamed feeder stream and creek twice removed from Mahantango Creek, a tributary of the of the Susquehanna River, (2) a 4-inch-diameter, 300-foot-long penstock; (3) a 4-kilowatt Pelton-type Harris HPM Hydro Generator rated at 75–100 gallons per minute at 60 feet of net head; and appurtenant facilities.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the project would affect the interests of interstate or foreign commerce. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) would be located on a non-navigable stream over which Congress has Commerce Clause jurisdiction and would be constructed or enlarged after 1935.

l. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the Docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*—All filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', AND/OR ''MOTIONS TO

INTERVENE'', as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any Motion to Intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: March 20, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–06876 Filed 3–27–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–105–000]

Gulf South Pipeline Company, LP; Notice of Application

On March 12, 2014, Gulf South Pipeline Company, LP (Gulf South) filed with the Federal Energy Regulatory Commission (Commission) an application under section 7(c) of the Natural Gas Act and Sections 157.205 and 157.210 of the Commission's regulations to acquire, operate, and maintain approximately 31.29 miles of existing natural gas pipeline facilities, including appurtenances, located in Jackson and Wharton Counties, Texas. Gulf South states that no landowner notifications are required pursuant to Section 157.6(d) (1) since the proposed acquisition is by ownership transfer. No new facilities are expected to be constructed and the current facilities and rights-of-way will be utilized for natural gas transportation.

Questions regarding this application may be directed to M. L. Gutierrez, Director, Regulatory Affairs, Gulf South Pipeline Company, LP, 9 Greenway Plaza, Houston, Texas, 77046; by fax 713–479–1745 or email to *Nell.Gutierrez@bwpmlp.com*.

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such motions or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant, on or before the comment date. It is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and seven copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov.* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on April 11, 2014.

Dated: March 21, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–06875 Filed 3–27–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: CP14–106–000.

Applicants: Dominion Transmission, Inc.

Description: Joint application to abandon rate schedules X–32 of Dominion Transmission, Inc. and X–38 of National Fuel Gas Supply Corporation.

Filed Date: 3/13/14.

Accession Number: 20140313–5118.

Comments Due: 5 p.m. ET 3/31/14.

Docket Numbers: RP13–665–000.

Applicants: Columbia Gulf Transmission, LLC.

Description: Columbia Gulf Transmission, LLC submits tariff filing per: TRA Report on LAUF.

Filed Date: 7/26/13.

Accession Number: 20130726–5156.

Comments Due: 5 p.m. ET 3/24/14.

Docket Numbers: RP14–626–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: 03/18/14 Negotiated Rates—JP Morgan Ventures Energy Corp (HUB) 6025–89 to be effective 3/16/2014.

Filed Date: 3/18/14.

Accession Number: 20140318–5126.

Comments Due: 5 p.m. ET 3/31/14.

Docket Numbers: RP14–628–000.

Applicants: Chandeleur Pipe Line, LLC.

Description: Chandeleur Section 8.8.4 Imbalances to be effective 4/19/2014.

Filed Date: 3/19/14.

Accession Number: 20140319–5126.

Comments Due: 5 p.m. ET 3/31/14.

Docket Numbers: RP14–629–000.

Applicants: Guardian Pipeline, L.L.C.

Description: Negotiated Rate PAL Agreement—Exelon Generation Company to be effective 3/20/2014.

Filed Date: 3/19/14.

Accession Number: 20140319–5140.

Comments Due: 5 p.m. ET 3/31/14.

Docket Numbers: RP14–630–000.

Applicants: Cheyenne Plains Gas Pipeline Company, L.

Description: Electric Power Costs, Fuel Gas and L&U, and Index Price Development Update to be effective 4/21/2014.

Filed Date: 3/19/14.

Accession Number: 20140319–5159.

Comments Due: 5 p.m. ET 3/31/14.

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: March 20, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–06882 Filed 3–27–14; 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 exempt wholesale generator filings:

Docket Numbers: EG14–32–000.

Applicants: Copper Mountain Solar 3, LLC.

Description: Self-Certification of EG or FC of Copper Mountain Solar 3, LLC.

Filed Date: 3/20/14.

Accession Number: 20140320–5067.

Comments Due: 5 p.m. ET 4/10/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–376–002.

Applicants: MATL LLP.

Description: MATL LLP submits tariff filing per 35: Order 764 Compliance to be effective 11/12/2013.

Filed Date: 3/20/14.

Accession Number: 20140320–5058.

Comments Due: 5 p.m. ET 4/10/14.

Docket Numbers: ER14–1157–001.

Applicants: Wolverine Power Supply Cooperative, Inc.

Description: Amendment to 271 to be effective 3/28/2014.

Filed Date: 3/19/14.

Accession Number: 20140319–5125.

Comments Due: 5 p.m. ET 4/9/14.

Docket Numbers: ER14–1537–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: Regulation Market Changes to be effective 5/21/2014.

Filed Date: 3/20/14.

Accession Number: 20140320–5033.

Comments Due: 5 p.m. ET 4/10/14.

Docket Numbers: ER14–1538–000.

Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas and Electric Company Notice of Termination for the Elite Energy Systems, LLC SGIA, Service Agreement No. 226 under PG&E FERC Electric Volume No. 4.

Filed Date: 3/20/14.

Accession Number: 20140320–5051.

Comments Due: 5 p.m. ET 4/10/14.

Docket Numbers: ER14–1539–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits: Update OASIS Definition to be effective 5/19/2014.

Filed Date: 3/20/14.

Accession Number: 20140320–5053.

Comments Due: 5 p.m. ET 4/10/14.

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: March 21, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–06881 Filed 3–27–14; 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 corporate filings:

Docket Numbers: EC14–49–000.

Applicants: Twin Eagle Resource Management, LLC, Enserco Energy LLC, GSO Capital Partners LP, Five Point Capital Partners LLC.

Description: Notice of Consummation of Transaction of Twin Eagle Resource Management, LLC.

Filed Date: 3/20/14.

Accession Number: 20140320–5131.

Comments Due: 5 p.m. ET 4/10/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–2289–001.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35: Empire Formula Rate Compliance Filing in Docket ER12–2289 to be effective 1/1/2013.

Filed Date: 3/20/14.

Accession Number: 20140320–5097.

Comments Due: 5 p.m. ET 4/10/14.

Docket Numbers: ER13–255–000.

Applicants: NV Energy, Inc.

Description: NV Energy, Inc. submits tariff filing per 35.19a(b): Transmission Rate Case—NPC Refund Report to be effective N/A.

Filed Date: 3/21/14.

Accession Number: 20140321–5107.

Comments Due: 5 p.m. ET 4/11/14.

Docket Numbers: ER14–1133–001.

Applicants: Cottonwood Energy Company LP.

Description: Cottonwood Energy Company LP submits tariff filing per 35: Revision to Amendment to MBR to be effective 1/23/2014.

Filed Date: 3/21/14.

Accession Number: 20140321–5117.

Comments Due: 5 p.m. ET 4/11/14.

Docket Numbers: ER14–1378–001.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.17(b): Errata to Correct Notice of Cancellation for SA No. 3594 (metadata) to be effective 4/1/2014.

Filed Date: 3/21/14.

Accession Number: 20140321–5115.

Comments Due: 5 p.m. ET 4/11/14.

Docket Numbers: ER14–1486–000; ER14–1487–000; ER14–1488–000; ER14–1489–000; ER14–1490–000; ER14–1491–000; ER14–1492–000; ER14–1493–000; ER14–1494–000; ER14–1495–000; ER14–1496–000; ER14–1497–000; ER14–1498–000; ER14–1499–000; ER14–1500–000; ER14–1501–000; ER14–1502–000; ER14–1503–000; ER14–1504–000.

Applicants: Desert Sunlight 250, LLC, Desert Sunlight 300, LLC, Diablo Winds, LLC, FPL Energy Cabazon Wind, LLC, FPL Energy Green Power Wind, LLC,

FPL Energy Montezuma Wind, LLC, FPL Energy New Mexico Wind, LLC, Genesis Solar, LLC, Hatch Solar Energy Center I, LLC, High Winds, LLC, Mountain View Solar, LLC, NextEra Energy Montezuma II Wind, LLC, North Sky River Energy, LLC, Perrin Ranch Wind, LLC, Red Mesa Wind, LLC, Sky River LLC, Vasco Winds, LLC, Windpower Partners 1993, LLC, NextEra Energy Power Marketing, LLC.

Description: Amendment to the March 14, 2014 NextEra Companies tariff Order No. 784 Compliance Filings to be effective 3/14/2014.

Filed Date: 3/21/14.

Accession Number: 20140321–5132.

Comments Due: 5 p.m. ET 3/31/14.

Docket Numbers: ER14–1540–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: Original Service Agreement No. 3780; Queue No. W4–045 to be effective 2/21/2014.

Filed Date: 3/20/14.

Accession Number: 20140320–5081.

Comments Due: 5 p.m. ET 4/10/14.

Docket Numbers: ER14–1541–000.

Applicants: International Transmission Company.

Description: International Transmission Company submits tariff filing per 35.13(a)(2)(iii: Filing of a CIAC Agreement to be effective 5/20/2014.

Filed Date: 3/20/14.

Accession Number: 20140320–5096.

Comments Due: 5 p.m. ET 4/10/14.

Docket Numbers: ER14–1542–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii: GIA and Distribution Service Agreement with Apex Natural Renewable Generation to be effective 3/22/2014.

Filed Date: 3/21/14.

Accession Number: 20140321–5009.

Comments Due: 5 p.m. ET 4/11/14.

Docket Numbers: ER14–1543–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii: Amended CLGIA and Distribution Service Agreement with RE Columbia, LLC to be effective 3/22/2014.

Filed Date: 3/21/14.

Accession Number: 20140321–5010.

Comments Due: 5 p.m. ET 4/11/14.

Docket Numbers: ER14–1544–000.

Applicants: California Independent System Operator Corporation.

Description: Amended Petition for Distribution of Forfeited Funds Collected from Generator Interconnection Customers of California Independent System Operator Corporation.

Filed Date: 3/20/14.

Accession Number: 20140320–5138.

Comments Due: 5 p.m. ET 4/10/14.

Docket Numbers: ER14–1545–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii: 2804 Basin Electric Power Coop. & WAPA–UGPR Meter Agent Agr. to be effective 3/1/2014.

Filed Date: 3/21/14.

Accession Number: 20140321–5043.

Comments Due: 5 p.m. ET 4/11/14.

Docket Numbers: ER14–1546–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2014–03–21_SA 2646 NIPSCO—Exelon TUA to be effective 3/22/2014.

Filed Date: 3/21/14.

Accession Number: 20140321–5045.

Comments Due: 5 p.m. ET 4/11/14.

Docket Numbers: ER14–1547–000.

Applicants: Spinning Spur Wind Two LLC.

Description: Spinning Spur Wind Two LLC submits tariff filing per 35.15: Notice of Cancellation and Request for Waiver of Spinning Spur Wind Two, LLC to be effective 3/21/2014.

Filed Date: 3/21/14.

Accession Number: 20140321–5054.

Comments Due: 5 p.m. ET 4/11/14.

Docket Numbers: ER14–1548–000.

Applicants: Copper Mountain Solar 3, LLC.

Description: Copper Mountain Solar 3, LLC submits tariff filing per 35.12: Copper Mountain Solar 3, LLC FERC Electric Tariff No. 1 Market-Based Rates Tariff to be effective 4/15/2014.

Filed Date: 3/21/14.

Accession Number: 20140321–5079.

Comments Due: 5 p.m. ET 4/11/14.

Docket Numbers: ER14–1549–000.

Applicants: Virginia Electric and Power Company, PJM Interconnection, L.L.C.

Description: Virginia Electric and Power Company submits tariff filing per 35.13(a)(2)(iii: Dominion submits Revised Dep. Rates for PJM OATT Att H–16A Formula Trans Rate to be effective 4/1/2013.

Filed Date: 3/21/14.

Accession Number: 20140321–5085.

Comments Due: 5 p.m. ET 4/11/14.

Docket Numbers: ER14–1550–000.

Applicants: Puget Sound Energy, Inc.

Description: Puget Sound Energy, Inc. submits tariff filing per 35.12: Tacoma Interconnection SA No. 698 to be effective 2/3/2014.

Filed Date: 3/21/14.

Accession Number: 20140321–5089.

Comments Due: 5 p.m. ET 4/11/14.

Docket Numbers: ER14–1551–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2014–03–21_SA 824 Entergy NRG Notice of Succession to be effective 12/19/2013.

Filed Date: 3/21/14.

Accession Number: 20140321–5133.

Comments Due: 5 p.m. ET 4/11/14.

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: March 21, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–06984 Filed 3–27–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2195–088]

Portland General Electric Company, Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed an application submitted by Portland General Electric Company (licensee) to construct, operate and maintain minimum flow turbines at its 136.6–MW Clackamas River Hydroelectric Project. The new

minimum flow turbines would increase the capacity of the project by 3.89 MW. The project is located on the Oak Grove Fork of the Clackamas River and the mainstem of the Clackamas River in Clackamas County, Oregon. The project occupies federal lands within the Mt. Hood National Forest, under the jurisdiction of the U.S. Forest Service, and a reservation of the U.S. Department of Interior's Bureau of Land Management.

An environmental assessment (EA) has been prepared as part of staff's review of the proposal. In the application the licensee proposes to construct, operate and maintain: (1) A powerhouse at the base of Timothy Lake Dam housing two 0.95–MW turbines, (2) a powerhouse at Crack-in-the-Ground located downstream of Lake Harriet housing a 1 MW turbine, (3) a powerhouse housing a 135–kW turbine utilizing return flows from the juvenile downstream migrant collection systems and the North Fork fishway adult fish trap, and (4) a turbine and an 850–kW turbine and induction generator utilizing North Fork fishway attraction flows. The EA contains Commission staff's analysis of the probable environmental impacts of the proposed action and concludes that approval of the proposal would not constitute a major federal action significantly affecting the quality of the human environment.

The EA is available for review and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426. The EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''elibrary'' link. Enter the docket number (P–2195) in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3372, or for TTY, (202) 502–865.

Dated: March 20, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–06877 Filed 3–27–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM12–18–000]

Revisions to Page 700 of FERC Form No. 6; Notice of Revisions to Form No. 6 Filing Software

The Commission released an update to the electronic filing software for the FERC Form No. 6 on March 14, 2014. The update incorporates the changes to page 700 approved in Order No. 783.[1] Pipelines must use the updated version of the Form No. 6 software when filing their annual report for reporting year 2013 and beyond. The annual Form No. 6 filings for 2013 are due on April 18, 2014.

Dated: March 21, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–06883 Filed 3–27–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–114–000]

Emera CNG, LLC; Notice of Petition for Declaratory Order

Take notice that on March 19, 2014, Emera CNG, LLC (Emera) pursuant to section 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207 (2013) filed a Petition for Declaratory Order requesting the Commission issue an order stating that Emera proposed construction of a new compressed natural gas (CNG) compression and loading facility and planned export of CNG via truck and trailer and ocean-going carrier are not subject to the Commission jurisdiction under the Natural Gas Act, 15 USC 717, *et seq.*

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on April 18, 2014.

Dated: March 24, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–06985 Filed 3–27–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14569–000]

KC Small Hydro, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On December 5, 2013, KC Small Hydro, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of hydropower at the existing Scoby dam located on Cattaraugus Creek in Erie County, New York. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters

[1] *Revisions to Page 700 of FERC Form No. 6,* 77 FR 59,343 (Sept. 9, 2012), FERC Stats. & Regs. ¶ 32,692 (2012), Final Rule, Order No. 783, 144 FERC ¶ 61,049 (2013).

owned by others without the owners' express permission.

The proposed Scoby Dam Hydropower Project would consist of the following: (1) An existing 338-foot-long and 40-foot-high ogee-shaped concrete gravity dam with a 183-foot-long spillway; (2) an existing impoundment having a surface area of 22 acres and a storage capacity of 52 acre-feet at an elevation of 1,080 feet mean sea level (msl); (3) two new Archimedes screw turbine-generator units with an installed capacity of 250 kilowatts each; (4) a new 480-volt, approximately 1-mile-long transmission line extending from the site to an existing three-phase line; and (5) appurtenant facilities. The proposed project would have an annual generation of 1.5 gigawatt-hours.

Applicant Contact: Kelly Sackheim, KC Small Hydro, LLC, 5096 Cocoa Palm Way, Fair Oaks, CA 95628; phone: (301) 401–5978.

FERC Contact: Monir Chowdhury; phone: (202) 502–6736.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14569–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–14569) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: March 20, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–06879 Filed 3–27–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Privacy Act of 1974: Notice of New or Altered Systems of Records

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of new or altered systems of records.

SUMMARY: The Federal Energy Regulatory Commission (the Commission), under the requirements of the Privacy Act of 1974, 5 U.S.C. 552a, is publishing a description of new or altered systems of records.

ADDRESSES: Comments should be directed to the following address: Office of the General Counsel, General and Administrative Law Division, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

DATES: The proposed new or revised systems will become effective April 28, 2014 unless further notice is given. The Commission will publish a new notice if the effective date is delayed to review comments or if changes are made based on comments received. To be assured of consideration, comments should be received on or before April 17, 2014.

FOR FURTHER INFORMATION CONTACT: Wilbur Miller, Office of the General Counsel, General and Administrative Law Division, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6030.

SUPPLEMENTARY INFORMATION:

I. Report on the New or Altered Systems

A. Background

The Privacy Act of 1974, 5 U.S.C. 552a, requires that each agency publish a notice of the existence and character of each new or altered ''system of records.'' 5 U.S.C. 552a(a)(5). This Notice identifies and describes the Commission's new or altered systems of records. A copy of this report has been distributed to the Speaker of the House of Representatives and the President of the Senate as the Act requires.

The Commission has adopted new or altered systems of records under the Privacy Act of 1974. The notice includes for these systems of records the name; location; categories of individuals on whom the records are maintained; categories of records in the system; authority for maintenance of the system; each routine use; the policies and practices governing storage, retrievability, access controls, retention and disposal; the title and business address of the agency official responsible for the system of records; procedures for notification, access and contesting the records of each system; and the sources for the records in the system. 5 U.S.C. 552(a)(4).

B. New or Altered System of Records

FERC–53 Information Technology System Log Records
FERC–58 Critical Energy Infrastructure Information (CEII) Records
FERC–59 Enforcement Investigation Records
FERC–60 Hotline Records
FERC–61 Requests for Commission Publications and Information
FERC–62 Public Information Requests
FERC–63 Company Registration Records
FERC–64 Individual Registration Records

FERC–53

SYSTEM NAME:

Information Technology System Log Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Energy Regulatory Commission, Office of the Chief Information Officer, Computer Data Center, 888 First Street NE., Room 1F, Washington, DC 20426.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals accessing the Commission's applications.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to the use of the Commission's applications, including Information Technology system log files; Internet/Intranet, local area network, and software, system, and email usage.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 302.

PURPOSE(S):

To oversee, maintain and troubleshoot problems with information technology resources managed by the Federal Energy Regulatory Commission.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To determine hardware or software problems; to maintain inventory; to monitor overall activity and disk space usage; to serve as a data source if the Commission, in carrying out its functions, discovers a violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rules, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and computer files.

RETRIEVABILITY:

User Identification Code.

SAFEGUARDS:

Access and system rights are assigned by the System Administrator to only those employees whose official duties require access. All employees with assigned rights must enter a user identification and a valid password to access the data.

RETENTION AND DISPOSAL:

Records are maintained pursuant to instructions authorized by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Operations Manager, Office of the Chief Information Officer, Federal Energy Regulatory Commission, 888 First Street NE., Room 42–35, Washington, DC 20426.

NOTIFICATION PROCEDURE:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

RECORD ACCESS PROCEDURES:

Same as notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as notification procedures above.

RECORD SOURCE CATEGORIES:

Information is automatically captured when accessing an application.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FERC–58

SYSTEM NAME:

Critical Energy Infrastructure Information (CEII) Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Energy Regulatory Commission, Office of the General Counsel, General and Administrative Law Division, 888 First Street NE., Washington, DC 20426.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on persons who make requests for CEII with the agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Requesters file a signed, written request with the Commission's CEII Coordinator. The material in the record would contain the following: Requester's name (including any other name(s) which the requester has used and the dates the requester used such name(s)), title, address, and telephone number; the name, address, and telephone number of the person or entity on whose behalf the information is requested; a detailed statement explaining the particular need for and intended use of the information; and a statement as to the requester's willingness to adhere to limitations on the use and disclosure of the information requested. Furthermore, a requester in some instances may provide his or her date and place of birth upon request, if it is determined by the CEII Coordinator that this information is necessary to process the request.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 CFR 388.113.

PURPOSE(S):

To determine who has been granted access to CEII and determine whether individuals have previously asked for access to CEII.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b), these records or information contained therein may specifically be disclosed as a routine use to determine who has asked for access to CEII and who has received such access.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None, except as authorized under 5 U.S.C. 552a(b)(12) when trying to collect a claim of the Government.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in electronic and paper format. Electronic records are stored in computerized databases and/or on computer disc. Paper records and records on computer disc are stored in locked file rooms and/or file cabinets.

RETRIEVABILITY:

The records are retrieved by the names of the individual requester, the name of the company, where applicable, and the case number.

SAFEGUARDS:

Access is restricted to agency personnel or contractors whose responsibilities require access. Paper records are maintained in areas not accessible to the public. Access to electronic records is controlled by ''user ID'' and password combinations and/or other electronic access or network controls. The building is guarded and monitored by security personnel, cameras, ID checks, and other physical security measures.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with records schedules of the Federal Energy Regulatory Commission and as approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the General Counsel, General and Administrative Law Division, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

NOTIFICATION PROCEDURE:

Requests from individuals to determine if a system of records contains information about them should be directed to the System Manager.

RECORD ACCESS PROCEDURES:

Same as notification procedure above.

CONTESTING RECORD PROCEDURES:

Same as notification procedure above.

RECORD SOURCE CATEGORIES:

Information in these records is supplied by individuals and companies requesting information along with those commenting on the requests.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Under 5 U.S.C. 552a(k)(2) this system of records is exempted from the following provisions of the Privacy Act, 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

FERC–59

SYSTEM NAME:

Enforcement Investigation Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Energy Regulatory Commission, Office of Enforcement, 888 First Street NE., Washington, DC 20426.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on persons who have been involved in Commission investigations or litigation, or in activities which violated or may have violated federal laws relating to matters within the Commission's jurisdiction.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of Commission investigations or litigation relating to actual or potential violations of federal energy laws, regulations, or orders. Records include the names and addresses of persons involved in Commission investigations or litigation; documents and data responses produced by outside persons; internal and external correspondence; internal staff memoranda and notes; nonpublic Commission Orders; subpoenas, affidavits, declarations, transcripts, exhibits, pleadings, computerized records, staff working papers, reports, and miscellaneous other records relating to Commission investigations or litigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Power Act, 16 U.S.C. 792 *et seq.,* Natural Gas Act; 15 U.S.C. 717 *et seq.;* Natural Gas Policy Act; 15 U.S.C. 3301 *et seq.;* Interstate Commerce Act, 49 U.S.C. 60502; 18 CFR Part 1b; 18 CFR Part 3b.

PURPOSE(S):

To conduct the law enforcement, rulemaking, and advisory responsibilities of the Federal Energy Regulatory Commission; to make determinations based upon the results of those matters; to report results of investigations to other agencies and authorities for their use in evaluating their programs and imposition of criminal, civil, or administrative sanctions; to report the results of investigations to other agencies, regulatory bodies, courts, or to the public as appropriate; and to maintain records of Commission activities related to those matters, including to make such records available within the Federal Energy Regulatory Commission for historical, legal research, investigational, and similar purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b), these records or information contained therein may specifically be disclosed as a routine use:

(1) To members of Congress, or to other federal, state, local, or international government authorities;

(2) to Independent System Operators, Regional Transmission Organization, internal or external Market Monitors, the North American Electric Reliability Corporation, and other nongovernmental agencies, including other reliability organizations;

(3) outside experts, witnesses, consultants, or other persons during the course of any inquiry, examination, or investigation conducted by staff, or in connection with civil litigation, if staff has reason to believe that the person to whom the record is disclosed may have further information about relevant matters;

(4) by FERC personnel for purposes of investigating possible violations of, or to conduct investigations authorized by, the laws that FERC is charged with enforcing;

(5) to federal, state, administrative, or foreign courts, and to the public in or relating to any proceeding in which federal energy laws, regulations, or orders are at issue, or in which the Commission, or past or present members of its staff, is a party or otherwise involved in an official capacity;

(6) to a bar association, or other federal, state, local, or foreign licensing or oversight authority; or professional association or self-regulatory authority to the extent that it performs similar functions for investigations or possible disciplinary action;

(7) to the public in reports published by the Commission or staff concerning enforcement activities, in Notices of Alleged Violations, in Orders to Show Cause, or in any other way directed or authorized by the Commission under 18 CFR 1b.5;

(8) to interns, grantees, experts, contractors, and other who have been engaged by the Commission to assist in the performance of a service related to this system of records and who need access to the records for the purpose of assisting the Commission in the efficient administrative of its programs, including by performing clerical, stenographic, or data analysis functions, or by reproductions of records by electronic or other means. Recipients of these records shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

(9) to respond to subpoenas in any litigation or other proceeding;

(10) to a trustee in bankruptcy; or

(11) to any government agency, governmental or private collection agent, consumer reporting agency or commercial reporting agency, governmental or private employer of a debtor, or any other person, for collection, including collection by administrative offset, federal salary offset, tax refund offset, or administrative wage garnishment, of amounts owed as a result of Commission civil or administrative proceedings.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None, except as authorized under 5 U.S.C. 552a(b)(12) when trying to collect a claim of the Government.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in electronic and paper format. Electronic records are stored in computerized databases and/or on computer disc.

RETRIEVABILITY:

The records are retrieved by the names of companies, individuals, staff members, and by matter numbers under which the investigation is conducted or administrative or judicial litigation is filed.

SAFEGUARDS:

Access is restricted to agency personnel or contractors whose responsibilities require access. Paper records are maintained in areas not accessible to the public. Access to electronic records is controlled by ''user ID'' and password combinations and/or other electronic access or network controls. The building is guarded and monitored by security personnel, cameras, ID checks, and other physical security measures.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with records schedules of the Federal Energy Regulatory Commission and as approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

NOTIFICATION PROCEDURE:

Requests from individuals to determine if a system of records contains information about them should be directed to the System Manager.

RECORD ACCESS PROCEDURES:

Same as notification procedure above.

CONTESTING RECORD PROCEDURES:

Same as notification procedure above.

RECORD SOURCE CATEGORIES:

Information in these records is supplied by individuals, private and public corporations or other entities, other governmental or self-regulatory organizations; public sources; other offices within the Commission; documents, litigation, transcripts of testimony, evidence introduced into court, orders entered by a court, and correspondence relating to litigations; pleadings in administrative proceedings, transcripts of testimony, documents, including evidence entered in such proceedings; and miscellaneous other sources.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Under 5 U.S.C. 552a(k)(2) and 18 CFR 3b.250, this system of records is exempted from the following provisions of the Privacy Act, 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f), insofar as it contains investigatory materials compiled for law enforcement purposes.

FERC–60

SYSTEM NAME:

Hotline Records

SECURITY CLASSIFICATION:

Unclassified

SYSTEM LOCATION:

Federal Energy Regulatory Commission, Office of Enforcement, 888 First Street NE., Washington, DC 20426

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on individuals who have contacted the Enforcement Hotline, who have been identified by individual contacting the Hotline, or whose identity is disclosed in the process of responding to a Hotline call, email, or other contact.

CATEGORIES OF RECORDS IN THE SYSTEM:

Database summarizing Hotline contacts and their resolution; emails, internal memoranda, and other documents relating to Hotline contacts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Power Act, 16 U.S.C. 792 *et seq.,* Natural Gas Act; 15 U.S.C. 717 *et seq.;* Natural Gas Policy Act; 15 U.S.C. 3301 *et seq.;* Interstate Commerce Act, 49 U.S.C. 60502; 18 CFR Part 1b; 18 CFR Part 3b.

PURPOSE(S):

To operate the Enforcement Hotline pursuant to 18 CFR 1b.21.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b), these records or information contained therein may specifically be disclosed in each of the ways set forth as a Routine Use of Enforcement Investigation Records under FERC–58.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None, except as authorized under 5 U.S.C. 552a(b)(12) when trying to collect a claim of the Government.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in electronic and paper format. Electronic records are stored in computerized databases and/or on computer disc.

RETRIEVABILITY:

The records are retrieved by the names of companies, individuals, staff members, and by matter numbers under which a Hotline matter is classified.

SAFEGUARDS:

Access is restricted to agency personnel or contractors whose responsibilities require access. Paper records are maintained in areas not accessible to the public. Access to electronic records is controlled by ''user ID'' and password combinations and/or other electronic access or network controls. The building is guarded and monitored by security personnel, cameras, ID checks, and other physical security measures.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with records schedules of the Federal Energy Regulatory Commission and as approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

NOTIFICATION PROCEDURE:

Requests from individuals to determine if a system of records contains information about them should be directed to the System Manager.

RECORD ACCESS PROCEDURES:

Same as notification procedure above.

CONTESTING RECORD PROCEDURES:

Same as notification procedure above.

RECORD SOURCE CATEGORIES:

Information in these records is supplied by individuals, private and public corporations or other entities, other governmental or self-regulatory organizations; public sources; other offices within the Commission; documents, litigation, transcripts of testimony, evidence introduced into court, orders entered by a court, and correspondence relating to litigations; pleadings in administrative proceedings, transcripts of testimony, documents, including evidence entered in such proceedings; and miscellaneous other sources.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Under 5 U.S.C. 552a(k)(2) and 18 CFR 3b.250, this system of records is exempted from the following provisions of the Privacy Act, 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f), insofar as it contains investigatory materials compiled for law enforcement purposes.

FERC–61 (replaces FERC–44 and FERC–45)

SYSTEM NAME:

Requests for Commission Publications and Information.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of the Chief Information Officer, Information Services Group, Information Services Team, Federal Energy Regulatory Commission, 888 First Street NE., Room 2–A, Washington, DC 20426.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

FERC staff, members of the general public, federal, state and local governments, regulated entities, and public and private interest groups.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, phone number and/or email address of requester and/or company, description of information being requested, receipt of request and completion dates, and method of payment for documents and publications when costs are incurred.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 CFR 388.106.

PURPOSE(S):

To allow Customer Service Technical Information Specialists within the Public Reference Room a single point of reference for tracking information requests; to provide statistics to management on services provided to the public and to staff; to monitor average turn-around times for requests; and to identify information request trends for customer service profiles.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b), these records or information contained therein may specifically be disclosed as a routine use to monitor status of requests, identify technical assistance provided, develop request statistics, and identify trends in types of information being requested by members of the public.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and computer files.

RETRIEVABILITY:

By date, name of requester or company represented.

SAFEGUARDS:

Hard copies are maintained in a centralized area to which the general public is not authorized access. The public's access to the records are monitored by Technical Information Specialists at a front desk. Access and system rights to the computer are assigned by the system administrator to Technical Information Specialists requiring access. Technical Information Specialists access the system through their personal computers. All Technical Information Specialists with assigned rights to access the system must enter a user identification and a valid password to access their computers and all employees use screen saver passwords. In addition, the computers are situated in an area to which the general public is not allowed access.

RETENTION AND DISPOSAL:

Paper records are maintained for three months then disposed of in burn bags. Computer data is purged annually.

SYSTEM MANAGER(S) AND ADDRESS:

Leader, Information Services Team, Information Services Group, Office of the Chief Information Officer, Federal Energy Regulatory Commission, 888 First Street, Room 2–A, Washington, DC 20426.

NOTIFICATION PROCEDURE:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

RECORD ACCESS PROCEDURES:

Same as notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as notification procedures above.

RECORD SOURCE CATEGORIES:

Members of the general public.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FERC–62

SYSTEM NAME:

Public Information Requests.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

FERC staff, members of the general public, federal, state and local governments, regulated entities, and public and private interest groups.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, affiliation, phone number and/or email address of requester and/or company, description of information being requested, resolution of the request.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 CFR 388.104 and 18 CFR 388.106.

PURPOSE(S):

To allow Public Relations Specialists within the Office of External Affairs a single point of reference for tracking information requests; to provide statistics to management on services provided to the public, to monitor the response time for requests from the general public and to ensure that the responses to the general public are consistent and match the needs of the individual requesters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b), these records or information contained therein may specifically be disclosed as a routine use to (1) monitor status of requests; (2) identify trends in types of information being requested by members of the public, (3) determine whether the responses to individual requesters were sufficient and (4) to monitor trends in the volume of inquiries submitted to the Office of External Affairs based on different categories.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer files maintained in a database available only to employees within the Office of External Affairs.

RETRIEVABILITY:

By date, name of requester or affiliation.

SAFEGUARDS:

Access and system rights to the computer are assigned by the system administrator to Public Information Specialists requiring access. Public Information Specialists access the system through their personal computers. All Public Information Specialists with assigned rights to access the system must enter a user identification and a valid password to access their computers and all employees use screen saver passwords. In addition, the computers are situated in an area to which the general public is not allowed access.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with records schedules of the Federal Energy Regulatory

Commission and as approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Public Inquiry Program, Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street, Washington, DC 20426.

NOTIFICATION PROCEDURE:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

RECORD ACCESS PROCEDURES:

Same as notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as notification procedures above.

RECORD SOURCE CATEGORIES:

Members of the general public.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FERC–63

SYSTEM NAME:

Company Registration Records

SECURITY CLASSIFICATION:

Unclassified

SYSTEM LOCATION:

Office of the Chief Information Officer, Information Services Group, Information Services Team, Federal Energy Regulatory Commission, 888 First Street NE., Room 2–A, Washington, DC 20426.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Regulated entities and public and private interest groups and Companies that make filings on behalf of required filers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, phone number and/or email address of the regulated entities and public and private interest groups and entities requesting Delegated Identifier status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 CFR 385.2003.

PURPOSE(S):

To track participation and use in matters before the Commission electronically and to assist customers with issues with the system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b), these records or information contained therein may specifically be disclosed as a routine use to (1) monitor registration trends; (2) to determine participation in specific proceedings; (3) to develop lists of regulated entities by industry; (4) permit required filers to designate companies as permissible filers on their behalf; (5) and to assist companies in making filings before FERC.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer files.

RETRIEVABILITY:

By docket number, company represented or FERC-created identification number.

SAFEGUARDS:

Access and system rights to the computer are assigned by the system administrator to FERC Support Contractors and Staff requiring access. Users access the system through their personal computers. All Users with assigned rights to access the system must enter a user identification and a valid password to access their computers and all employees use screen saver passwords. In addition, the computers are situated in an area to which the general public is not allowed access.

RETENTION AND DISPOSAL:

Computer data is maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Leader, Information Services Team, Information Services Group, Office of the Chief Information Officer, Federal Energy Regulatory Commission, 888 First Street, Room 2–A, Washington, DC 20426.

NOTIFICATION PROCEDURE:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

RECORD ACCESS PROCEDURES:

Same as notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as notification procedures above.

RECORD SOURCE CATEGORIES:

Members of the general public.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FERC–64

SYSTEM NAME:

Individual Registration Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of the Chief Information Officer, Information Services Group, Information Services Team, Federal Energy Regulatory Commission, 888 First Street NE., Room 2–A, Washington, DC 20426.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the general public, federal, state and local governments, public and private interest groups, and FERC staff.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, phone number and/or email address of members of the general public, federal, state and local governments, and public and private interest groups who sign up to participate in the various FERC Online programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 CFR 385.2003.

PURPOSE(S):

To track participation and use in matters before the Commission electronically and to assist customers with issues with the system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b), these records or information contained therein may specifically be disclosed as a routine use to (1) monitor registration trends for FERC Online Record systems; (2) to determine participation in specific proceedings; (3) to assist individual parties in determining who is on a particular service list; and (4) for selection as a delegated agent to file before the Commission on behalf of a specific Regulated Entity.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer files.

RETRIEVABILITY:

By docket number, name of requester, company represented or FERC-created identification number.

SAFEGUARDS:

Access and system rights to the computer are assigned by the system administrator to FERC Support Contractors and Staff requiring access. Users access the system through their personal computers. All Users with assigned rights to access the system must enter a user identification and a valid password to access their computers and all employees use screen saver passwords. In addition, the computers are situated in an area to which the general public is not allowed access.

RETENTION AND DISPOSAL:

Computer data is maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Leader, Information Services Team, Information Services Group, Office of the Chief Information Officer, Federal Energy Regulatory Commission, 888 First Street, Room 2–A, Washington, DC 20426.

NOTIFICATION PROCEDURE:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

RECORD ACCESS PROCEDURES:

Same as notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as notification procedures above.

RECORD SOURCE CATEGORIES:

Members of the general public.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: March 25, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–06993 Filed 3–27–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e) (1) (v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped chronologically, in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC, Online Support at FERCOnlineSupport@ferc.gov or toll free at (866)208–3676, or for TTY, contact (202)502–8659.

Docket No.	Filed date	Presenter or requester
Prohibited:		
1. ER13–2108–000	3–6–14	PJM Interconnection, L.L.C.
2. P–1256–000	3–10–14	FERC Staff.[1]
3. CP13–36–000	3–18–14	Barbara Pearson.
CP13–132–000		
Exempt:		
1. CP13–483–000	2–14–14	FERC Staff.[2]
CP14–492–000		
2. CP13–113–000	2–28–14	Montgomery County Council.[3]
3. CP13–492–000	3–4–14	FERC Staff.[4]
4. ER13–80–000	3–5–14	Hon. Chris Gibson.
5. P–2629–000	3–6–14	FERC Staff.[5]
6. CP13–113–000	3–6–14	Members of Congress.[6]
7. ER13–1380–000	3–10–14	Hon. Nita M. Lowey.
ER14–500–000		
8. CP13–483–000	3–12–14	FERC Staff.[7]
CP13–492–000		
9. CP13–483–000	3–13–14	FERC Staff.[8]

[1] Telephone and email records.
[2] Telephone record.
[3] Letter from George L. Leventhal.
[4] Notes from 2–19–14 and 2–20–14 meetings.
[5] Telephone Record.

[6] Hons. Barbara A. Mikulski and Benjamin L.Cardin.
[7] Notes from 2–13–14 meeting and letter from Jordan Cove to the US Department of Transportation.
[8] Letter dated 3–13–14 from US Corps. of Engineers to Jordan Cove.

Dated: March 24, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–06983 Filed 3–27–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2014–0216; FRL–9908–11]

Clethodim, Hydrogen Cyanamide, Flutolanil, Fosetyl-Aluminum, Hexaflumuron, and Piperalin Registration Review; Draft Human Health and Ecological Risk Assessments; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's draft human health and ecological risk assessments for the registration review of clethodim, hydrogen cyanamide, flutolanil, fosetyl-aluminum, hexaflumuron, and piperalin, and opens a public comment period on these documents. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed draft risk assessments for each of the subject chemicals and is making them available for public comment. After reviewing comments received during the public comment period, EPA will issue a revised risk assessment, explain any changes to the draft risk assessment, and respond to comments and may request public input on risk mitigation. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

DATES: Comments must be received on or before May 28, 2014.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number for the specific pesticide of interest provided in the table in Unit III.A., by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For pesticide-specific information see:* The Chemical Review Manager identified in the table in Unit III.A. for the pesticide of interest.

For general information contact: Richard Dumas, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8015; fax number: (703) 308–8005; email address: *dumas.richard@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager listed in the table in Unit III.A. for the pesticide of interest.

B. What should I consider as i prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. Authority

EPA is conducting its registration review of the pesticides identified in this document pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

III. Registration Reviews

A. What action is the agency taking?

As directed by FIFRA section 3(g), EPA is reviewing the pesticide registration for clethodim, hydrogen cyanamide, flutolanil, fosetyl-aluminum, hexaflumuron, and piperalin to ensure that they continues to satisfy the FIFRA standard for registration—that is, that these pesticides can still be used without unreasonable adverse effects on human health or the environment.

Pursuant to 40 CFR 155.53(c), EPA is providing an opportunity, through this notice of availability, for interested parties to provide comments and input concerning the Agency's draft human health and ecological risk assessments for clethodim, hydrogen cyanamide, flutolanil, fosetyl-aluminum, hexaflumuron, and piperalin. Such comments and input could address, among other things, the Agency's risk assessment methodologies and assumptions, as applied to the draft risk assessments.

The Agency will consider all comments received during the public comment period and make changes, as appropriate, to the draft human health and ecological risk assessments. EPA will then issue a revised risk assessment, explain any changes to the draft risk assessment, and respond to comments. In the **Federal Register** notice announcing the availability of the revised risk assessment, if the revised risk assessment indicates risks of concern, the Agency may provide a comment period for the public to submit suggestions for mitigating the risk identified in the revised risk assessment before developing a proposed registration review decision. At present, EPA is releasing registration review draft risk assessments for the pesticide cases identified in the following table and further described below.

TABLE 1—REGISTRATION REVIEW DRAFT RISK ASSESSMENTS

Registration review case name and No.	Pesticide docket ID No.	Chemical review manager, telephone number, and e-mail address
Clethodim, Case # 7226	EPA–HQ–OPP–2008–0658	Ricardo Jones; (703) 347–0493; *jones.ricardo@epa.gov.*
Hydrogen cyanamide, Case # 7005	EPA–HQ–OPP–2007–1014	Dana Friedman; (703) 347–8827; *friedman.dana@epa.gov.*
Flutolanil, Case # 7010	EPA–HQ–OPP–2008–0148	Garland Waleko; (703) 308–8049; *waleko.garland@epa.gov.*
Fosetyl-aluminum, Case # 4095	EPA–HQ–OPP–2007–0379	Kelly Ballard; (703) 305–8126; *ballard.kelly@epa.gov.*
Hexaflumuron, Case # 7413	EPA–HQ–OPP–2009–0568	Ricardo Jones; (703) 347–0493; *jones.ricardo@epa.gov.*
Piperalin, Case # 3114	EPA–HQ–OPP–2009–0483	Matthew Manupella; 703–347–0411; *manupella.matthew@epa.gov.*

1. Clethodim. Clethodim is a selective post-emergence cyclohexanedione herbicide used to control annual and perennial grasses in a wide variety of broad leaf crops including soybeans, cotton, peanuts, dry beans, peas, potatoes and alfalfa among many others. Non-food uses include sod farms, conifer trees, non-crop areas, and greenhouse/outdoor ornamentals. Tolerances have been established for clethodim in and on various raw agricultural commodities. EPA has completed a comprehensive draft human health and ecological risk assessment including an endangered species assessment, for all clethodim uses.

2. Hydrogen cyanamide. Hydrogen cyanamide is a plant growth regulator used primarily on orchard crops to produce a more uniform bud break. EPA has completed a comprehensive draft human health and ecological risk assessment including an endangered species assessment, for all hydrogen cyanamide uses.

3. Flutolanil. Flutolanil is a systemic benzanilide fungicide used to prevent and control powdery scab, *Spogospora subterranean, Rhizoctonia solani* (the causal agent of limb/pod rot in peanuts), sheath blight in rice, black scurf in potato, wirestem in *Brassica* (Cole) leafy vegetables and turnip greens, and black scurf, *Rhizoctonia solani,* and crown rot in ginseng. Flutolanil is also effective in controlling white mold in peanuts and rust diseases in several crops. Flutolanil is currently registered for application to *Brassica* (Cole) leafy vegetables, peanuts, potatoes, rice, and turnip greens, and as a seed treatment for soybean and cotton. Tolerances have been established for these commodities as well as tolerances for inadvertent residues for wheat commodities as rotational crops and tolerances for ruminant commodities. Non-food uses of flutolanil include turf, and greenhouse, nursery, and potted ornamentals. EPA has completed a comprehensive draft human health and ecological risk assessment including an endangered species assessment, for all flutolanil uses.

4. Fosetyl-aluminum. Fosetyl-aluminum is a systemic fungicide used to control fungal pathogens on plants, and is registered for use on a wide range of agricultural crops. Fosetyl-aluminum is also registered for ornamental plants and turf. EPA has completed a comprehensive draft human health and ecological risk assessment including an endangered species assessment, for all fosetyl-aluminum uses.

5. Hexaflumuron. Hexaflumuron is a benzoyl-phenylurea termiticide registered for use to control termites in above- and below-ground termite bait station systems. Treatment sites may include interior and exterior surfaces of buildings and crawl spaces, fences, utility poles, decking, landscape decorations, trees, and other features which could be damaged by termite foraging and feeding activity including in residential structures. The Agency has conducted a qualitative assessment of human health risks, and a comprehensive assessment of ecological risk including listed species for hexaflumuron.

6. Piperalin. Piperalin is a fungicide used to control powdery mildew on ornamental plants, shrubs, vines, and trees grown in commercial greenhouses and other similar enclosed structures. There are no registered outdoor uses for piperalin. EPA has completed a qualitative draft human health and ecological risk assessment including an

endangered species assessment, for piperalin.

B. Additional Information

1. *Other related information.* Additional information on clethodim, hydrogen cyanamide, flutolanil, fosetyl-aluminum, hexaflumuron, and piperalin is available on the chemical pages for these pesticides in Chemical Search, *http://www.epa.gov/pesticides/chemicalsearch/,* and in each chemical's individual docket listed in Table 1 in Unit III.A. Information on the Agency's registration review program and its implementing regulation is available at *http://www.epa.gov/oppsrrd1/registration_review.*

2. *Information submission requirements.* Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.
- The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.
- Submitters must clearly identify the source of any submitted data or information.
- Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

List of Subjects

Environmental protection, Clethodim, Flutolanil, Fosetyl-aluminum, Hexaflumuron, Hydrogen cyanamide, Pesticides and pests, Piperalin.

Dated: March 24, 2014.

Michael Goodis,

Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2014–07096 Filed 3–26–14; 4:15 pm]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9014–2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements Filed 03/17/2014 Through 03/21/2014 Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html*

EIS No. 20140091, Draft EIS, USFS, ID, Crooked River Valley Rehabilitation Project, Comment Period Ends: 05/12/2014, Contact: Jennie Fischer 208–983–4048

EIS No. 20140092, Final EIS, USFS, OR, Ochoco Summit Trail System, Review Period Ends: 04/28/2014, Contact: Marcy Anderson 541–416–6463

EIS No. 20140093, Final EIS, USFS, CA, Blacksmith Ecological Restoration Project, Review Period Ends: 04/28/2014, Contact: Dana Walsh 530–333–5558

EIS No. 20140094, Draft EIS, USFS, MT, North and West Big Hole Allotment Management Plans, Comment Period Ends: 05/12/2014, Contact: Russell Riebe 406–689–3243

EIS No. 20140095, Draft EIS, FHWA, WI, Interstate 43 North-South Freeway Silver Spring Drive to WI 60, Comment Period Ends: 05/12/2014, Contact: George Poirier 608–829–7500

EIS No. 20140096, Draft EIS, FHWA, IL, 75th Street Corridor Improvement Project, Comment Period Ends: 05/12/2014, Contact: Catherine A. Batey, 217–492–4600

EIS No. 20140097, Draft EIS, OSM, NM, Four Corners Power Plant and Navajo Mine Energy Project, Comment Period Ends: 05/27/2014, Contact: Marcelo Calle 303–293–5035

EIS No. 20140098, Draft EIS, USFS, OR, Lower Imnaha Allotments Rangeland Analysis, Comment Period Ends: 05/12/2014, Contact: Jamie McCormack 541–426–5547

EIS No. 20140099, Final EIS, FHWA, MT, Billings Bypass Improvements, Review Period Ends: 04/28/2014, Contact: Brian Hasselbach, 406–441–3908

Amended Notices

EIS No. 20140078, Draft EIS, BLM, ID, Proposed Modification to the Thompson Creek Mine Plan of Operations, Section 404 Clean Water Act Permit Application, Public Land Disposal, and Draft Resource Management Plan Amendment, Comment Period Ends: 06/18/2014, Contact: Ken Gardner 208–879–6210

Revision to the FR Notice Published 03/21/2014; Correction to EIS Title Name and Comment Period Ends should read 06/18/2014

Dated: March 25, 2014

Dawn Roberts,

Management Analyst, Office of Federal Activities.

[FR Doc. 2014–06968 Filed 3–27–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9908–90–OA]

Notification of a Public Teleconference of the Chartered Clean Air Scientific Advisory Committee (CASAC) and the CASAC Oxides of Nitrogen Primary NAAQS Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public teleconference of the Chartered Clean Air Scientific Advisory Committee (CASAC) and the CASAC Oxides of Nitrogen Primary National Ambient Air Quality Standards (NAAQS) Review Panel to discuss its draft reviews of EPA's *Integrated Review Plan for the Primary National Ambient Air Quality Standards for Nitrogen Dioxide (External Review Draft)* and *Integrated Science Assessment (ISA) for Oxides of Nitrogen—Health Criteria (External Review Draft—November 2013).*

DATES: The teleconference will be held on Wednesday, May 7, 2014 from 9:00 a.m. to 1:00 p.m. (Eastern Time).

Location: The public teleconference will be held by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain information concerning the public

teleconference may contact Mr. Aaron Yeow, Designated Federal Officer (DFO), via telephone at (202) 564–2050 or at *yeow.aaron@epa.gov*. General information about the CASAC, as well as any updates concerning the meeting announced in this notice, may be found on the EPA Web site at *http://www.epa.gov/casac*.

SUPPLEMENTARY INFORMATION: The CASAC was established pursuant to the Clean Air Act (CAA) Amendments of 1977, codified at 42 U.S.C. 7409(d)(2), to review air quality criteria and NAAQS and recommend any new NAAQS and revisions of existing criteria and NAAQS as may be appropriate. The CASAC shall also provide advice, information, and recommendations to the Administrator on the scientific and technical aspects of issues related to the criteria for air quality standards, research related to air quality, sources of air pollution, and of adverse effects which may result from various strategies to attain and maintain air quality standards. The CASAC is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. Section 109(d)(1) of the CAA requires that the Agency periodically review and revise, as appropriate, the air quality criteria and the NAAQS for the six ''criteria'' air pollutants, including oxides of nitrogen. EPA is currently reviewing the primary (health-based) NAAQS for nitrogen dioxide (NO_2), as an indicator for health effects caused by the presence of oxides of nitrogen in the ambient air.

For purposes of the review of the oxides of nitrogen air quality criteria for health and the primary NAAQS for nitrogen dioxide, the CASAC Oxides of Nitrogen Primary National Ambient Air Quality Standards Review Panel was formed following a request for public nominations of experts (77 FR 63827–63828) and met on March 12–13, 2014 (as noticed in 79 FR 8701–8703) to peer review EPA's *Integrated Science Assessment for Oxides of Nitrogen—Health Criteria (External Review Draft—November 2013)* and *Integrated Review Plan for the Primary National Ambient Air Quality Standards for Nitrogen Dioxide (External Review Draft)*. Information about these review activities may be found on the CASAC Web site at *http://www.epa.gov/casac*. Pursuant to FACA and EPA policy, notice is hereby given that the Chartered CASAC and the CASAC Oxides of Nitrogen Primary NAAQS Review Panel will hold a public teleconference to discuss its draft reviews of these two EPA documents. The CASAC Oxides of Nitrogen Primary NAAQS Review Panel and the CASAC will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Technical Contacts: Any technical questions concerning the *Integrated Science Assessment for Oxides of Nitrogen—Health Criteria (External Review Draft—November 2013)* should be directed to Dr. Molini Patel (patel.molini@epa.gov) and technical questions concerning the *Integrated Review Plan for the Primary National Ambient Air Quality Standards for Nitrogen Dioxide (External Review Draft)* should be directed to Ms. Beth Hassett-Sipple (*hassett-sipple.beth@epa.gov*).

Availability of Meeting Materials: Prior to the meeting, the review documents, agenda and other materials will be accessible through the calendar link on the blue navigation bar at *http://www.epa.gov/casac/*.

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments for a federal advisory committee to consider as it develops advice for EPA. Interested members of the public may submit relevant written or oral information on the topic of this advisory activity, and/or the group conducting the activity, for the CASAC to consider during the advisory process. Input from the public to the CASAC will have the most impact if it provides specific scientific or technical information or analysis for CASAC panels to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the DFO directly. *Oral Statements:* In general, individuals or groups requesting an oral presentation on a public teleconference will be limited to three minutes. Each person making an oral statement should consider providing written comments as well as their oral statement so that the points presented orally can be expanded upon in writing. Interested parties should contact Mr. Aaron Yeow, DFO, in writing (preferably via email) at the contact information noted above by April 30, 2014 to be placed on the list of public speakers. *Written Statements:* Written statements should be supplied to the DFO via email at the contact information noted above by April 30, 2014 so that the information may be made available to the Panel members for their consideration. Written statements should be supplied in one of the following electronic formats: Adobe Acrobat PDF, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format. It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the CASAC Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Aaron Yeow at (202) 564–2050 or yeow.aaron@epa.gov. To request accommodation of a disability, please contact Mr. Yeow preferably at least ten days prior to each meeting to give EPA as much time as possible to process your request.

Dated: March 20, 2014.

Thomas H. Brennan,

Deputy Director, EPA Science Advisory Staff Office.

[FR Doc. 2014–06958 Filed 3–27–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2014–0215; FRL–9907–97]

Registration Review; Pesticide Dockets Opened for Review and Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: With this document, EPA is opening the public comment period for several registration reviews. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Registration review dockets contain information that will assist the public in understanding the types of information and issues that the

Agency may consider during the course of registration reviews. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment. This document also announces the Agency's intent not to open registration review dockets for endosulfan, tall oil fatty acids and K salts, thiophanate-ethyl, and thiazopyr. The registrants have decided not to support continued registration of these pesticides and, therefore, EPA is not planning to open dockets for these pesticides under the registration review program. EPA is also announcing the availability of an amended final work plan (FWP) for chlorinated isocyanurates.

DATES: Comments must be received on or before May 27, 2014.

ADDRESSES: Submit your comments identified by the docket identification (ID) number for the specific pesticide of interest provided in the table in Unit III.A., by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information contact:* The Chemical Review Manager or Regulatory Action Leader identified in the table in Unit III.A. for the pesticide of interest.

For general information contact: Richard Dumas, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8015; fax number: (703) 308–8005; email address: *dumas.richard@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farmworker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. Authority

EPA is initiating its reviews of the pesticides identified in this document pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

III. Registration Reviews

A. What action is the agency taking?

As directed by FIFRA section 3(g), EPA is reviewing the pesticide registrations identified in the table in this unit to assure that they continue to satisfy the FIFRA standard for registration—that is, they can still be used without unreasonable adverse effects on human health or the environment. A pesticide's registration review begins when the Agency establishes a docket for the pesticide's registration review case and opens the docket for public review and comment. At present, EPA is opening registration review dockets for the cases identified in the following table.

TABLE—REGISTRATION REVIEW DOCKETS OPENING

Registration review case name and No.	Docket ID No.	Chemical review manager or regulatory action leader, telephone No., email address
Aminopyralid (Case 7267)	EPA–HQ–OPP–2013–0749	Veronica Dutch, (703) 308–8585, *dutch.veronica@epa.gov*.
Azadioxabicyclooctane (Case 3023)	EPA–HQ–OPP–2013–0604	Sandra O'Neill, (703) 347–0141, *oneill.sandra@epa.gov*.
Bacillus licheniformis strain SB3086 (Case 6014)	EPA–HQ–OPP–2014–0184	Michael Glikes, (703) 305–6231, *glikes.michael@epa.gov*.
Clopyralid (Case 7212)	EPA–HQ–OPP–2014–0167	Steven Snyderman, (703) 347–0249, *snyderman.steven@epa.gov*.
Fenamidone (Case 7033)	EPA–HQ–OPP–2014–0048	Christina Scheltema, (703) 308–2201, *scheltema.christina@epa.gov*.
Formic acid (Case 6073)	EPA–HQ–OPP–2014–0105	Leonard Cole, (703) 305–5412, *cole.leonard@epa.gov*.
Imazethapyr (Case 7208)	EPA–HQ–OPP–2013–0774	Katherine St. Clair, (703) 347–8778, *stclair.katherine@epa.gov*.
Kaolin (Case 6039)	EPA–HQ–OPP–2014–0107	Gina Burnett, (703) 605–0513, *burnett.gina@epa.gov*.
Lithium hypochlorite (Case 3084)	EPA–HQ–OPP–2013–0606	Donna Kamarei, (703) 347–0443, *kamarei.donna@epa.gov*.
MCPA (Case 0017)	EPA–HQ–OPP–2014–0180	Khue Nguyen, (703) 347–0248, *nguyen.khue@epa.gov*.
MCPB and salts (Case 2365)	EPA–HQ–OPP–2014–0181	Khue Nguyen, (703) 347–0248, *nguyen.khue@epa.gov*.
Organic esters of phosphoric acid (Case 4122)	EPA–HQ–OPP–2013–0373	SanYvette Williams, (703) 305–7702, *williams.sanyvette@epa.gov*.
Potassium hypochlorite (Case 5076)	EPA–HQ–OPP–2014–0157	Donna Kamarei, (703) 347–0443, *kamarei.donna@epa.gov*.
TAED (Case 5105)	EPA–HQ–OPP–2013–0608	SanYvette Williams, (703) 305–7702, *williams.sanyvette@epa.gov*.
Tepraloxydim (Case 7257)	EPA–HQ–OPP–2014–0246	Wilhelmena Livingston, (703) 308–8025, *livingston.wilhelmena@epa.gov*.
Thiabendazole and salts (Case 2670)	EPA–HQ–OPP–2013–0175	Ricardo Jones, (703) 347–0493, *jones.ricardo@epa.gov,* Sandra O'Neill, (703) 347–0141, *oneill.sandra@epa.gov*.
Thiophanate-methyl and carbendazim (Case 2680)	EPA–HQ–OPP–2014–0004	Russell Wasem, (703) 305–6979, *wasem.russell@epa.gov,* Sandra O'Neill, (703) 347–0141, *oneill.sandra@epa.gov*.

EPA is also announcing that it will not be opening dockets for endosulfan, tall oil fatty acids and K salts, thiophanate-ethyl, and thiazopyr. Since EPA published a cancellation order on November 10, 2010, announcing that the last endosulfan use will end on July 21, 2016 (75 FR 69065), endosulfan will not be evaluated under registration review. For tall oil fatty acids and K salts, thiophanate-ethyl, and thiazopyr, EPA will not be opening registration review dockets because these pesticides are not included in any products actively registered under FIFRA section 3. The Agency will take separate actions to cancel any remaining FIFRA section 24(c) Special Local Needs registrations with this active ingredient and to propose revocation of any affected tolerances that are not supported for import purposes only. Finally, EPA is announcing the availability of an amended FWP for chlorinated isocyanurates, docket ID number EPA–HQ–OPP–2012–0794. This FWP has been amended to incorporate a change to the data requirements for registration review.

B. Docket Content

1. *Review dockets.* The registration review dockets contain information that the Agency may consider in the course of the registration review. The Agency may include information from its files including, but not limited to, the following information:

- An overview of the registration review case status.
- A list of current product registrations and registrants.
- **Federal Register** notices regarding any pending registration actions.
- **Federal Register** notices regarding current or pending tolerances.
- Risk assessments.
- Bibliographies concerning current registrations.
- Summaries of incident data.
- Any other pertinent data or information.

Each docket contains a document summarizing what the Agency currently knows about the pesticide case and a preliminary work plan for anticipated data and assessment needs. Additional documents provide more detailed information. During this public comment period, the Agency is asking that interested persons identify any additional information they believe the Agency should consider during the registration reviews of these pesticides. The Agency identifies in each docket the areas where public comment is specifically requested, though comment in any area is welcome.

2. *Other related information.* More information on these cases, including the active ingredients for each case, may be located in the registration review schedule on the Agency's Web site at *http://www.epa.gov/oppsrrd1/registration_review/schedule.htm*. Information on the Agency's registration review program and its implementing regulation may be seen at *http://www.epa.gov/oppsrrd1/registration_review*.

3. *Information submission requirements.* Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.
- The data or information submitted must be presented in a legible and

useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.

- Submitters must clearly identify the source of any submitted data or information.
- Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: March 20, 2014.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2014–06814 Filed 3–27–14; 8:45 am]

BILLING CODE 6560–50–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 April 2, 2014.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Minier Financial, Inc. Employee Stock Ownership Plan with 401(k) Provisions,* Minier, Illinois; to increase its ownership of Minier Financial, Inc., Minier, Illinois, from 37 percent to 51 percent, and thereby indirectly acquire shares of First Farmers State Bank, Minier, Illinois.

B. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Alerus Financial Corporation,* Grand Forks, North Dakota, to acquire 100 percent of Private Bancorporation, Inc., Minneapolis, Minnesota, and thereby indirectly acquire Private Bank Minnesota, Minneapolis, Minnesota.

Board of Governors of the Federal Reserve System, March 25, 2014.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2014–06930 Filed 3–27–14; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: ''*Evaluation of the Educating the Educator (EtE) Workshop.''* In accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by May 27, 2014.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@ahrq.hhs.gov.*

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Evaluation of the Educating the Educator (EtE) Workshop

AHRQ's Educating the Educator (EtE) workshop training project is an Agency knowledge translation and dissemination project that aims to increase knowledge about and use of AHRQ's EHC Program products among health care professionals. For the EtE project, AHRQ is sponsoring the development of an accredited, in-person, train-the-trainer workshop program for health care professionals to educate them on how to use AHRQ's EHC Program materials and resources in shared decision making (SDM) with patients/caregivers. As a train-the-trainer program, the workshop also provides education on effectively training other health care professionals to facilitate the dissemination of the key competencies taught by the program. Additionally, as part of the EtE project, a collection of new stand-alone tools are being developed to facilitate the implementation and use of AHRQ EHC Program materials. The new tools will be integrated into the EtE workshop training program and made available to workshop participants. These new tools also will be publicly-accessible through the AHRQ Web site for easy referral, access, and use by both workshop participants and other health care professionals.

AHRQ recognizes the importance of ensuring that its dissemination activities are useful, well implemented, and effective in achieving their intended goals. Therefore, an evaluation is associated with the EtE project. The EtE evaluation is comprised of two key components. One component has been designed to support both a process-oriented formative evaluation and a summative (impact) evaluation of the EtE train-the-trainer workshop program.

The other component is designed to assess the impact of new tools developed through this project in supporting the implementation of AHRQ EHC Program materials.

The specific goals of the EtE train-the-trainer workshop evaluation (component 1) are to examine the following:

- Who is participating in both the primary train-the-trainer sessions, and in subsequent, secondary trainings offered by primary trainees?
- The uptake of and confidence among primary trainees in training others on the key competencies of the curriculum
- How the workshop implementation or course content should be modified to improve the quality of the training (e.g., instructor, materials, modules, etc.)?
- The extent to which workshop participants have been able to conduct additional trainings, start new PCOR education programs based on the workshop curriculum, or integrate the workshop curriculum into existing training programs in their local settings
- What the results of subsequent trainings by workshop participants were among secondary participants (i.e., individuals who received training from a workshop participant) in terms of their use of PCOR information and the practice of SDM with patients?
- Whether workshop participants have participated in other project activities, such as ongoing webinars or the learning network that are planned as part of the EtE project
- How workshop participants are using what they have learned from the training program in their own practice?

The specific goals of the EtE new tools evaluation (component 2) are to examine the following:

- If and how workshop trainees and other health care professionals are using the new tools developed during this project to support their implementation of AHRQ EHC Program resources?
- How useful clinicians find AHRQ EHC Program resources to be in their practice?
- How frequently new tools are being accessed and used by workshop trainees and other health care professionals?
- Suggestions for improving tools to meet health care professionals' needs when serving their patients?

This study is being conducted by AHRQ through its contractor, AFYA, Inc., and The Lewin Group, pursuant to AHRQ's statutory authority to support the agency's dissemination of comparative clinical effectiveness research findings. 42 U.S.C. 299b–37(a)–(c).

Method of Collection

To achieve the goals of this project the following data collections will be implemented:

(1) *Pre-Training Survey of Primary Participants.* This pen and paper survey will be administered to train-the-trainer workshop participants (also referred to as Primary Workshop Participants) immediately prior to the start of the in-person train-the-trainer workshop sessions. Information collected includes (1) non-identifying demographic information about respondents (e.g., type of clinician; practice setting); (2) participants knowledge of core concepts and objectives of the workshop; and (3) their confidence in training others. This instrument will also collect information about participants' use of and exposure to AHRQ EHC Program products for comparison at later time points.

(2) *Post-Training Survey of Primary Participants.* This pen and paper survey will be administered to train-the-trainer workshop participants immediately following the conclusion of the in-person train-the-trainer workshop sessions. Information collected includes (1) post-training knowledge of core concepts presented in workshop; and (2) post-training confidence in training others. The post-training instrument will also collect information about participants' reaction to the training (e.g., instructor, the content, the presentation style, the schedule, etc.), a requirement for accreditation purposes.

(3) *Six-Month Post-Training Survey of Primary Participants.* This survey will be administered to primary workshop participants six months following their participation in the train-the-trainer workshop. The survey will be Web-enabled, and a link to the survey will be emailed to participants. Information to be collected includes (1) behaviors and experiences of primary workshop participants in training others (i.e., secondary participants); (2) the numbers of individuals they have trained; and (3) barriers they have encountered in training others. This instrument will also collect (4) data on primary participants' early experiences in applying what they learned in the workshop training in their own clinical practice with patients; and (5) their use of AHRQ EHC resources and tools which will be compared to baseline measures.

(4) *One-Year Post-Training Survey of Primary Participants.* This survey will be administered to primary workshop participants one year following their participation in the train-the-trainer workshop. The survey will be Web-enabled, and a link to the survey will be emailed to participants. This survey will collect the same information as collected in the 6-month survey. This instrument will also collect new information from participants about their use/participation in continued training that will be offered (e.g., participating in training and technical assistance webinars and the learning network that will be created).

(5) *One-Year Post Survey of Secondary Workshop Participants.* This survey will be administered to secondary workshop participants one year following their receipt of continuing education (CE) credits for participating in locally-delivered workshops by primary workshop participants. The questions of interest include (1) non-identifying demographic information about respondents (e.g., type of clinician; practice setting); (2) their use of AHRQ EHC program products; (3) how useful they thought the training they received was in developing their patient engagement and SDM skills; (4) barriers they have encountered when implementing what they learned in practice; (5) the types of changes they or their organization have made related to involving patients in health care decision making and their use of decision support tools, since participating in the workshop; and (6) any changes that they have observed in their patients since they participated in the training.

(6) *New Tool Users.* This survey will be deployed on the AHRQ Web site on a quarterly basis. More specifically, it will be made available on the new tools Web landing page on the AHRQ Web site so that it targets users of the new tools from this project. Information to be collected includes (1) non-identifying demographic information about respondents (e.g., type of clinician; practice setting); (2) whether or not they have participated in the workshop training associated with this project; (3) how often respondents use tools on the AHRQ tools landing page; and (4) how useful respondents find the tools to be and new tools that they would like to see added.

AHRQ and the EHC Program staff will use the information collected through this Information Collection Request to assess the short- and long-term progress in achieving the dissemination and implementation aims of the EtE project. The information collected will facilitate real-time adjustments in the strategies and tactics that are used to promote and deliver the new tools and workshop training. The summative evaluation will assess the impact of this EtE workshop training program and new tools on

increased awareness, understanding, and use of AHRQ's EHC Program products in clinical practice with patients.

The specific purpose and use of each of the data collection instruments is described below.

(1) *Pre- and Post-Training Surveys of Primary Workshop Participants*—These data collections will be used to assess the effectiveness of the training in transferring course concepts to train-the-trainer participants. They will be used to measure what participants learned during the training relative to their knowledge of core concepts and objectives of the workshop, and their confidence in training others as assessed prior to the training (pre-training survey). The pre-training survey also will establish a baseline level regarding workshop participants' use and exposure to AHRQ EHC Program products for comparison at later time points. The post-training assessment also will be used to assess workshop participants' reaction to the training. This is important for the process evaluation component of this project as it will provide information on participants' reactions to specific components of the program (e.g., instructor, the content, the presentation style, the schedule, etc.), a requirement for accreditation purposes, and help to identify where minor tweaking of the program may be needed to better meet participants' needs.

(2) *Six-Month Post-Training Survey of Primary Participants*—This data collection will be used to assess the behaviors and experiences of workshop participants in training others (i.e., secondary participants), and whether the training has promoted changes to participants' use of PCOR resources in SDM with their patients. This survey will also be used to assess whether the use of AHRQ EHC Program products has increased since participating in the survey.

(3) *One-Year Post-Training Survey of Primary Participants*—This data collection will be used to assess the long-term impact of the train-the-trainer workshop on participants' use of PCOR resources in SDM with patients in clinical practice. The assessment will determine if the training results in or contributes to changes in participants' continued use of key training concepts relative to baseline and 6-month assessments. This assessment also will provide information on the numbers of other individuals (i.e., secondary participants) who have received training at subsequent time points by the train-the-trainer workshop participants and the impact of training those secondary participants on their organizational practices regarding using AHRQ EHC Program products in SDM with their patients.

(4) *One-Year Post Training Survey of Secondary Workshop Participants*—This data collection will be used to assess the effectiveness of the train-the-trainer format on disseminating knowledge among the health care community. The questions of interest include the following:

○ Are participants from the train-the-trainer workshop able to effectively transfer or share key competencies from their training to other locally-based health care professionals (i.e., secondary participants)?

○ Do secondary participants taught by AHRQ-sponsored train-the-train workshop participants increase their use of AHRQ EHC Program products in SDM with their patients?

(5) *New Tool Survey*—This data collection will be used to gather information on AHRQ Web site users experiences with the available new tools including who uses these tools and if they are useful.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents' time to participate in this evaluation. For the longitudinal evaluation, four questionnaires will be completed by approximately 1,500 primary trainees who participate in the AHRQ-sponsored EtE train-the-trainer workshop, at the specified intervals, and each will require 10 or 15 minutes to complete. The annual survey of secondary participants will be completed by 3,000 secondary trainees (individuals who receive training from primary trainees) over the 3 years. Based on previous experience with convenience-based Web-based surveys, we estimate that the quarterly Web-based survey of new tool users will be completed by approximately 1,200 respondents over the 3-year period.

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to participate in this project. The total cost burden is estimated to be $91,668.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Pre-training survey (primary trainees) (time point #1)	*1500	1	15/60	375
Post-training survey (time point #2)	*1500	1	15/60	375
6-month post training survey (time point #3)	*1500	1	10/60	250
12-month post training survey (time point #4)	*1500	1	10/60	250
Annual survey (one-time survey of secondary trainees)	3000	1	10/60	500
Quarterly survey of new tool users	1200	1	5/60	100
Total	**5,700	NA	NA	1850

*These individuals are the same 1500 individuals (primary trainees) and will be assessed at four different time points.
**Estimated total number of unique respondents.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate*	Total cost burden
Pre-training survey (primary trainees) (time point #1)	1500	375	*$49.55	$18,581
Post-training survey (time point #2)	1500	375	*49.55	18,581
6-month post training survey (time point #3)	1500	250	*49.55	12,388
12-month post training survey (time point #4)	1500	250	*49.55	12,388
Annual survey (one-time survey of secondary trainees)	3000	500	*49.55	24,775

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN—Continued

Form name	Number of respondents	Total burden hours	Average hourly wage rate *	Total cost burden
Quarterly survey of new tool users	1200	100	*49.55	4,955
Total	**5,700	1,850	NA	91,668

* Average hourly wage based on the weighted average of wages for 1 Family and General Practitioner (29–1062, $81.78), 1 Internist (29–1063, $86.20), 1 Physician Assistant (29–1071, $44.96), 1 Psychiatrist (29–1066, $95.33), 1 Nurse Practitioner (29–1171, $44.48), 3 Registered Nurses (29–1141, $34.23), 1 Pharmacist (29–1051, $59.87), 1 Licensed Practical or Licensed Vocational Nurse (29–2061, $21.17), 1 Health Educator (21–1091, $20.52), and 1 Administrative Services Manager (11–3011, $37.61). Data Source: National Occupational Employment and Wage Estimates in the United States, May 2012, ''U.S. Department of Labor, Bureau of Labor Statistics'' (available at *http://www.bls.gov/oes/current/naics4_621400.htm*).

** Estimated total number of unique respondents.

Request for Comments

In accordance with the above-cited Paperwork Reduction Act legislation, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: March 19, 2014.

Richard Kronick,

AHRQ Director.

[FR Doc. 2014–06880 Filed 3–27–14; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: *''The Agency for Healthcare Research and Quality (AHRQ) Health Care Innovations Exchange Innovator Interview and Innovator Email Submission Guidelines.''* In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by May 27, 2014.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@AHRQ.hhs.gov.*

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

''The Agency for Healthcare Research and Quality (AHRQ) Health Care Innovations Exchange Innovator Interview and Innovator Email Submission Guidelines.''

This request for Office of Management and Budget (OMB) review is for renewal of the existing collection that is currently approved under OMB Control No. 0935–0147, *AHRQ Health Care Innovations Exchange Innovator Interview and AHRQ Health Care Innovations Exchange Innovator Email Submission Guidelines,* which expires on May 31, 2014.

The Health Care Innovations Exchange provides a national-level information hub to foster the implementation and adaptation of innovative strategies and policies that improve health care quality and reduce disparities in the care received by different populations. The Innovations Exchange's target audiences, broadly defined, are current and potential change agents in the U.S. health care system, including clinicians (e.g., physicians, nurses, and other providers), health care administrators, quality improvement professionals, researchers, educators, and policymakers.

The goals of the Health Care Innovations Exchange are to:

(1) Identify health care service delivery and policy innovations and provide a national level repository of searchable innovations and tools that enables health care decision makers to quickly identify ideas and tools that meet their needs. These innovations come from many care settings including inpatient facilities, outpatient facilities, long term care organizations, health plans, and community care settings. They also represent many patient populations, disease conditions, and processes of care such as preventive, acute, and chronic care.

(2) Foster the implementation and adoption of health care service delivery and policy innovations that improve health care quality and reduce disparities in the care received by different populations.

This data collection is being conducted by AHRQ through its contractor, Westat, pursuant to AHRQ's statutory authority (1) to conduct and support research on, and disseminate information on, health care and on systems for the delivery of such care, 42 U.S.C. 299a(a), and (2) to promote innovation in evidence-based health care practices and technologies by promoting education and training and providing technical assistance in the use of health care practice results, 42 U.S.C. 299b–5(a)(4).

Method of Collection

To achieve the first goal of the Innovations Exchange the following data collections will be implemented:

(1) Email submission—Based on experience during the current approval period, approximately 10% of the health care innovations considered for inclusion annually, and their associated innovators, will submit their innovations via email to the Innovations Exchange without prior contact (about 8 annually). Innovators who submit their innovations for possible publication through the email submission process will be considered as will innovations identified by project staff through an array of sources that include: Published literature, conference proceedings, news items, list serves, Federal agencies and other government programs and resources, health care foundations, and health care associations.

- To meet the publication target of 75 new innovation profiles per year, a purposive sample of approximately 76 health care innovations will be identified and selected annually, in addition to the email submissions, for a total of 84 innovations considered annually for potential consideration. These innovations will be selected to ensure that innovations included in the Innovations Exchange cover a broad range of health care settings, care processes, policies, priority populations, and clinical conditions. Based on experience, approximately 10% of the candidate innovations either will not meet the inclusion criteria or their innovators will decide not to continue their participation after the interview. Therefore, 90% (75) of the 84 candidate innovations will move into the publication stage each year.

(2) Health care innovator interview—To collect and verify the information required for the innovation profiles, health care innovators will be interviewed by telephone about the following aspects of their innovation: health care problem addressed, impetus for the innovation, goals of the innovation, description of the innovation, sources of funding, evaluation results for the innovation, setting for the innovation, history of planning and implementation for the innovation, and lessons learned concerning the implementation of the innovation. Interviews will be conducted with innovators identified by project staff and those identified through email submission.

(3) Annual follow-up reviews—After the innovation profile is published, on a yearly basis, innovators will be contacted by email to review and update their profiles.

The ultimate decision to publish a detailed profile of an innovation depends on several factors, including an evaluation by AHRQ, AHRQ's priorities, and the number of similar ideas in the Innovations Exchange. AHRQ's priorities include identifying and highlighting innovations (1) that will help reduce disparities in health care and health status; (2) that will have significant impact on the overall value of health care; (3) where the innovators have a strong interest in participating; and (4) that have been supported by AHRQ.

The AHRQ Health Care Innovations Exchange's use of the interview guide and email submission guidelines assists in determining if the suggested innovation: (1) Meets established eligibility criteria of the Innovation Exchange, and (2) addresses AHRQ's priorities.

Access to the AHRQ Health Care Innovations Exchange is freely available to the public at *http://www.innovations.ahrq.gov/*. Diverse groups use the Innovations Exchange, ranging from nurses and health administrators, quality improvement professionals, researchers and educators. See *http://www.innovations.ahrq.gov/about.aspx* which displays information about Innovations Exchange users by role for 2012–2013.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents' time to participate in this project. Approximately 84 innovators will participate in the initial data collection each year with 75 of those being published to the Innovations Exchange Web site. About 8 innovations will be submitted by email, which requires 30 minutes. All 84 potential innovators will participate in the health care innovator interview, including the 8 submitted via email. The interview will last about 75 minutes, and an average additional 30 minutes is typically required for the innovator to review, comment on, and approve the written profile.

Based on experience, approximately 10% of the candidate innovations either will not meet the inclusion criteria or their innovators will decide not to continue their participation after the interview. Therefore, 90% (75) of the 84 candidate innovations will move into the publication stage each year. Annual follow-up reviews will be conducted with all innovations that have been in the Innovations Exchange for at least one full year. With an expected total of 825 innovations in the Exchange by the end of the current approval period, and an additional 225 to be added over the course of the next 3-year approval period (75 per year), an average of 800 reviews will be conducted annually and will require about 15 minutes to complete. The number of profiles undergoing annual review will increase annually from 825 in the first year, to 900 in the second year, and 975 in the third year. The average annualized number of annual follow-up reviews is projected to be 800 as it is anticipated that approximately 100 profiles will be archived over three years. Archived profiles are excluded from annual review. The total annualized burden is estimated to be 347 hours.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Email submission	8	1	30/60	4
Health care innovator interview	84	1	75/60	105
Innovator review and approval of written profile	75	1	30/60	38
Annual follow-up reviews	800	1	15/60	200
Total	967			347

Exhibit 2 shows the estimated annualized cost burden associated with the respondents' time to participate in this project. The total annualized cost burden is estimated to be $21,220.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate*	Total cost burden
Email submission	8	4	$61.15	$245
Health care innovator interview	84	105	61.15	6,421
Innovator review and approval of written profile	75	38	61.15	2,324
Annual follow-up reviews	800	200	61.15	12,230
Total	967	347	.....	21,220

*Average hourly wage rate for health care innovators is based upon statistics from the Bureau of Labor Statistics, U.S. Department of Labor, Occupational Employment and Wages, May 2012 (*http://www.bls.gov/oes/current/oes290000.htm*), and was calculated as an average of the mean hourly wage rate for Family and General Practitioners and the mean hourly wage for all occupations in the major group, ''Healthcare Practitioners and Technical Occupations''.

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: March 19, 2014.

Richard Kronick,

AHRQ Director.

[FR Doc. 2014–06873 Filed 3–27–14; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Subsidized and Transitional Employment Demonstration (STED) and Enhanced Transitional Jobs Demonstration (ETJD).

OMB No.: 0970–0413.

Description: The Administration for Children and Families (ACF) within the U.S. Department of Health and Human Services (HHS) is conducting national evaluation called the Subsidized and Transitional Employment Demonstration (STED). At the same time, the Employment and Training Administration (ETA) within the Department of labor (DOL) is conducting an evaluation of the Enhanced Transitional Jobs Demonstration (ETJD). These evaluations will inform the Federal government about the effectiveness of subsidized and transitional employment programs in helping vulnerable populations secure unsubsidized jobs in the labor market and achieve self-sufficiency. The projects will evaluate twelve subsidized and transitional employment programs nationwide.

ACF and ETA are collaborating on the two evaluations. In 2011, ETA awarded grants to seven transitional jobs programs as part of the ETJD, which is testing the effect of combining transitional jobs with enhanced services to assist ex-offenders and noncustodial parents improve labor market outcomes, reduce criminal recidivism and improve family engagement.

The STED and ETJD projects have complementary goals and are focusing on related program models and target populations. Thus, ACF and ETA have collaborated on the design of data collection instruments to promote consistency across the projects. In addition, two of the seven DOL-funded ETJD programs are being evaluated as part of the STED project. ACF is submitting information collection requests on behalf of both collaborating agencies.

Data for the study will be collected from the following three major sources. All data collection described below, other than the 30-month follow-up survey, has been reviewed and approved by OMB (see OMB #0970–0413):

Baseline Forms. Each respondent will be asked to complete three forms upon entry into the study: (1) An informed consent form; (2) a contact sheet, which will help locate the respondent for follow-up surveys; and (3) a baseline information form, which will collect demographic data and information on the respondent's work and education history.

Follow-Up Surveys. Follow-up telephone surveys will be conducted with all participants. There will be three follow-up surveys in each of the STED and ETJD sites (including the two sites that are also part of ETJD), approximately 6, 12, and 30 months after study entry.

Implementation Research and Site Visits. Data on the context for the programs and their implementation is collected during two rounds of site visits to each of the twelve sites, including interviews, focus groups, observations, and case file reviews. These data will be supplemented by short questionnaires for program staff, clients, worksite supervisors, and participating employers, as well as a time study for program staff.

This notice is specific to the request for approval of the 30-month survey, which will measure the differences in employment, wage progression, income, and other outcomes between the program groups and similar group of respondents who were randomly assigned to a control group. The information collection request will also include increased burden hours to include additional respondents. This increase is a result of the actual enrollment numbers at recruited sites.

Respondents: Study participants in the treatment and control groups.

ANNUAL BURDEN ESTIMATES—NEW INSTRUMENT

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hour per response	Total annual burden hours [1]
Participant 30-month survey	11,840	3,947	1	.5	1,974

ANNUAL BURDEN ESTIMATES—CHANGES TO ESTIMATED NUMBER OF RESPONDENTS

[Instruments previously approved]

Previously approved instrument	Updates to total number of respondents	Updates to annual number respondents	Number of responses per respondent	Average burden hour per response	Updated annual burden hours [1]
Participant Contact Information Form (5 STED sites).	2800 additional respondents.	933	1	.08	75
Participant Baseline Information Form (5 STED sites).	2800 additional respondents.	933	1	.17	159
Participant STED tracking letters	2178 additional respondents.	726	5	.05	182
Participant 6-month survey (Adult sites)	960 additional respondents.	320	1	.5	160
Participant 6-month survey (Young Adult sites)	960 fewer respondents	−320	1	.5	−160
Participant 12-month survey (Adult sites)	1440 additional respondents.	480	1	.75	360
Participant 12-month survey (Young Adult sites)	800 additional respondents.	267	1	.75	200

Increase in Est. Annual Burden Hours for Previously Approved ICs: 976.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families and the Employment and Training Administration are soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agencies, including whether the information shall have practical utility; (b) the accuracy of the agencies' estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Karl Koerper,

Reports Clearance Officer.

[FR Doc. 2014–06937 Filed 3–27–14; 8:45 am]

BILLING CODE 4184–09–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Request for Specific Consent to Juvenile Court Jurisdiction.

OMB No.: 0970–0385.

Description: The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA of 2008), Public Law 110–457 was enacted into law December 23, 2008. Section 235(d) directs the Secretary of HHS to grant or deny requests for specific consent for unaccompanied alien children in HHS custody who seek to invoke the jurisdiction of a state court for a dependency order and who also seek to invoke the jurisdiction of a state court to determine or alter his or her custody status or release from ORR. These requests can be extremely time sensitive since a child must ask a state court for dependency before turning 18 years old.

In developing procedures for collecting the necessary information from unaccompanied alien children, their attorneys, or other representatives to allow HHS to approve or deny consent requests, ORR/DUCS devised a form. Specifically, the form asks the requestor for his/her identifying information, basic identifying information on the unaccompanied alien child, the name of the HHS-funded facility where the child is in HHS custody and care, the name of the court and its location, and the kind of request (e.g., for a change in custody, etc.). The form also asks that the unaccompanied alien child's attorney or authorized representative attach a Notice of Representation, which is an approved federal government agency form used for immigration procedures that authorizes the attorney to act on behalf of the child (i.e.,G–28, EOIR–28, EOIR–29), or any other form of authorization to act on behalf of the unaccompanied alien child.

Respondents: Attorneys, accredited legal representatives, or others authorized to act on behalf of a unaccompanied alien child.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Request for Specific Consent	30	1	0.33	9.9

Estimated Total Annual Burden Hours: 9.9

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget,, Paperwork Reduction Project, Fax: 202–395–7285, Email: *OIRA_SUBMISSION@OMB.EOP.GOV.*

Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2014–06931 Filed 3–27–14; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0723]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Reports of Corrections and Removals of Medical Devices and Radiation Emitting Products

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 28, 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 0910–0359. 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.

Reports of Corrections and Removals of Medical Devices and Radiation Emitting Products—(OMB Control Number 0910–0359)—Extension

I. Reports of Corrections and Removals

Under § 806.10 (21 CFR 806.10), each device manufacturer or importer shall submit a written report to FDA of any action initiated to correct or remove a device to reduce a risk to health posed by the device or to remedy a violation of the Federal Food, Drug, and Cosmetic Act caused by the device, which may present a risk to health within 10 working days of initiating the correction or removal.

Under § 806.20(a) (21 CFR 806.20(a)), each device manufacturer or importer of a device who initiates a correction or removal of a device that is not required to be reported to FDA shall keep a record of the correction or removal.

FDA currently accepts by mail reports of corrections and removals (806 reports) associated with medical and radiation emitting products regulated by the Center for Devices and Radiological Health (CDRH) under part 806.

For general information and assistance with 806 reports, contact the CDRH Division of Small Manufacturers, International and Consumer Assistance (DSMICA) by telephone: 1–800–638–2041 or 301–796–7100, or by email: *dsmica@fda.hhs.gov.*

II. Proposed Electronic Submission Process

FDA is now proposing to make available, as a voluntary alternative to paper submissions, an electronic process for submitting 806 reports. The electronic process is expected to enhance consistency of submission data and to speed submission processing. Submission by mail will remain available and will be augmented by the new electronic submission process.

Establishing a process for using electronic submissions does necessitate some preparation by reporters, which includes obtaining both: (1) A WebTrader account and (2) a digital verification certificate. Many other FDA applications also utilize WebTrader. If an applicant already has an account with the WebTrader Electronic Submission Gateway (ESG) and a digital verification certificate (certificate must be valid for 1 to 3 years), no additional burden or cost will be incurred outside of the time it takes to make the submission of corrections and removals. However, for calculating the burden for this collection, FDA is assuming that all respondents will be establishing a new WebTrader account and purchasing a digital verification certificate.

Establishing a new account for sending electronic submissions may take up to 2 weeks. During that time, new reporters are advised to submit paper reports to avoid inadvertently missing the 10-day timeframes associated with submission of reports under part 806.

Upon approval of the information collection, a submitter would go to *http://www.fda.gov/ForIndustry/FDAeSubmitter/default.htm* to submit an 806 report via the electronic portal. Additional information about FDA's ESG is posted online at *http://www.fda.gov/ForIndustry/ElectronicSubmissionsGateway/default.htm.* You can also email

questions about the system to FDA's ESG Help Desk: *esgreg@gnsi.com.*

III. Online Support and Information

CDRH intends to establish a Web site for online support and information about electronic submissions of 806 reports. The Web site will provide the following information:

- Introduction
- Tracking information
- Contact information
  - Submitter identification
  - Manufacturer information
  - Recalling firm information
  - Importer information
- Correction and removal report information
  - Event
  - Correction and removal product data
  - Domestic consignee information
  - Foreign consignee information
  - Communication documentation
  - Additional documentation (which allows for attaching Word™, Excel™, and PDF™ documents)

Within the online help provided by FDA, users will find yellow light bulb icons. These icons indicate supplemental tips and information.

In the **Federal Register** of June 28, 2013 (78 FR 38992), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received two sets of comments, which were fundamentally the same. Comments relevant to the information request are addressed in this document.

(Comment 1) The comments state that the proposed collection of information and the electronic process of collecting reports of corrections and removals do not appear to be necessary for the proper performance of FDA's functions. However, they do not provide supporting details for this assertion. The comments also state that the proposal to allow information to be reported via an electronic process promises to deliver efficiency advantages to the Agency. The comments request that FDA identify improvements in resources or processing time as a result of the electronic collection methods.

(Response) We believe that the information collection is necessary for the proper performance of FDA's functions. The information collected in the reports of corrections and removals is used by FDA to identify marketed devices that have serious problems and to ensure that FDA has current and complete information regarding these corrections and removals to help determine whether recall action is appropriate and adequate. Failure to collect this information would prevent FDA from receiving timely information about devices that may have a serious effect on the health of users of the devices.

While we expect the electronic submission of corrections and removals to improve the efficiency with which FDA processes the reports, we have not quantified data specific to time savings for FDA and we note that such quantification is beyond the scope of the information collection request. We believe that submitters will find the electronic submission process to be user friendly and that it will enhance the consistency of submission data. We estimate that an electronic report will take the same amount of time for the submitter as a paper report takes. We also note that electronic submission is voluntary and a submitter may still send a paper report.

(Comment 2) The comments state that it is unclear how the collected information will be used and made available to the public. They ask whether all information that is collected via electronic means will be made available to the public and whether there is a process that can be used by reporters to identify certain information as confidential. One commenter expressed concerns regarding whether information such as phone and email conversations, agreements on dispositions, etc., would be made available on the public Web site.

(Response) The addition of the electronic submission process does not change how the data will be used or disclosed to the public as compared to a paper submission; it simply provides a different means to submit the same information collected previously via paper submission. The data elements that are displayed publicly can be viewed at *http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfRES/res.cfm.* Followup phone and email conversations, etc., are not part of the electronic submission system. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), the public has broad access to government documents. Reports and other information submitted to FDA under part 806 are releasable if they fall within the scope of the Agency's regulation concerning ''Public Information'' (21 CFR part 20). However, FOIA exempts disclosures of certain government records from mandatory public disclosures (5 U.S.C. 552(b)(1)–(b)(9)). One such provision exempts from public disclosure ''trade secrets'' and ''confidential commercial or financial information'' that is privileged (5 U.S.C. 552(b)(4)).

(Comment 3) The commenters feel that the burden is underestimated because the burden estimate assumes that reporters have compatible systems to transfer and upload information and that reporters are already familiar with FDA's electronic submission system. The comments state that the electronic submission process shifts the data entry burden from FDA to the reporter.

(Response) We disagree. Most firms that report under part 806 have already used eSubmitter for other types of submissions, such as electronic medical device reporting, eCopy, and ISO submissions, and, therefore, would already have compatible systems and would be familiar with FDA's ESG.

The addition of electronic submission does not shift burden from FDA to respondents because respondents already enter the data manually for submission in paper or email format. An electronic submission includes the same data elements, required by part 806, that are included in a paper submission.

(Comment 4) The comments state that the collection does not consider the internal systems that a reporter may have to establish to meet the electronic reporting requirements (validating computer systems, developing new procedures, training staff, etc.). The commenters feel that these issues will add an incremental burden for users to implement and, possibly, maintain the electronic reporting process.

(Response) Validation testing and basic training on the system are included in the estimated hourly burden for set up of the electronic process. Reporting does not require additional training or new procedures; the system prompts users for the required information. The comment does not provide suggestions for specific changes to the estimated burden or any data to support an increase of burden hours.

(Comment 5) The comments express concerns about communication between FDA and the reporter regarding electronic submissions of corrections and removals. The comments question whether the Agency will provide feedback to manufacturers, followup requests, monthly reporting, or termination requests in the ''electronic record.'' The comments request clarification regarding how electronic submission will enhance the consistency of submission data.

(Response) The electronic submission option does not change how FDA will communicate with firms that submit reports of corrections and removals. The electronic submission system is only for reports of corrections and removals under part 806. It does not include feedback, followup, monthly reporting, or terminations requests. The comments seem to assume that the ''electronic

record'' will now be kept by FDA. However, the recordkeeping requirements have not changed for firms that submit reports of corrections and removals under part 806. The predefined data elements of the electronic 806 report will inherently enhance the consistency of submission data by ensuring complete reporting, thus minimizing the need to solicit missing data.

(Comment 6) The comments request the release of the data fields and proposed online support information for reporters to review and provide comments.

(Response) Screen captures of the data fields are available in the public docket (*http://www.regulations.gov,* in Docket No. FDA–2013–N–0723). The online support information is available as follows:

- *http://www.fda.gov/forindustry/electronicsubmissionsgateway/* for information and support for the ESG, including information about setting up a WebTrader account;
- *ESGHelpDesk@fda.hhs.gov* is the email address for getting technical help with submissions;
- *http://www.fda.gov/ForIndustry/FDAeSubmitter/ucm193862.htm* provides tutorials for navigation and use of the eSubmitter application; and
- *http://www.fda.gov/Safety/Recalls/IndustryGuidance/ucm129334.htm* provides a list of ORA District and Headquarters Recall Coordinators.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity (21 CFR part)	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours [2]	Total operating and maintenance costs
Electronic process setup (one time)	1,022	1	1,022	9.25	9,454	$30,660
Submission of corrections and removals (part 806)	1,033	1	1,033	10	10,330	

[1] There are no capital costs associated with this collection of information.
[2] Totals may not sum due to rounding.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity (21 CFR part)	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Records of corrections and removals (part 806)	93	1	93	10	930

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA's estimate of the reporting and recordkeeping burden is based on our experience with this program and similar programs that utilize the ESG. For respondents who use the electronic process, the operating and maintenance costs associated with this information collection are approximately $30 per year to purchase a digital verification certificate (certificate must be valid for 1 to 3 years). This burden may be minimized if the respondent has already purchased a verification certificate for other electronic submissions to FDA. However, FDA is assuming that all respondents who submit corrections and removals using the electronic process will be establishing a new WebTrader account and purchasing a digital verification certificate.

Dated: March 24, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–06917 Filed 3–27–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0076]

Agency Information Collection Activities; Proposed Collection; Comment Request; Electronic Records; Electronic Signatures

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 requirements governing the acceptance of electronic records and electronic signatures.

DATES: Submit either written or electronic comments on the collection of information by May 27, 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 listed 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.

Electronic Records; Electronic Signatures—(OMB Control Number 0910–0303)—Extension

FDA regulations in part 11 (21 CFR part 11) provide criteria for acceptance of electronic records, electronic signatures, and handwritten signatures executed to electronic records as equivalent to paper records. Under these regulations, records and reports may be submitted to FDA electronically provided the Agency has stated its ability to accept the records electronically in an Agency-established public docket and that the other requirements of part 11 are met.

The recordkeeping provisions in part 11 (§§ 11.10, 11.30, 11.50, and 11.300) require the following standard operating procedures to assure appropriate use of, and precautions for, systems using electronic records and signatures: (1) § 11.10 specifies procedures and controls for persons who use closed systems to create, modify, maintain, or transmit electronic records; (2) § 11.30 specifies procedures and controls for persons who use open systems to create, modify, maintain, or transmit electronic records; (3) § 11.50 specifies procedures and controls for persons who use electronic signatures; and (4) § 11.300 specifies controls to ensure the security and integrity of electronic signatures based upon use of identification codes in combination with passwords. The reporting provision (§ 11.100) requires persons to certify in writing to FDA that they will regard electronic signatures used in their systems as the legally binding equivalent of traditional handwritten signatures.

The burden created by the information collection provision of this regulation is a one-time burden associated with the creation of standard operating procedures, validation, and certification. The Agency anticipates the use of electronic media will substantially reduce the paperwork burden associated with maintaining FDA required records. The respondents are businesses and other for-profit organizations, State or local governments, Federal Agencies, and nonprofit institutions.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
11.100—General Requirements	4,500	1	4,500	1	4,500

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—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
11.10—Controls for closed systems	2,500	1	2,500	20	50,000
11.30—Controls for open systems	2,500	1	2,500	20	50,000
11.50—Signature manifestations	4,500	1	4,500	20	90,000
11.300—Controls for identification codes/passwords	4,500	1	4,500	20	90,000
Total					280,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: March 24, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–06918 Filed 3–27–14; 8:45 am]

BILLING CODE 4160–01–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; PAR Panel:

Multidisciplinary Studies of HIV/AIDS and Aging.

Date: April 3, 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: Robert Freund, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov.*

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; Member Conflict: AIDS and AIDS Related Research.

Date: April 8–9, 2014.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Robert Freund, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov.*

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; AIDS and AIDS Related Research.

Date: April 10, 2014.

Time: 10:00 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mark P Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1775, *rubertm@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; RFA RM13–007: New Innovator Award.

Date: April 24–25, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Rajiv Kumar, Ph.D., Chief, MOSS IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4216, MSC 7802, Bethesda, MD 20892, 301–435–1212, *kumarra@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Skeletal Muscle Biology and Soft Tissue Musculoskeletal Rehabilitation.

Date: April 25, 2014.

Time: 11:00 a.m. to 3:00 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: Daniel F McDonald, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7814, Bethesda, MD 20892, (301) 435–1215, *mcdonald@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: March 24. 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–06925 Filed 3–27–14; 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; Member Conflict: AIDS and AIDS Related Research.

Date: April 1, 2014.

Time: 11:30 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: Robert Freund, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov.*

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; Member Conflicts: Atherosclerosis and Inflammation of the Cardiovascular System.

Date: April 1, 2014.

Time: 3:00 p.m. to 6:00 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: Natalia Komissarova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, MSC 7846, Bethesda, MD 20892, 301–435–1206, *komissar@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, 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: March 24, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–06926 Filed 3–27–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel; NEI Load Repayment.

Date: April 16, 2014.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892.

Contact Person: Brian Hoshaw, Ph.D., Scientific Review Officer, National Eye

Institute, National Institutes of Health, Division of Extramural Research, 5635 Fishers Lane, Suite 1300, Rockville, MD 20892, 301–451–2020, *hoshawb@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: March 24, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–06927 Filed 3–27–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; COBRE Grant Applications.

Date: April 10, 2014.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room 3An.18, Bethesda, MD 20892.

Contact Person: Lisa A. Dunbar, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.12B, Bethesda, MD 20892, 301–594–2769, *dunbarl@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: *March 24, 2014.*

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–06928 Filed 3–27–14; 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: Access to Recovery (ATR) Program (OMB No. 0930–0266)—Extension

The Center for Substance Abuse Treatment (CSAT) is charged with the Access to Recovery (ATR) program which will allow grantees (States, Territories, the District of Columbia and Tribal Organizations) a means to implement voucher programs for substance abuse clinical treatment and recovery support services. The ATR program is part of a Presidential initiative to: (1) Provide client choice among substance abuse clinical treatment and recovery support service providers, (2) expand access to a comprehensive array of clinical treatment and recovery support options (including faith-based programmatic options), and (3) increase substance abuse treatment capacity. Monitoring outcomes, tracking costs, and preventing waste, fraud and abuse to ensure accountability and effectiveness in the use of Federal funds are also important elements of the ATR program. Grantees, as a contingency of their award, are responsible for collecting Voucher Information (VI) and Voucher Transaction (VT) data from their clients.

The primary purpose of this data collection activity is to meet the reporting requirements of the Government Performance and Results Act (GPRA) by allowing SAMHSA to quantify the effects and accomplishments of SAMHSA programs. The following table is an estimated annual response burden for this effort.

ESTIMATES OF ANNUALIZED HOUR BURDEN

Center/form/respondent type	Number of respondent	Responses per respondent	Total responses	Hours per response	Total hour burden
Voucher information and transaction	53,333	1.5	80,000	.03	2,400

Written comments and recommendations concerning the proposed information collection should be sent by April 28, 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. 2014–06900 Filed 3–27–14; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2014–0093]

Information Collection Request to Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICRs) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision to the following collection of information: 1625–0082, Navigation Safety Information and Emergency Instructions for Certain Towing Vessels. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before May 27, 2014.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2014–0093] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT). To avoid duplicate submissions, please use only one of the following means:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(3) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251. To ensure your comments are received in a timely manner, mark the fax, to attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICR(s) are available through the docket on the Internet at *http://www.regulations.gov*. Additionally, copies are available from: Commandant (CG–612), Attn Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE., STOP 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents. Contact Ms. Cheryl Collins, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether these ICRs should be granted based on the Collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collections; (2) the accuracy of the estimated burden of the Collections; (3) ways to enhance the quality, utility, and clarity of information subject to the Collections; and (4) ways to minimize the burden of the Collections on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise these ICRs or decide not to seek approval of revisions of the Collections. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2014–0093], and must be received by May 27, 2014. We will post all comments received, without change, to *http://www.regulations.gov*. They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

Submitting comments

If you submit a comment, please include the docket number [USCG–2014–0093], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (*via http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type ''USCG–2014–0093'' in the ''Search'' box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

Viewing comments and documents: To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov*, click on the ''read comments'' box, which will then become highlighted in blue. In the ''Search'' box insert ''USCG–2014–0093'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can search the electronic form of comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act statement regarding Coast Guard public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Information Collection Request

1. *Title:* Navigation Safety Information and Emergency Instructions for Certain Towing Vessels.

OMB Control Number: 1625–0082.

Summary: Navigation safety regulations in 33 CFR part 164 help assure that the mariner piloting a towing vessel has adequate equipment, charts, maps, and other publications. For inspected towing vessels, under 46 CFR part 199.80 a muster list and emergency instructions provide effective plans and references for crew to follow in an emergency situation.

Need: The purpose of the regulations is to improve the safety of towing vessels and the crews that operate them.

Forms: N/A.

Respondents: Owners, operators and masters of vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has decreased from 410,465 hours to 345,620 hours a year due to a decrease in the number of respondents.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: March 19, 2014.

R.E. Day,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2014–06708 Filed 3–27–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2013–1049]

Lifeboat Release Mechanisms

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability; request for public comments.

SUMMARY: The Coast Guard announces the availability of a policy letter regarding a recent International Maritime Organization amendment to Chapter III of the International Convention for the Safety of Life At Sea, 1974 (SOLAS). The amendment requires all SOLAS ships, regardless of build date, to identify and replace existing lifeboat on-load release mechanisms that do not comply with certain provisions of the International Life-Saving Appliance (LSA) Code. Compliance is required no later than the next scheduled dry-docking after July 1, 2014, but in any case before July 1, 2019. The amendment does not apply to the release mechanisms on free-fall lifeboats. Any U.S. ship subject to SOLAS that operates on international voyages without complying with the amendment past the applicable compliance date may be subject to detention by foreign port state officials and other administrative action by foreign authorities.

DATES: The amendment to SOLAS Chapter III promulgated as IMO Resolution MSC.317(89) became effective on January 1, 2013. Comments and related material must either be submitted to our online docket via *http://www.regulations.gov* on or before April 28, 2014 or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG–2013–1049 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329. To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice or the policy, contact Mr. George Grills, Commercial Regulations and Standards Directorate, Office of Design and Engineering Standards, Lifesaving and Fire Safety Division (CG–ENG–4), Coast Guard, telephone 202–372–1385, or email *TypeApproval@uscg.mil*. If you have questions on viewing material in the docket, call Ms. Barbara Hairston, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation

You may submit comments and related materials regarding this proposed policy. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting comments: If you submit a comment, please include the docket number for this notice (USCG–2013–1049) and provide a reason for each suggestion or recommendation. You may submit your comments and materials online or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission. To submit your comment online, go to *http://www.regulations.gov* and use ''USCG–2013–1049'' as your search term. Locate this notice in the results and click the corresponding ''Comment Now'' box to submit your comment. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Viewing the comments: To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov* and use ''USCG–2013–1049'' as your search term. Use the filters on the left side of the page to highlight ''Public Submissions'' or other document types. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act: Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act system of records notice regarding our public dockets in the

January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Background and Purpose

SOLAS Regulation III/1.5

On May 20, 2011, the IMO's Maritime Safety Committee adopted Resolution MSC.317(89). This resolution promulgated new SOLAS Regulation III/1.5, which entered into force on January 1, 2013. Regulation III/1.5 requires all SOLAS ships, regardless of build date, to identify and replace existing on-load release mechanisms that do not comply with paragraphs 4.4.7.6.4 to 4.4.7.6.6 of the IMO LSA Code with compliant release mechanisms, no later than the next scheduled dry-docking after July 1, 2014, but in any case before July 1, 2019. Regulation III/1.5 does not apply to the release mechanisms on free-fall lifeboats. This SOLAS amendment potentially affects the release mechanisms for any existing SOLAS lifeboats, and some SOLAS rescue boats, installed on U.S. ships subject to SOLAS.

IMO MSC.1/Circ.1392

In support of new SOLAS regulation III/1.5, IMO's Maritime Safety Committee, at the same session it approved Resolution MSC.317(89), promulgated IMO Circular MSC.1/Circ.1392 (Circular 1392) under the title, ''Guidelines for Evaluation and Replacement of Lifeboat Release and Retrieval Systems.'' The purpose of Circular 1392 is to provide flag administrations, ship owners, and manufacturers of lifeboat release and retrieval systems a detailed process to achieve compliance with Regulation III/1.5. Circular 1392 outlines five major steps in evaluating existing lifeboat release and retrieval systems: (1) A design review; (2) a performance test; (3) a process for flag states to report to the IMO compliant and non-compliant systems; (4) procedures for replacement of non-compliant lifeboat release and retrieval systems; and (5) a one-time follow-up overhaul examination for existing systems.

A copy of Circular 1392 is available for viewing in the public docket for this notice. You may also download Circular 1392 from *http://www.imo.org* by clicking the following succession of links: ''Our Work,'' ''Circulars,'' and ''Browse Circulars available at IMODOCS.'' Public users will need to establish a user name and password to access the Circular.

CG–ENG Policy Letter

The Coast Guard has not adopted domestic regulations to implement Regulation III/1.5. The Coast Guard strongly urges voluntary compliance on the part of U.S. ships subject to SOLAS because any such ship that operates on international voyages without complying with Regulation III/1.5 past the applicable compliance date may be subject to detention or other administrative action by foreign port state officials.

A new CG–ENG policy letter is available in the docket for this notice. It provides guidance to enable U.S. ships subject to SOLAS to remain in compliance with SOLAS as amended by Resolution MSC.317(89), including detailed procedures to comply with the new requirements in Resolution MSC.317(89) and the guidance in Circular 1392.

The Coast Guard recognizes that Circular 1392 contains valuable safety improvements. Therefore, the Coast Guard recommends voluntary compliance with the guidelines in Circular 1392 for U.S. non-SOLAS ships, MODUs, and offshore facilities that carry lifeboats and rescue boats fitted with certain release mechanisms, as described in the Circular. We seek comments from the public on the application of Circular 1392 to U.S. vessels not subject to SOLAS.

The guidance contained in this notice is not a substitute for applicable legal requirements, nor is it itself a rule. It is not intended to nor does it impose legally binding requirements on any party. It represents the Coast Guard's current thinking on this topic and provides the public with an indication of current and future action being considered by the Coast Guard.

Authority

This notice is issued under the authority of 5 U.S.C. 552(a).

Dated: March 13, 2014.

Jeffrey G. Lantz,

Director, Commercial Regulations and Standards.

[FR Doc. 2014–06975 Filed 3–27–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2013–1078]

National Offshore Safety Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Notice of Federal Advisory Committee Meetings.

SUMMARY: The National Offshore Safety Advisory Committee (NOSAC) will meet on April 16 and 17, 2014, in New Orleans, LA, to discuss various issues related to safety of operations and other matters affecting the oil and gas offshore industry. These meetings are open to the public.

DATES: Subcommittees of NOSAC will meet on Wednesday, April 16, 2014 from 1 p.m. to 5 p.m. and the full Committee will meet on Thursday, April 17, 2014, from 8:30 a.m. to 4 p.m. Please note these meetings may close early if the Committee has completed its business or be extended based on the number of public comments. All submitted written materials, comments, and request to make oral presentations at the meetings should reach Mr. Scott Hartley, Alternate Designated Federal Officer (ADFO) for NOSAC no later than April 1, 2014. For contact information, please see the **FOR FURTHER INFORMATION CONTACT** section below. Any written material submitted by the public will be distributed to the Committee and become part of the public record.

ADDRESSES: The meetings will be held at the Wyndham Riverfront New Orleans Hotel, 701 Convention Boulevard, New Orleans, LA 70130, 1–504–681–1053, *http://www.wyndham.com/hotels/louisiana/new-orleans/wyndham-riverfront-new-orleans/hotel-overview.* The April 16, 2014 afternoon Subcommittee meetings will be held in the Bacchus B Conference Room. The April 17, 2014 full Committee meeting will be held in the Bacchus Conference Room.

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the person listed in **FOR FURTHER INFORMATION CONTACT** section, as soon as possible.

To facilitate public participation we are inviting public comment on the issues to be considered by the committee as listed in the ''Agenda'' section below. Written comments must be submitted no later than April 1, 2014, and must be identified by Docket Number USCG–2013–1078 and submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments (Preferred method to avoid delays in processing).
- *Fax:* (202) 372–8382. Include the docket number (USCG–2013–1078) on the subject line of the fax.
- *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey

Avenue SE., Washington, DC 20590–0001.

• *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

• To avoid duplication, please use only one of these methods.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. All comments submitted will be posted without alteration at *http://www.regulations.gov* including any personal information provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov,* insert USCG–2013–1078 in the Search box, press Enter, and then click on the item you wish to view.

A public comment period will be held during the meeting on April 17, 2014, and speakers are requested to limit their comments to 3 minutes. Please note that the public comment period may 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: Commander Robert Smith III, Designated Federal Official (DFO) of NOSAC, Commandant (CG–OES–2), U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509; telephone (202) 372–1410, fax (202) 372–8382 or email *Robert.L.Smith@uscg.mil,* or Mr. Scott Hartley, telephone (202) 372–1437, fax (202) 372–8382 or email *Scott.E.Hartley@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: Notice of this meeting is given under the *Federal Advisory Committee Act,* 5 U.S.C. Appendix 2 (Pub. L. 92–463). NOSAC provides advice and recommendations to the Department of Homeland Security on matters and actions concerning activities directly involved with or in support of the exploration of offshore mineral and energy resources insofar as they relate to matters within U.S. Coast Guard jurisdiction.

A copy of all meeting documentation is available at *https://homeport.uscg.mil/NOSAC.* Alternatively, you may contact Mr. Scott Hartley as noted in the **FOR FURTHER INFORMATION CONTACT** section below.

Agenda

Day 1

NOSAC Subcommittees will meet on April 16, 2014 between 1 p.m. and 4 p.m. to review, discuss and formulate recommendations on the following matters:

(1) Commercial Diving Safety on the Outer Continental Shelf (OCS);

(2) Safety and Environmental Management Systems for vessels on the OCS; and

(3) Marine Casualty Reporting on the OCS.

Day 2

NOSAC will meet on April 17, 2014 to review and discuss progress reports and or final reports and recommendations received from the above listed Subcommittees from their deliberations on April 16. The Committee will then use this information and consider public comments in formulating recommendations to the U.S. Coast Guard. Public comments or questions will be taken at the discretion of the DFO during the discussion and recommendation portion of the meeting as well as during public comment period, see Agenda item (7). A complete agenda for April 17 is as follows:

(1) Current Business—Presentation and discussion of progress reports and or final reports and any recommendations from the Subcommittees and subsequent actions on:

(a) Commercial Diving Safety on the Outer Continental Shelf;

(b) Safety and Environmental Management Systems for vessels on the OCS; and

(c) Marine Casualty Reporting on the OCS.

(2) New Business—Introduction of new Task Statements by the Coast Guard:

(a) Offshore Supply Vessel (OSV) Purpose and Offshore Workers; and

(b) Training of personnel on Mobile Offshore Units and

OSVs working on the Outer Continental Shelf.

(3) Biannual Report of Coast Guard Action/Disposition on NOSAC Final Reports;

(4) International Association of Drilling Contractors Health Safety and Environmental Case Guidelines for Mobile Offshore Drilling Units: What they are—and aren't Presentation;

(5) Standards, Training, Credentialing and Watchkeeping Implementation Presentation; and

(6) Oil Companies International Marine Forum (OCIMF) Offshore Vessel Inspection Database Presentation.

(7) Public comment period.

The agenda, progress reports and or draft final reports, new task statements and presentations will be available approximately 7 days prior to the meeting at the *https://homeport.uscg.mil/NOSAC* Web site or by contacting Mr. Scott Hartley.

Minutes

Minutes from the meeting will be available for public view and copying within 90 days following the meeting at the *https://homeport.uscg.mil/NOSAC* Web site.

Notice of Future 2014 NOSAC Meetings

To receive automatic email notices of future NOSAC meetings in 2014, go to the online docket, USCG–2013–1078 (*http://www.regulations.gov/#!docketDetail:D=USCG-2013-1078*), and select the sign-up-for-email-alerts option. We plan to use the same docket number for all NOSAC meeting notices in 2014, so when the next meeting notice is published you will receive an email alert from *www.regulations.gov* when the notice appears in this docket.

Dated: March 24, 2014.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2014–06859 Filed 3–27–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2013–0051; OMB No. 1660–0127]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Logistics Capability Assistance Tool (LCAT)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort and resources used by

respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before April 28, 2014.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or email address *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: Logistics Capability Assistance Tool (LCAT).

Type of information collection: Revision of a currently approved information collection.

OMB Number: 1660–0127.

Form Titles and Numbers: FEMA Form 008–0–1, State Content Guide (formerly LCAT Booklet); FEMA Form 008–0–2, Local Content Guide; FEMA Form 008–0–3, Tribal Content Guide.

Abstract: The Logistics Capability Assistance Tool (LCAT) is a voluntary maturity model for State, local, and Tribal entities to self-assess their disaster logistics planning and response capabilities and identify areas of relative strength and weakness. The LCAT is facilitated through two-day collaborative sessions and is hosted by the requesting emergency management agency's office. FEMA provides the emergency management agencies with a detailed analysis report and roadmap for continuous improvement if the State, local, or Tribal entity decides to share the outcome.

Affected Public: State, local, or Tribal Government.

Estimated Number of Respondents: 41.

Estimated Total Annual Burden Hours: 363 hours.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $15,843.36. There are no annual costs to respondents operations and maintenance costs for technical services. There is no annual start-up or capital costs. The cost to the Federal Government is $252,340.00.

Dated: March 18, 2014.

Charlene D. Myrthil,

Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2014–06940 Filed 3–27–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3368–EM; Docket ID FEMA–2014–0003]

Georgia; Amendment No. 1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Georgia (FEMA–3368–EM), dated February 11, 2014, and related determinations.

DATES: *Effective Date:* February 12, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of an emergency declaration for the State of Georgia is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared an emergency by the President in his declaration of February 11, 2014.

Baldwin, Bibb, Bleckley, Burke, Butts, Clayton, Columbia, Coweta, Crawford, Emanuel, Fayette, Glascock, Greene, Hancock, Heard, Henry, Houston, Jasper, Jefferson, Jenkins, Johnson, Jones, Lamar, Laurens, McDuffie, Meriwether, Monroe, Morgan, Newton, Peach, Pike, Putnam, Richmond, Rockdale, Screven, Spalding, Taliaferro, Treutlen, Troup, Twiggs, Upson, Warren, Washington, and Wilkinson Counties for emergency protective measures (Category B), limited to direct federal assistance, under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–06939 Filed 3–27–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3367–EM; Docket ID FEMA–2014–0003]

Pennsylvania; Amendment No. 1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the Commonwealth of Pennsylvania (FEMA–3367–EM), dated February 6, 2014, and related determinations.

DATES: *Effective Date:* February 20, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this emergency is closed effective February 20, 2014.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–06934 Filed 3–27–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3368–EM; Docket ID FEMA–2014–0003]

Georgia; Amendment No. 2 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Georgia (FEMA–3368–EM), dated February 11, 2014, and related determinations.

DATES: *Effective Date:* February 12, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of an emergency declaration for the State of Georgia is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared an emergency by the President in his declaration of February 11, 2014.

Bulloch and Candler Counties for emergency protective measures (Category B), limited to direct federal assistance, under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–06935 Filed 3–27–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3367–EM; Docket ID FEMA–2014–0003]

Pennsylvania; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the Commonwealth of Pennsylvania (FEMA–3367–EM), dated February 6, 2014, and related determinations.

DATES: *Effective Date:* February 6, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated February 6, 2014, the President issued an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the emergency conditions in certain areas of the Commonwealth of Pennsylvania resulting from a severe winter storm beginning on February 4, 2014, and continuing, are of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (''the Stafford Act''). Therefore, I declare that such an emergency exists in the Commonwealth of Pennsylvania.

You are authorized to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act, to save lives and to protect property and public health and safety, and to lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to provide assistance for emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program.

Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs. In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, Donald L. Keldsen, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

The following areas of the Commonwealth of Pennsylvania have been designated as adversely affected by this declared emergency:

Bucks, Chester, Delaware, Lancaster, Montgomery, Philadelphia, and York Counties for emergency protective measures (Category B), limited to direct federal assistance, under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–06938 Filed 3–27–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Intertek USA, Inc., as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Intertek USA, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc., has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of June 26, 2013.

DATES: *Effective Dates:* The accreditation and approval of Intertek

USA, Inc., as commercial gauger and laboratory became effective on June 26, 2013. The next triennial inspection date will be scheduled for June 2016.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Intertek USA, Inc., 116 Bryan Rd., Suite 101, Wilmington, NC 28412, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Intertek USA, Inc. is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank gauging.
7	Temperature determination.
8	Sampling.
9	Density Determinations.
12	Calculations.
17	Maritime measurement.

Intertek USA, Inc. is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–48	ASTM D–4052	Standard test method for density and relative density of liquids by digital density meter.
27–08	ASTM D–86	Standard test method for distillation of petroleum products at atmospheric pressure.
27–11	ASTM D–445	Standard test method for kinematic viscosity of transparent and opaque liquids (and calculations of dynamic viscosity).
27–57	ASTM D–7039	Standard Test Method for Sulfur in Gasoline and Diesel Fuel by Monochromatic Wavelength Dispersive X-Ray Fluorescence Spectrometry.
27–58	ASTM D–5191	Standard test method for vapor pressure of petroleum products (mini-method).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories*.

Date: March 24, 2014.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2014–06990 Filed 3–27–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

United States Immigration and Customs Enforcement

Agency Information Collection Activities: Comment Request; Extension of an Information Collection

ACTION: 60-Day Notice of Information Collection for review; Student and Exchange Visitor Information System (SEVIS); OMB Control No. 1653–0038.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (USICE), is submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty day until May 27, 2014.

Written comments and suggestions regarding items contained in this notice and especially with regard to the estimated public burden and associated response time should be directed to the Office of Chief Information Office, Forms Management Office, U.S. Immigrations and Customs Enforcement, 801 I Street NW., Mailstop 5800, Washington, DC 20536–5800.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Student and Exchange Visitor Information System (SEVIS).

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security*

sponsoring the collection: Forms I–17 and I–20; U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Non-profit institutions and individuals or households.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

Number of respondents	Form name/Form No.	Avg. burden per response (in hours)
280,000	Certificate of Eligibility for Nonimmigrant (F–1) Student Status—For Academic and Language Students/ICE Form I–20 (Students).	0.5
90,000	Certificate of Eligibility for Nonimmigrant (M–1) Student Status—For Academic and Language Students/ICE Form I–20 (Spouse/Dependents).	0.5
280,000	Optional Practical Training 12 Month Request/No Form	0.083
12,000	Optional Practical Training 17 Month Extension Request/No Form	0.083
5,525	Maintenance of SEVP Certification/ICE Form I–17	4

(6) *An estimate of the total public burden (in hours) associated with the collection:* 557,816 annual burden hours.

Dated: March 24, 2014.

Scott Elmore,

Program Manager, Forms Management Office, Office of the Chief Information Officer, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2014–06903 Filed 3–27–14; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5750–N–13]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, and suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Ritta, Ms. Theresa M. Ritta, Chief Real Property Branch, the Department of Health and Human Services, Room 5B–17, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2265 (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Ann Marie Oliva at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: AGRICULTURE: Ms. Debra Kerr, Department of Agriculture, Reporters Building, 300 7th Street SW., Room 300, Washington, DC 20024, (202) 720–8873; AIR FORCE: Ms.

Connie Lotfi, Air Force Real Property Agency, 143 Billy Mitchell Blvd., San Antonio, TX 78226, (210) 925–3047; ARMY: Ms. Veronica Rines, Office of the Assistant Chief of Staff for Installation Management, Department of Army, Room 5A128, 600 Army Pentagon, Washington, DC 20310, (571) 256–8145; COE: Mr. Scott Whiteford, Army Corps of Engineers, Real Estate, CEMP–CR, 441 G Street NW., Washington, DC 20314; (202) 761–5542; ENERGY: Mr. David Steinau, Department of Energy, Office of Property Management, 1000 Independence Ave SW., Washington, DC 20585 (202) 287–1503; (These are not toll-free numbers).

Dated: March 20, 2014.

Mark Johnston,

Deputy Assistant Secretary for Special Needs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 03/28/2014

Suitable/Available Properties

Building

California

Batterson Kitchen (FS28016)
43060 Hwy 41
Oakhurst CA
Landholding Agency: Agriculture
Property Number: 15201410009
Status: Excess
Directions: Updated comments from the March 21 **Federal Register** publication
Comments: off-site removal only; 1,047 sq. ft.; 30+ yrs.-old; current conditions pose a safety hazard; security concerns; contact Agriculture for more information

Illinois

25 Blackhawk-Lab 8 House
Fermi Nat'l Accelerator Lab
Batavia IL 60510
Landholding Agency: Energy
Property Number: 41201410010
Status: Excess
Comments: off-site removal only; secured area; contact Energy for more information

Washington

Boat Ramp Restroom
5520 Devils Canyon Rd.
Kahlotus WA 99335
Landholding Agency: COE
Property Number: 31201410007
Status: Unutilized
Comments: off-site removal only; no future agency need; removal maybe difficult due to structure type; 410 sq.; 39+ months vacant; good conditions; secured area; contact COE for more info.

03221
Joint Base Lewis McChord
JBLM WA 98433
Landholding Agency: Army
Property Number: 21201410039
Status: Underutilized
Comments: off-site removal only; still existing Federal need; dissemble may be required; 33,460 sq. ft.; may be difficult to relocate due to sq. ft. & structure type; contact Army for more info.

Unsuitable Properties

Building

Alaska

10286 & 24301
Joint Base Elmendorf-Richardson
JBER–E AK 99506
Landholding Agency: Air Force
Property Number: 18201410024
Status: Unutilized
Comments: public access denied and no alternative method to gain access w/out compromising national security
Reasons: Secured Area
Building 7135
Joint Base Elmendorf-Richardson
JBER–E AK 99506
Landholding Agency: Air Force
Property Number: 18201410025
Status: Underutilized
Comments: public access denied and no alternative method to gain access w/out compromising national security
Reasons: Secured Area

New Mexico

2 Buildings
Kirtland AFB
Kirtland AFB NM 87117
Landholding Agency: Air Force
Property Number: 18201410023
Status: Underutilized
Directions: 28030, 30114
Comments: public access denied and no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

[FR Doc. 2014–06851 Filed 3–27–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Billing Code: 14XE1700DX EX1SF0000.DAQ000 EEEE010000]

Notice of Voluntary Confidential Near-Miss Reporting System Public Workshop

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of the Interior's Bureau of Safety and Environment Enforcement (BSEE) and the Department of Transportation's Bureau of Transportation Statistics (BTS) have signed an interagency agreement to have BTS develop a Voluntary Confidential Near-Miss Reporting System for use on the Outer Continental Shelf (OCS). The BTS will maintain control of the individual confidential reports but will provide trend analysis and aggregated data to BSEE and the public. The BSEE is announcing two public workshops to discuss the Voluntary Confidential Near-Miss Reporting System.

DATES: The workshops will be held on April 22, 2014, between 9:00 a.m. and 1:00 p.m. (Pacific Standard Time) and on April 24, 2014, between 9:00 a.m. and 1:00 p.m. (Central Standard Time).

FOR FURTHER INFORMATION CONTACT: Andre King, Office of Offshore Regulatory Programs, 703–787–1845, email: *andre.king@bsee.gov.*

SUPPLEMENTARY INFORMATION: In August 2013, BSEE and BTS signed an interagency agreement to develop a Voluntary Confidential Near-Miss Reporting System for use on the Outer Continental Shelf (OCS). The BTS will maintain control of the individual confidential reports but will provide trend analysis and aggregated data to BSEE and the public The goals of the Voluntary Confidential Near Miss Reporting System are (a) to provide BSEE, offshore companies and workers and all other OCS stakeholders with an opportunity to confidentially submit essential information to BTS about accident precursors and hazards associated with OCS oil and gas operations and (b) to provide all stakeholders with aggregated data and analysis that—in conjunction with incident reports and other sources of information can be used to reduce those hazards and continue building a more robust OCS safety culture.

The BSEE is announcing two public workshops to discuss the Voluntary Confidential Near-Miss Reporting System. The workshops will include presentations by BSEE and BTS and a time for questions and discussion. The purpose of the workshops is to provide the offshore oil and gas industry and other stakeholders with an understanding of the Voluntary Confidential Near Miss Reporting program and an opportunity to contribute to the development of the program. The first workshop will be held on April 22, 2014, at the Radisson Hotel at Los Angeles Airport 6225 W. Century Blvd. Los Angeles, CA 90045. The second workshop will be held on April 24, 2014, at the Houston Airport Marriott at George Bush International, 18700 John F. Kennedy Blvd. Houston, TX 77032.

If you are planning to attend the workshop, BSEE and BTS request that you register by April 11, 2014 at the following web address: *http://www.bsee.gov/near-miss-workshop/.*

Douglas W. Morris,

Chief, Office of Offshore Regulatory Programs, Bureau of Safety and Environmental Enforcement.

[FR Doc. 2014–07010 Filed 3–27–14; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R7–FHC–2014–N022; FF07CAMM00–FX–FR133707PB000]

Marine Mammals; Letters of Authorization to Take Pacific Walrus and Polar Bears, Beaufort and Chukchi Seas, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance.

SUMMARY: In accordance with the Marine Mammal Protection Act of 1972, as amended (MMPA), the U.S. Fish and Wildlife Service (Service) has issued letters of authorization for the nonlethal take of polar bears and Pacific walrus incidental to oil and gas industry exploration, development, and production activities in the Beaufort Sea and the adjacent northern coast of Alaska and incidental to oil and gas industry exploration activities in the Chukchi Sea and the adjacent western coast of Alaska. These letters of authorization stipulate conditions and methods that minimize impacts to polar bears and Pacific walrus from these activities.

FOR FURTHER INFORMATION CONTACT: Craig Perham at the U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, MS 341, Anchorage, AK 99503; (800) 362–5148 or (907) 786–3810.

SUPPLEMENTARY INFORMATION: On August 3, 2011, we published in the **Federal Register** a final rule (76 FR 47010) establishing regulations that allow us to authorize the nonlethal, incidental, unintentional take of small numbers of polar bears and Pacific walrus during year-round oil and gas industry exploration, development, and production activities in the Beaufort Sea and adjacent northern coast of Alaska. The rule established subpart J in part 18 of title 50 of the Code of Federal Regulations (CFR) and is effective through August 3, 2016. The rule prescribed a process under which we issue Letters of Authorization (LOAs) to applicants conducting activities as described under the provisions of the regulations.

Each LOA stipulates conditions or methods that are specific to the activity and location. Holders of LOAs must use methods and conduct activities in a manner that minimizes to the greatest extent practicable adverse impacts on Pacific walrus and polar bears and their habitat, and on the availability of these marine mammals for subsistence purposes. Intentional take and lethal incidental take are prohibited.

In accordance with section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) and our regulations at 50 CFR part 18, subpart J, we issued LOAs to each of the following companies in the Beaufort Sea and adjacent northern coast of Alaska:

BEAUFORT SEA LETTERS OF AUTHORIZATION

Company	Activity	Project	Date issued
Alyeska Pipeline Service Company	Production	Trans-Alaska Pipeline Operation & Maintenance	December 1, 2013.
BP Exploration Alaska, Inc.	Development	Liberty Development Project	March 18, 2013.
BP Exploration Alaska, Inc.	Exploration	Foggy Island Geotechnical Survey	July 3, 2013.
CGG Land US, Inc.	Exploration	Winter Seismic Survey	January 2, 2014.
ConocoPhillips Alaska, Inc.	Development	Alpine Drillsite Expansion	December 5, 2013.
ConocoPhillips Alaska, Inc.	Exploration	NPR–A Exploration	December 5, 2013.
Eni US Operating Co., Inc.	Production	Nikaitchuq Development Project	August 2, 2013.
ExxonMobil Production Company	Development	Point Thomson Project	February 1, 2013.
ExxonMobil Production Company	Development	Point Thomson Project	January 24, 2014.
Great Bear Petroleum, LLC	Exploration	Great Bear Exploration and Evaluation Program	September 30, 2013.
Olgoonik Development, LLC	Development	Camp Lonely Cleanup Project	April 17, 2013.
Olgoonik Fairweather, LLC	Exploration	Beaufort Sea Baseline Environmental Studies	August 1, 2013.
Olgoonik Fairweather, LLC	Exploration	Marine Fish Transboundary Cruise Environmental Studies Program.	August 13, 2013.
Pioneer Natural Resources Alaska, Inc.	Development	Nuna Development Program	April 24, 2013.
Repsol E&P USA, Inc.	Exploration	Colville River Delta Winter Drilling	March 6, 2013.
Repsol E&P USA, Inc.	Exploration	Colville River Delta Winter Drilling	December 1, 2013.
SAExploration, Inc., LLC	Exploration	Colville River Delta 3–D Seismic Survey	July 1, 2013.
SAExploration, Inc., LLC	Exploration	North Slope Winter 3–D Seismic Survey	January 1, 2014.
Veritas	Exploration	Winter/Spring Dalton 3–D Seismic Survey	February 1, 2013.

On June 12, 2013, we published in the **Federal Register** a final rule (78 FR 35364) establishing regulations that allow us to authorize the nonlethal, incidental, unintentional take of small numbers of polar bears and Pacific walrus during year-round oil and gas industry exploration activities in the Chukchi Sea and adjacent western coast of Alaska. The rule established subpart I of 50 CFR part 18 and is effective until June 11, 2018. The process under which we issue LOAs to applicants and the requirements that the holders of LOAs must follow is the same as described above for LOAs issued under 50 CFR 18, subpart J.

In accordance with section 101(a)(5)(A) of the MMPA and our regulations at 50 CFR 18, subpart I, we issued LOAs to the following companies in the Chukchi Sea:

CHUKCHI SEA LETTERS OF AUTHORIZATION

Company	Activity	Project	Date issued
Olgoonik Fairweather, LLC	Exploration	Chukchi Sea Baseline Environmental Studies Program	August 1, 2013.

CHUKCHI SEA LETTERS OF AUTHORIZATION—Continued

Company	Activity	Project	Date issued
Shell Offshore, Inc.	Exploration	Chukchi Sea Open Water Marine Survey Program	June 28, 2013.
TGS	Exploration	2–D Marine Seismic Survey	June 28, 2013.

Dated: March 21, 2014.

Geoffrey L. Haskett,

Regional Director, Alaska Region.

[FR Doc. 2014–06976 Filed 3–27–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–11774–A, AA–11774–S, AA–11775–A, AA–11775–B, AA–11775–C, AA–11775–D, AA–11775–F, AA–11775–G, AA–11775–H, AA–11775–I, AA–11775–J, AA–11775–K, AA–11775–L, AA–11775–M, AA–11775–N, AA–11775–O, AA–11775–P, AA–11775–R, LLAK–944000–L14100000–HY0000–P]

Alaska Native Claims Selections

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Decision Approving Lands for Conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that the Bureau of Land Management (BLM) will issue an appealable decision to Koniag, Inc. The decision will approve conveyance of the surface and subsurface estates in certain lands pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*). The lands are located east of Ugashik, Alaska, and aggregate 238.04 acres. Notice of the decision will also be published once a week for four consecutive weeks in the *Anchorage Daily News.*

DATES: Any party claiming a property interest in the lands affected by the decision may appeal the decision in accordance with the requirements of 43 CFR part 4 within the following time limits:

1. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who fail or refuse to sign their return receipt, and parties who receive a copy of the decision by regular mail which is not certified, return receipt requested, shall have until April 28, 2014 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4 shall be deemed to have waived their rights. Notices of appeal transmitted by electronic means, such as facsimile or email, will not be accepted as timely filed.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, AK 99513–7504.

FOR FURTHER INFORMATION CONTACT: The BLM by phone at 907–271–5960 or by email at *blm_ak_akso_public_room@blm.gov*. Persons who use a Telecommunications Device for the Deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the BLM during normal business hours. In addition, the FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the BLM. The BLM will reply during normal business hours.

Dina L. Torres,

Land Transfer Resolution Specialist, Division of Lands and Cadastral.

[FR Doc. 2014–06946 Filed 3–27–14; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVL01000. L51100000.GN0000. LVEMF1302520; N91957; MO# 4500053094; TAS: 13X5017]

Second Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Gold Rock Mine Project, White Pine County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: The BLM's email account that was set up to receive scoping comments on the Gold Rock Mine Project Environmental Impact Statement (EIS) during the initial scoping period (September 5, 2013, through October 7, 2013) was deleted during the recent Federal Government shutdown. Therefore, this second notice for the Gold Rock Mine Project EIS is being issued to extend the scoping period, invite members of the public to submit comments, and request that anyone who submitted comments by email during the initial 30-day scoping period resubmit their comments.

In compliance with the National Environmental Policy Act of 1969, as amended, (NEPA) and the Federal Land Policy and Management Act (FLPMA) of 1976, as amended, the Bureau of Land Management (BLM) Egan Field Office, Ely, Nevada, intends to prepare an Environmental Impact Statement (EIS) and by this notice is announcing a 30-day extension of the public input period to solicit public comments and identify issues. The proposed project is located in White Pine County, about 50 miles west of Ely, in the Upper Railroad Valley.

DATES: This notice extends the public input period for the EIS. Comments may be submitted until April 28, 2014. In order to be included in the Draft EIS, all comments must be received prior to the close of this public comment period. No scoping meetings will be held during this 30-day extension of the public input period. We will provide additional opportunities for public participation upon publication of the Draft EIS.

ADDRESSES: You may submit comments related to the Gold Rock Mine Project by any of the following methods:

- The BLM's ePlanning Web site: *https://www.blm.gov/epl-front-office/eplanning/nepa/nepa_register.do*.
- Fax: 775–289–1910.
- Mail: BLM Ely District, Egan Field Office, HC 33 Box 33500, Ely, NV 89301–9408.

Documents pertinent to this proposal may be examined at the Egan Field Office, 702 N. Industrial Way, Ely, Nevada.

FOR FURTHER INFORMATION CONTACT: Dan Netcher, Project Manager, telephone: 775–289–1872; email: *dnetcher@blm.gov*. Contact Mr. Netcher if you wish to have your name added to our mailing list. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact Mr. Netcher. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The initial scoping period for the Gold Rock Mine Project EIS was announced in the

Federal Register on September 5, 2013 (78 FR 54674). Scoping meetings were announced at least 15 days in advance through local media, newspapers, the BLM Web site at *http://www.blm.gov/nv/st/en/fo/ely_field_office.html*, and the BLM's online ePlanning system, and were held on September 24, 25, and 26 in 2013, in Ely, Eureka, and Reno, Nevada, respectively.

On November 7, 2013, the BLM was informed that the email account set up to receive scoping comments on the Gold Rock Mine Project EIS, along with all of its contents, had been deleted and was not recoverable. On January 6, 2014, the BLM and the project proponent, Midway Gold US Inc. (Midway), decided to issue a second Notice of Intent (NOI) to extend the scoping period, invite the public to submit comments, and request that anyone who submitted scoping comments by email during the initial 30-day scoping period (September 5, 2013, through October 7, 2013) resubmit their comments by mail, by fax, or through the ePlanning system during this 30-day extension of the public input period.

No changes have been made to the proposed action. No scoping meetings will be held during this 30-day extension of the public input period, as these meetings were not affected by the technical difficulties with the email account.

Midway proposes to construct and operate an open-pit gold mining operation, which would include an open pit; a heap leach pad and associated ponds, process facility, and refinery; a mill; a carbon-in-leach (CIL) plant; waste rock dumps; a tailings storage facility; and ancillary facilities. The mine would be located on the eastern side of the Pancake Mountain Range, about 30 miles southeast of Eureka, 50 miles west of Ely and 15 miles south of U.S. Route 50. Electrical power would be obtained from Mt. Wheeler Power. For the Gold Rock Project, a 69-kV transmission line would be extended from the Pan Mine approximately 6 miles across the valley to tie into the west side of the Gold Rock Project electric system. A county road that currently passes through the project area would be relocated onto existing county and BLM roads. Currently, Midway is authorized to disturb up to 267 acres for exploration purposes. The proposed operations and associated disturbance would increase disturbance to 3,749 acres of public land managed by the BLM. The projected mining period is 10 years. Associated construction, closure, reclamation, and post-closure monitoring periods would extend the Project life for an estimated 38 years, to approximately 48 years. Midway is currently conducting exploration activities in this area which were analyzed in two environmental assessments (EAs): the *Midway Gold Rock Project Final Environmental Assessment* (June 2012), and the *Environmental Assessment for the Midway Gold Rock Project, Exploration Amendment* (October 2012).

A range of alternatives will be developed, including the no-action alternative, to address the issues identified during scoping. Mitigation measures will be considered to minimize environmental impacts and to assure the proposed action does not result in unnecessary or undue degradation of public lands.

The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the process for developing the EIS. At present, the BLM has identified the following preliminary issues:

(a) Potential effects to wild horses, which would include loss of habitat from surface disturbance and which could include mortality from collision with project-related vehicles on existing roads;

(b) Potential effects to greater sage-grouse, which would include loss of habitat from surface disturbance and which could include impacts to the species created by construction and operation in proximity to active sage-grouse leks;

(c) Potential effects to mule deer, which would include loss of habitat from surface disturbance habitat and which could include mortality from collision with project-related vehicles on existing access roads;

(d) Potential effects to employment and housing availability;

(e) Potential effects to archaeological resources in the area, which could include Carbonari (historical charcoal production) sites and the Lincoln Highway route;

(f) Potential effects to air quality created by the initiation of mining at the Gold Rock Mine Project;

(g) Potential effects to viewshed in and around areas of Visual Resources Management Classes III and IV from project construction and operation, including effects to night sky from nighttime operations; and

(h) Potential effects to recreational uses and users, which would include loss of access and loss of hunting areas.

The BLM will use the NEPA commenting process to help fulfill the public involvement requirements of Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) as provided for in 36 CFR 800.2(d)(3). Native American tribal consultations will be conducted in accordance with policy, and tribal concerns, including impacts on Indian trust assets, will be given due consideration. The BLM is in the process of determining the cooperating agencies. Federal, State, and local agencies, along with other stakeholders that may be interested or affected by the BLM's decision on this project are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate as a cooperating agency.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Jill A. Moore,

Field Manager, Egan Field Office.

Authority: 40 CFR 1501 and 43 CFR 3809.

[FR Doc. 2014–07005 Filed 3–27–14; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLIDT000000.L11200000.DD0000.241A.00]

Notice of Public Meetings, Twin Falls District Resource Advisory Council, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA), the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Twin Falls District Resource Advisory Council (RAC) will meet as indicated below.

DATES: The Twin Falls District Resource Advisory Council will participate in a field tour of a livestock grazing permittee's operation. The tour will take place April 23, 2014. RAC members will meet at the Twin Falls District Office, 2536 Kimberly Road, Twin Falls, Idaho, 83301 at 8:15 a.m. to travel to Hagerman for the field tour. A public comment period will take place from 9:45 a.m. to 10:15 a.m. at the Thousand Springs

Resort, (6 miles south of Hagerman), 18734 Hwy–30, Hagerman, ID 83332.

FOR FURTHER INFORMATION CONTACT: Heather Tiel-Nelson, Twin Falls District, Idaho, 2536 Kimberly Road, Twin Falls, Idaho, 83301, (208) 736–2352.

SUPPLEMENTARY INFORMATION: The 15-member RAC advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Idaho. The purpose of the April 23rd tour is to give RAC members an in depth look at the process a livestock grazing permittee follows to fulfill the parameters of their grazing permit.

Additional topics may be added and will be included in local media announcements. More information is available at *www.blm.gov/id/st/en/res/resource_advisory.3.html.* RAC meetings are open to the public.

Dated: March 19, 2014.

James Stovall,

District Manager (Acting).

[FR Doc. 2014–06907 Filed 3–27–14; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF ENERGY

[14X L1109AF LLWO300000 L14300000 PN0000]

Request for Information: West-Wide Energy Corridor Review

AGENCY: Bureau of Land Management, Interior; Forest Service, USDA; Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice.

SUMMARY: The U.S. Department of the Interior (DOI), Bureau of Land Management (BLM); U.S. Department of Agriculture, U.S. Forest Service (FS); and the U.S. Department of Energy (DOE), Office of Electricity Delivery and Energy Reliability, are seeking the information described in this notice related to the West-wide Energy Corridor Review.

DATES: Comments must be submitted by May 27, 2014.

ADDRESSES: You may submit comments electronically to *368corridors@blm.gov*. Entire comments, including any personal identifying information, may be made publicly available upon request. While respondents may request that personal identifying information be withheld from the public, the BLM, FS, and DOE (Agencies) cannot guarantee that they will be able to do so.

FOR FURTHER INFORMATION CONTACT: Stephen Fusilier, BLM, at 202–912–7426 or by email at *sfusilie@blm.gov*. Persons who use a telecommunications device for the deaf may call the Federal Information Relay Service at 800–877–8339 to contact Mr. Fusilier during normal business hours. The FIRS is available 24 hours per day, 7 days per week. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: On August 8, 2005, the President signed into law the Energy Policy Act of 2005 (EPAct) (42 U.S.C. 15801 *et seq.*). In Section 368 of the EPAct (42 U.S.C. 15926), Congress directed the Secretaries of Agriculture, Commerce, Defense, Energy, and the Interior (the Secretaries) to designate corridors for oil, gas, and hydrogen pipelines and electrical transmission and distribution facilities on Federal lands in the 11 contiguous Western states (Section 368 Corridors). The Secretaries were also directed to perform any environmental reviews required to complete the designation of Section 368 Corridors, incorporate the Section 368 Corridors into land use plans, and establish a process for identifying new Section 368 Corridors.

On January 14, 2009, the DOI approved a record of decision (ROD) that amended 92 BLM land use plans and designated approximately 5,000 miles of Section 368 Corridors on BLM-administered lands. The affected States are Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. The FS issued a ROD on January 14, 2009, which amended 38 FS land use plans and designated approximately 990 miles of Section 368 Corridors on National Forest System lands in 10 states. Both RODs adopted mandatory interagency operating procedures (IOP) for projects sited within the Section 368 Corridors.

On July 7, 2009, several nonprofit organizations filed a complaint in the United States District Court for the Northern District of California, *Wilderness Society* v. *United States Department of the Interior,* No. 3:09-cv-03048–JW, challenging the DOI and FS RODs pursuant to the EPAct, National Environmental Policy Act, Endangered Species Act, and the Administrative Procedure Act.

On July 11, 2012, the court approved a settlement agreement (Settlement) and dismissed the case. The Settlement set forth five provisions with the objective of ensuring that future Section 368 Corridor revisions, deletions, and additions consider the following principles: Location of Section 368 Corridors in favorable landscapes; facilitation of renewable energy projects where feasible; avoidance of environmentally sensitive areas to the maximum extent practicable; diminution of the proliferation of dispersed rights-of-way crossing the landscape; and improvement of the long-term benefits of reliable and safe transmission. The Settlement also provides that public input and an open and transparent process with engagement by tribes, States, local governments, and other interested parties occur as part of the process for making potential revisions, deletions, or additions to Section 368 Corridors.

Two of the Settlement provisions are relevant to this RFI: (1) Preparation of regional periodic reviews of designated Section 368 Corridors (Regional Periodic Reviews) and reviews of IOPs; and (2) Development of a corridor study to assess the overall usefulness of the Section 368 Corridors (Section 368 Corridor Study). Information referenced in this RFI can be found at *http://corridoreis.anl.gov.*

Purpose of the RFI

The purpose of this RFI is to solicit information that will assist the Agencies in the development of the Section 368 Corridor Study and provide the foundation for the initial Regional Periodic Review. In particular, the Agencies seek responses to the questions posed in the sections below. All work described in the Work Plan and Memorandum of Understanding (MOU) is contingent upon the availability of appropriated funds.

Section 368 Corridor Study

On July 7, 2013, the Agencies finalized a Corridor Study Work Plan for the Section 368 Corridors (Work Plan). The Work Plan identifies how information will be gathered and analyzed and establishes a schedule for completion of the Section 368 Corridor Study. Under the Section 368 Corridor Study, the Agencies will study Section 368 Corridors to assess their overall usefulness with regard to various factors, including their effectiveness in reducing the proliferation of dispersed rights-of-way across Federal lands. The Agencies will also assess the efficiency and effectiveness of the Section 368 Corridors and record lessons learned in the siting process. The Section 368 Corridor Study will also:

• Identify where corridors are being over- or underutilized and evaluate use of the IOPs;

• Focus on information relating to the use of Section 368 Corridors that is publicly available at the time the Agencies initiate the Section 368 Corridor Study;

• Help to inform the Regional Periodic Reviews and review of the IOPs; and

• Be made public upon completion.

(1) *Updates to Spatial Data.* A geographic information system (GIS) was used to support the mapping and location-specific analyses in the Final West-wide Energy Corridor Programmatic Environmental Impact Statement (EIS). GIS databases contain spatial data including imagery, map graphics, and associated tabular data, and GIS software allows for storing, processing, analyzing, modeling, and visualizing the spatial data. Lists of the GIS data that were used for the analyses and maps in the Programmatic EIS as well as the sources, quality, and scale of the data are posted at *http://corridoreis.anl.gov* (Appendix I of the Programmatic EIS and Appendix A of the Work Plan). Under the Section 368 Corridor Study, the Agencies will update the Programmatic EIS data using compatible, publicly available data. The Agencies are interested in suggestions of new or updated compatible, publicly available data that may be utilized to inform the Section 368 Corridor Study. Are there any new or updated data that is publicly available?

(2) *Types of Authorized Projects to Consider.* The Agencies propose to focus on 100 kilovolt (kV) or higher electric transmission lines and oil, gas, and hydrogen pipelines, 10 inches or more in diameter that have been authorized on Federal lands (both inside and outside of Section 368 Corridors) since approval of the DOI and FS RODs. The purposes of assessing the use of Section 368 Corridors is to evaluate their effectiveness in improving reliability, relieving congestion, and enhancing the capability of the national grid to deliver electricity across Federal lands and to evaluate IOPs for the Section 368 Corridor Study. Are there any other types of projects that the Agencies should consider to assess use of Section 368 Corridors?

(3) *Methods for Assessing Effectiveness of IOPs.* The Agencies will compile information relating to the use of IOPs for projects authorized since approval of the RODs, potentially by project type, based on consideration of projects identified in response to question 2 that are located entirely or partially within a Section 368 Corridor. Are there methods the Agencies should consider using to evaluate the effectiveness of the IOPs?

Regional Periodic Review

On July 7, 2013, the Agencies entered into an MOU describing the process for conducting Regional Periodic Reviews, including concurrent review of IOPs. The Agencies will identify and prioritize regions for periodic review.

(1) *New Relevant Information.* In accordance with the MOU, as a part of the Regional Periodic Reviews (including review of IOPs), the Agencies will consider new, relevant information. In general, the Agencies will consider significant regional energy development and corridor and transmission plans or studies, which are supplemented by project-specific studies that were completed after January 2009 or that are substantially underway. Examples of new information the Agencies will consider include the following:

• Results of: (1) Joint studies of electric transmission needs and renewable energy potential being conducted by the Western Electricity Coordinating Council and the Western Governors' Association (WGA) and funded by the DOE; and (2) The DOE's Transmission Corridor Assessment Report for Western States (DOE Corridor Study). These studies address the need for upgraded and new electrical transmission and distribution facilities to improve reliability, relieve congestion, and facilitate renewable energy development. The DOE Corridor Study is addressed in the June 7, 2013, Presidential Memorandum, ''Transforming our Nation's Electric Grid Through Improved Siting, Permitting, and Review,'' available at *http://www.whitehouse.gov/the-press-office/2013/06/07/presidential-memorandum-transforming-our-nations-electric-grid-through-i.*

• Results of the BLM's Rapid Ecoregional Assessments that characterize ecological values across regional landscapes;

• Once completed, the results of the Section 368 Corridor Study and review of the IOPs;

• Results of other ongoing resource studies, such as the WGA wildlife corridor study, the BLM's and FS's National Sage-Grouse Habitat Conservation Strategy, and the State of Wyoming's sage grouse strategy;

• Other factors, such as States' renewable portfolio standards, that address potential energy demand, sources, and loads, with particular regard to renewable energy;

• The BLM's Approved Resource Management Plan Amendments/ROD for Solar Energy Development in Six Southwestern States based on the joint BLM and DOE 2012 Solar Energy Development Programmatic EIS that assessed the environmental, social, and economic impacts associated with solar energy development on BLM-managed lands in Arizona, California, Colorado, Nevada, New Mexico, and Utah. The ROD amends 89 BLM land use plans incorporating land use allocations and programmatic Solar Energy Zone-specific design features; updates and revises policies and procedures for solar energy development; and implements a comprehensive solar energy program for administering the development of utility-scale solar energy resources in 6 southwestern states;

• The BLM Arizona Restoration Design Energy Project Final EIS and ROD issued in January 2013;

• Information from the Desert Renewable Energy Conservation Plan Draft EIS/Environmental Impact Report scheduled for release in 2014;

• The BLM/FS Greater Sage-Grouse Sub-Regional Planning Areas that overlie Section 368 Corridors;

• Draft and Final EISs, land use plan amendments, and related studies for pipelines 10 inches or more in diameter and 100 kV or higher electric transmission lines that utilize Section 368 Corridors;

• The National Renewable Energy Laboratory's Renewable Energy Futures Study Report (2012); and

• New IOPs submitted by the Plaintiffs who are a party to the Settlement.

Is there any other publicly available information that the Agencies should consider as part of the initial Regional Periodic Review, including review of the IOPs, and if so, where or how can it be found, and what parts of it are relevant to this RFI?

(2) *Identification of New Requirements.* Are there any laws, regulations, or other requirements that have been implemented since issuance of the DOI and FS RODs in January 2009 that the Agencies should consider when reviewing Section 368 Corridors?

(3) *Identification of Regional Stakeholder Fora.* The Agencies have identified an initial list of existing regional stakeholder fora as possible options for stakeholder engagement during Regional Periodic Reviews (e.g., BLM and FS Resource Advisory Councils, the Western Electricity Coordinating Council, Landscape Conservation Cooperatives, Western Governors' Association, and the Indian Country Energy and Infrastructure Working Group, which was established to work collaboratively with the DOE).

Are there any additional regional stakeholder fora that the Agencies should consider for stakeholder engagement during Regional Periodic Reviews?

(4) *Changes to IOPs.* Are there any additions, deletions, or revisions the Agencies should consider making to the IOPs that were adopted in the DOI and FS RODs, and what is the rationale for those changes?

(5) *Comments on New IOPs.* The Agencies have committed to consideration of new IOPs submitted by the Plaintiffs who are parties to the Settlement. The new IOPs are available at *http://corridoreis.anl.gov* Are there any comments on these new IOPs?

Michael D. Nedd,

Assistant Director, Energy, Minerals, and Realty Management, Bureau of Land Management, U.S. Department of the Interior.

Tony L. Tooke,

Associate Deputy Chief, National Forest System, U.S. Forest Service, U.S. Department of Agriculture.

Matt Rosenbaum,

Acting Director National Electricity Delivery, Office of Electricity Delivery and Energy Reliability, U.S. Department of Energy.

[FR Doc. 2014–06945 Filed 3–27–14; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX066A000 67F 134S180110; S2D2S SS08011000 SX066A00 33F 13xs501520]

Notice of Availability of the Four Corners Power Plant and Navajo Mine Energy Project Draft Environmental Impact Statement

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, the Office of Surface Mining Reclamation and Enforcement (OSMRE) has prepared a Draft Environmental Impact Statement (EIS) for the Four Corners Power Plant and Navajo Mine Energy Project (Project), in northwestern New Mexico and by this notice is announcing the opening of the comment period.

DATES: To ensure comments will be considered, the OSMRE must receive written comments on the Draft EIS no later than May 27, 2014. The OSMRE will conduct public meetings in the following locations and on the following dates:

Hotevilla, AZ:—*Navajo and Hopi interpreters available*
Wednesday, April 30, 5 to 8 p.m.
Hotevilla Village (Hotevilla Youth and Elderly Center), Auditorium, 1 Main St., Hotevilla, AZ 86030

Cortez, CO:
Thursday, May 1, 5 to 8 p.m.
Montezuma-Cortez High School, The Commons Area, 206 W. Seventh St., Cortez, CO 81321

Burnham, NM:—*Navajo interpreters available*
Friday, May 2, 5 to 8 p.m.
Tiis Tsoh Sikaad (Burham) Chapter House, Large Meeting Room, 12 miles east of U.S. 491 on Navajo Route 5 and ½ mile south on Navajo Route 5080

Durango, CO:
Saturday, May 3, 9:30 a.m. to 12:30 p.m.
Durango Community Recreation Center, 2700 Main Ave., Durango, CO 81301

Farmington, NM:
Monday, May 5, 5 to 8 p.m.
Farmington Civic Center, Exhibition Hall, 200 W. Arrington St., Farmington, NM 87401

Shiprock, NM:—*Navajo interpreters available*
Tuesday, May 6, 5 to 8 p.m.
Shiprock High School, Commons, Highway 64 W, Shiprock, NM 87420

Nenahnezad, NM:—*Navajo interpreters available*
Wednesday, May 7, 5 to 8 p.m.
Nenahnezad Chapter House, Multipurpose Hall, County Road 6675, Navajo Route 365, Fruitland, NM 87416

Window Rock, AZ:—*Navajo interpreters available*
Thursday, May 8, 5 to 8 p.m.
Navajo Nation Museum, Resource Room, Highway 264, Postal Loop Road, Window Rock, AZ 86515

Albuquerque, NM:
Friday, May 9, 5 to 8 p.m.
Indian Pueblo Cultural Center, Silver and Turquoise Room, 2401 12th St. NW., Albuquerque, NM 87104

Public meetings will be conducted in an open-house style format. The meeting rooms will be arranged into the following areas: (1) An area where attendees may view a video discussing the project and the Draft EIS findings; (2) an area containing informational displays where attendees may read and subsequently discuss the project and the Draft EIS findings with OSMRE representatives, the Bureau of Indian Affairs (BIA) and consultant personnel; (3) an area where attendees may record and submit written comments; and (4) an area where an OSMRE representative and a transcriber will record oral comments. Hopi and Navajo interpreters will be present at meetings on the Hopi and Navajo Reservations. If you require reasonable accommodation to attend one of the meetings, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** at least one week before the meeting.

ADDRESSES: The draft EIS is available for review at *http://www.wrcc.osmre.gov/Current_Initiatives/FCNAVPRJ/FCPPEIS.shtm.* Paper and computer compact disk (CD) copies of the Draft EIS are available for review at the OSMRE Western Region office, 1999 Broadway, Suite 3320, Denver, Colorado 80202–5733. In addition, a paper and CD copy of the Draft EIS is also available for review at each of the following locations:

Navajo Nation Library—Highway 264 Loop Road, Window Rock, AZ 86515
Navajo Nation Division of Natural Resources—Executive Office Building 1–2636, Window Rock Blvd., Window Rock, AZ 86515
Hopi Public Mobile Library—1 Main Street, Kykotsmovi, AZ 86039
Albuquerque Main Library—501 Copper Ave NW., Albuquerque, NM 87102
Cortez Public Library—202 N. Park Street, Cortez, CO 81321
Durango Public Library—1900 E. Third Ave, Durango, CO 81301
Farmington Public Library—2101 Farmington Ave, Farmington, NM 87401
Octavia Fellin Public Library—115 W. Hill Ave., Gallup, NM 87301
Shiprock Branch Library—U.S. Highway 491, Shiprock, NM 87420
Tuba City Public Library—78 Main Street, Tuba City, AZ 86045
Chinle Chapter House—Highway 191, Chinle, AZ 86503
Coalmine Canyon Chapter House—Highway 160 and Main Street, Tuba City, AZ 86045
Nenahnezad Chapter House—County Road 6675, Navajo Route 365, Fruitland, NM 87416
Shiprock Chapter House—East on Highway 64, Shiprock, NM 87420
Tiis Tsoh Sikaad Chapter House—12 miles east of U.S. 491 on Navajo Route 5 and ½ mile south on Navajo Route 5080
Upper Fruitland Chapter House—N562 Building #006–001, North of Highway N36, Fruitland, NM 87416
OSMRE Albuquerque Area Office—435 Montano Road, NE., Albuquerque, NM 87107
BIA Chinle Office—Navajo Route 7, Building 136–C, Chinle, AZ 86503

BIA Eastern Navajo Office—Code Talker Street, Building 222, Crownpoint, NM 87313
BIA Fort Defiance Office—Bonita Drive, Building 251–3, Fort Defiance, AZ 86504
BIA Ramah Office—HC–61, Box 14, Ramah, NM 87321
BIA Shiprock Office—Nataani Nez Complex Building, Second Floor, Highway 491 South, Shiprock, NM 87420
BIA Southern Pueblos Office—1001 Indian School Road, NW., Albuquerque, NM 87104
BIA Southern Ute Office—383 Ute Road, Building 1, Ignacio, CO 81137
BIA Ute Mountain Ute Office—Phillip Coyote Sr. Memorial Hall, 440 Sunset Blvd., Towaoc, CO 81334
BIA Western Navajo Agency—East Highway 160 and Warrior Drive, Tuba City, AZ 86045

SUPPLEMENTARY INFORMATION:

I. Background on the Project

The purpose of the Project is to consider ongoing operations at the Four Corners Power Plant (FCPP), and on the Navajo Transitional Energy Company's (NTEC) Navajo Mine lease to potentially provide for long-term, reliable, continuous, and uninterrupted base load electrical power to customers in the southwestern United States using a reliable and readily available fuel source. The Project proposes to accomplish this while complying with tribal trust responsibilities and trust policies, including, but not limited to, a preference for tribal self-determination and promoting tribal economic development for all tribes affected. The Draft EIS evaluates the direct, indirect, and cumulative impacts of these actions at the FCPP, the proposed Pinabete Permit area, and the existing Navajo Mine Permit area, as well as the rights-of-way renewals for segments of four transmission lines that transmit power from the FCPP.

Cooperating agencies on the Draft EIS include: The BIA, the Bureau of Land Management (BLM), the U.S. Environmental Protection Agency (EPA), the U.S. Fish and Wildlife Service (USFWS), the National Park Service (NPS), the U.S. Army Corps of Engineers (USACE), the Navajo Nation, and the Hopi Tribe.

The OSMRE is complying with Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) (NHPA Section 106) as provided for in 36 CFR 800.2(d)(3) concurrently with the NEPA process, including public involvement requirements and consultation with the State Historic Preservation Officer and Historic Preservation Officers with the tribal nations. Native American tribal consultations are on-going, and have been conducted in accordance with applicable laws, regulations, and Department of the Interior (DOI) policy. Federal, tribal, state, and local agencies, along with other stakeholders that may be interested in or affected by the Federal agencies' decisions on the Project, are invited to submit comments on the Draft EIS.

As part of its consideration of impacts of the proposed Project on threatened and endangered species, the OSMRE is conducting formal consultation with the USFWS pursuant to Section 7 of the Endangered Species Act (ESA), 16 U.S.C. § 1536, and its implementing regulations, 50 CFR part 400. This formal consultation is considering direct and indirect impacts from the proposed Project, including continued operation of the FCPP, continuing operation and maintenance of existing transmission lines and ancillary facilities, and all mining and related operations within the Navajo Mine lease.

In addition to compliance with NEPA, NHPA Section 106, and ESA Section 7, all Federal actions will be in compliance with applicable requirements of the Indian Business Site Leasing Act, 25 U.S.C. § 415; the General Right-of-Way Act of 1948, 25 U.S.C. §§ 323–328; the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. §§ 1201–1328; the CWA Clean Water Act, 33 U.S.C. §§ 1251–1387; the Clean Air Act, 42 U.S.C. §§ 7401–7671q; the Native American Graves Protection and Repatriation Act, 25 U.S.C. §§ 3001–3013; and Executive Orders relating to environmental justice, sacred sites, and tribal consultation, and other applicable laws and regulations.

II. Background on the Four Corners Power Plant

The FCPP, located on Navajo tribal trust lands in New Mexico, is a coal-fired electric generating station which currently includes two units generating approximately 1,500 megawatts, and provides power to more than 500,000 customers. Nearly 80 percent of the employees at the plant are Native American. Arizona Public Service (APS) operates the FCPP, and recently executed a lease amendment (Lease Amendment No. 3) with the Navajo Nation to extend the term of the lease for the FCPP an additional 25 years, to 2041. Continued operation of the FCPP is expected to require several federal actions, including:

- Approval from the BIA of Lease Amendment No.3 for the FCPP plant site, pursuant to 25 U.S.C. 415. Lease Amendment No.3 has been signed by the Navajo Nation after Navajo Nation Council approval.

- Issuance by the BIA of renewed rights-of-way, pursuant to 25 U.S.C. 323, for the continued operation of the FCPP plant site and its switchyard and ancillary facilities; for a 500 kilovolt (kV) transmission line and two 345 kV transmission lines; and for ancillary transmission line facilities, including the Moenkopi Switchyard, an associated 12 kV line, and an access road; (collectively the ''Existing Facilities''). The Existing Facilities are located on the Navajo Reservation, except for the 500 kV transmission line which crosses both Navajo and Hopi tribal lands. The Existing Facilities are already in place and would continue to be maintained and operated as part of the proposed action. No upgrades to the transmission lines or ancillary transmission line facilities are planned as part of the proposed Project.

- Issuance by the BIA of renewed rights-of-way to the Public Service of New Mexico (PNM) corporation for the existing 345 kV transmission facilities. The transmission facilities are already in place, and will continue to be maintained and operated as part of the proposed action. No upgrades to these transmission lines are planned as part of the proposed Project.

In August 2012, the EPA published a Federal Implementation Plan (FIP) for the Best Available Retrofit Technology (BART) at FCPP (40 CFR § 49.5512), addressing concerns with air emissions. The EPA approved the FIP and as a result, APS removed units 1, 2, and 3 at the FCPP from service in December 2013, and pollution control upgrades will be installed on Units 4 and 5 by 2018. Actions under the Clean Air Act, such as EPA's adoption of the FIP, are exempt from NEPA under federal law [15 U.S.C. 793(c)(1)]; however, the environmental effects of continued operation of FCPP, including the APS's compliance with the FIP, are analyzed in the Draft EIS. The ash disposal area would expand in future years within the current FCPP lease boundary. There is no proposed change to the exterior boundary of the FCPP site, the switch yard, or any of the transmission lines and ancillary facilities as part of the proposed actions.

III. Background on Pinabete Mine Permit and the Navajo Mine Permit Renewal

Concurrent with the proposed FCPP lease amendment approval and renewed rights-of-way grant actions, the NTEC proposes to conduct surface coal mining and reclamation operations within a new 5,569-acre permit area, called the Pinabete permit area. This proposed permit area lies within the boundaries of the existing Navajo Mine lease, which is located adjacent to the FCPP on Navajo tribal trust lands. The NTEC proposes to conduct surface coal mining operations on an approximately 2,744-acre portion of the proposed Pinabete Permit area, with a total disturbance footprint, including staging areas, of approximately 4,100 acres. The proposed Pinabete permit area would, in conjunction with the mining of any reserves remaining within the existing Navajo Mine permit area (Federal SMCRA Permit NM0003F), supply low-sulfur coal to the FCPP at a rate of approximately 5.8 million tons per year. Development of the Pinabete permit area and associated coal reserves would use surface mining methods and, based on current projected customer needs, would supply coal to FCPP for up to 25 years beginning in 2016. The proposed Pinabete permit area would include previously permitted but undeveloped coal reserves within Area IV North of the Navajo Mine lease, and unpermitted and undeveloped coal reserves in a portion of Area IV South of the existing Navajo Mine lease. Approval of the proposed Pinabete Permit is expected to require several other agency actions, including:

- Approval by the OSMRE of the new SMCRA permit.
- Approval by the BLM of a revised Mine Plan developed for the proposed maximum economic recovery of coal reserves.
- Approval of a Section 404 Individual Permit by the USACE for the impacts to waters of the United States from proposed mining activities. The USACE draft decision document is included as an appendix to the Draft EIS. This Notice of Availability of the Draft EIS also provides notice of the opportunity to provide comments on the USACE draft decision document. Comments received by the OSMRE on the draft USACE decision document will be forwarded to USACE for use within their individual permit evaluation process.
- Approval of a new source Section 402 National Pollutant Discharge Elimination System (NPDES) Industrial Permit by the EPA associated with the mining and reclamation operations and coal preparation facilities.
- Approval by the BIA of a proposed realignment for approximately 2.8 miles of BIA 3005/Navajo Road N–5082 (Burnham Road) in Area IV South to avoid proposed mining areas.
- Approval or grant of permits or rights-of-way for access and haul roads, power supply for operations, and related facilities by the BIA.

In addition, the OSMRE expects the NTEC to submit a renewal application in 2014 for its existing Navajo Mine SMCRA Permit No. NM00003F. Therefore, the Draft EIS also addresses alternatives and direct, indirect, and cumulative impacts of the 2014 renewal application action.

IV. Alternatives

Alternatives carried forward in the Draft EIS include three different mine plan configurations at the Navajo Mine and two different ash disposal facility configurations at FCPP. Also considered were alternatives implementing high-wall or long-wall mining techniques at the Navajo Mine; conversion of FCPP to a renewable energy or natural gas plant; implementing carbon capture and storage at FCPP; and use of an off-site coal supply option for FCPP.

Public Comment Procedures: In accordance with the CEQ's regulations for implementing NEPA and the DOI's NEPA regulations, the OSMRE solicits public comments on the Draft EIS. Comments on the Draft EIS may be submitted in writing or by email. At the top of your letter or in the subject line of your email message, indicate that the comments are ''FCPP and Navajo Mine Draft EIS Comments''. Email comments should be sent to *fcppnavajoenergyeis@osmre.gov.* Written comments should be mailed to Marcelo Calle, the OSMRE Western Region, 1999 Broadway, Suite 3320, Denver, Colorado 80202–5733. Comments can also be made either in writing or verbally at any of the public meetings listed above. Be specific in your comments and indicate the chapter, page, paragraph, and sentence that your comment applies to.

All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public review to the extent consistent with applicable law.

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 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. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments may not have standing to appeal the subsequent decision.

If you would like to be placed on the mailing list to receive future information, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: For further information contact Marcelo Calle, Project Coordinator, telephone 303–293–5035; address 1999 Broadway, Suite 3320, Denver, Colorado 80202–5733; email *mcalle@osmre.gov.*

Authority: 40 CFR 1506.6, 40 CFR 1506.1.

Dated: February 25, 2014.

Allen D. Klein,

Regional Director, Western Region.

[FR Doc. 2014–06641 Filed 3–27–14; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–613]

Certain 3G Mobile Handsets and Components Thereof; Revised Notice of Commission Determination To Remand Investigation to the Chief Administrative Law Judge Pursuant To Remand From the U.S. Court of Appeals for the Federal Circuit

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to remand the above-captioned investigation to the Chief Administrative Law Judge for assignment to an administrative law judge (''ALJ'') for an initial determination on remand (''RID'') concerning certain infringement, affirmative defense, and public interest issues following remand from the U.S. Court of Appeals for the Federal Circuit (''Federal Circuit''). This Notice is revised in response to the Petition for Reconsideration of the Commission's Order Remanding the Investigation, filed by respondents on February 24, 2014, which is granted in part and denied in part.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International

Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2301. 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 Commissions TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted Inv. No. 337–TA–613 on September 11, 2007, based on a complaint filed by InterDigital Communications Corp. of King of Prussia, Pennsylvania and InterDigital Technology Corp. of Wilmington, Delaware (collectively, ''InterDigital'') on August 7, 2007. 72 FR 51838 (Sept. 11, 2007). The complaint, as amended, alleged 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 3G mobile handsets and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 7,117,004 (''the '004 patent''); 7,190,966 (''the '966 patent''); and 7,286,847 (''the '847 patent''); and 6,693,579 (''the '579 patent). The notice of investigation named Nokia Corporation of Espoo, Finland and Nokia Inc. of Irving, Texas (collectively, ''Nokia'') as respondents. The Office of Unfair Import Investigations was named as a participating party.

On February 13, 2009, InterDigital moved for summary determination that a domestic industry exists because its licensing activities in the United States satisfy the domestic industry requirement under 19 U.S.C. 1337(a)(3)(C). On March 10, 2009, the presiding Administrative Law Judge (''ALJ'') issued an initial determination (''ID'') (Order No. 42) granting the motion. On April 9, 2009, the Commission determined not to review the ID. Notice (Apr. 9, 2009).

On August 14, 2009, the ALJ issued his final ID, finding no violation of section 337. In particular, he found that the asserted claims of the patents-in-suit are not infringed and that they are not invalid. The ALJ further found that there is no prosecution laches relating to the '004, '966, and '847 patents and that the '579 patent is not unenforceable.

On October 16, 2009, the Commission determined to review the Final ID in part. 74 FR 55068–69 (Oct. 26, 2009) (''Notice of Review''). In particular, although the Commission affirmed the ID's determination of no violation of section 337, the Commission reviewed and modified the ID's claim construction of the term ''access signal'' found in the asserted claims of the '847 patent. The Commission also reviewed, but took no position on, the ID's construction of the term ''synchronize'' found in the asserted claims of the '847 patent. The Commission further reviewed, but took no position on, validity with respect to any of the asserted patents. The Commission did not review the ID's construction of the claim limitations ''code'' and ''increased power level'' in the asserted claims of the '966 and '847 patents, and terminated the investigation.

InterDigital timely appealed the Commission's final determination of no violation of section 337 as to claims 1, 3, 8, 9, and 11 of the'966 patent and claim 5 of the '847 patent to the Federal Circuit. Specifically, InterDigital appealed the final ID's unreviewed constructions of the claim limitations ''code'' and ''increased power level'' in the '966 and '847 patents. Respondent Nokia, the intervenor on appeal, raised as an alternate ground of affirmance the issue of whether the Commission correctly determined that InterDigital has a license-based domestic industry.

On August 1, 2012, the Federal Circuit reversed the Commission's construction of the claim limitations ''code'' and ''increased power level'' in the '966 and '847 patents, reversed the Commission's determination of non-infringement as to the asserted claims of those patents, and remanded to the Commission for further proceedings. *InterDigital Commc'ns, LLC* v. *Int'l Trade Comm'n.,* 690 F.3d 1318 (Fed. Cir. 2012). In particular, the Court rejected the final ID's construction of the ''code'' limitation as being limited to ''a spreading code or a portion of a spreading code'' and, instead, constructed ''code'' as ''a sequence of chips'' and as ''broad enough to cover both a spreading code and a non-spreading code.'' *Id.* at 1323–27. The Court also rejected the final ID's construction of the limitation ''increased power level'' as requiring that the power level of a transmission ''increases during transmission,'' holding instead that the limitation ''include[s] both intermittent and continuous increases in power.'' *Id.* at 1323, 1327–28. The Court affirmed the Commission's determination that InterDigital has a domestic industry. *Id.* Nokia subsequently filed a combined petition for panel rehearing and rehearing en banc on the issue of domestic industry. On January 10, 2013, the Court denied the petition and issued an additional opinion addressing several issued raised in Nokia's petition for rehearing. *InterDigital Commc'ns, LLC* v. *Int'l Trade Comm'n,* 707 F.3d 1295 (Fed. Cir. 2013) (Fed. Cir. Jan. 10, 2013). The mandate issued on January 17, 2013, returning jurisdiction to the Commission.

On February 4, 2013, the Commission issued an Order directing the parties to submit comments regarding what further proceedings must be conducted to comply with the Federal Circuit's remand. Commission Order (Feb. 4, 2013). On February 14, 2013, InterDigital, Nokia, and the Commission investigative attorney (''IA'') submitted initial comments. On February 19, 2013, Nokia submitted response comments. On February 22, 2013, InterDigital and the IA submitted response comments.

Having examined the record of this investigation, including the ALJ's final ID, the petitions for review, the responses thereto, and the parties' comments on remand, the Commission has decided certain issues and has determined to remand the investigation to the Chief ALJ for assignment to a presiding ALJ to determine certain outstanding issues concerning violation of section 337 set forth below.

With respect to claim construction, the Commission construes the claim limitation ''synchronize'' in the asserted claim of the '847 patent to mean ''establishing a timing reference with the pilot signal transmitted by a base station.''

With respect to validity, the Commission affirms the final ID's finding that the Lucas reference does not anticipate the asserted claims of the '966 and '847 patents because it fails to disclose the claim limitations requiring the subscriber unit to transmit a code selected from a ''plurality of different codes'' or the limitation requiring the subscriber unit to transmit a ''message'' in order to indicate that the subscriber units wants to establish communications with a base station. The Commission also affirms the final ID's finding that the Lucas reference does not render obvious the asserted claims of the '966 and '847 patents. The Commission further affirms the final ID's finding that the asserted claims of the '966 and '847 patents are not rendered obvious by the IS–95

references combined with the CODIT reference.

With respect to infringement, the Commission finds that the PRACH preamble used in the accused Nokia handsets satisfies the ''code''/''signal'' limitation of the asserted claims of the '966 and '847 patents under the Federal Circuit's revised claim construction. The Commission also finds that the transmission of the PRACH preambles meets the claim limitation ''increased power level'' in the asserted claims of the '966 and '847 patents based on the Federal Circuit's revised claim construction. The Commission further finds waived Nokia's argument that the PRACH preamble and PRACH message signals in the accused Nokia handsets are never transmitted. The Commission also affirms the ID's finding that the accused handsets do not satisfy the ''synchronize to the pilot signal'' limitation under the doctrine of equivalents.

With respect to the issue of domestic industry, the Commission acknowledges the Federal Circuit's finding that Nokia has waived any argument regarding the nexus between its licensing investments and the asserted patents. The Commission also declines to reconsider the issue of whether the ''economic prong'' of the domestic industry requirement has been satisfied under *Certain Multimedia Display and Navigation Devices and Systems, Components Thereof, and Products Containing Same,* Inv. No. 337–TA–694, Commission Opinion, Public Version (August 8, 2011).

The Commission remands the following issues to the Chief ALJ for assignment to a presiding ALJ. Specifically, the Commission remands the issue of whether the accused Nokia handsets meet the ''generated using a same code'' limitation or ''the message being transmitted only subsequent to the subscriber unit receiving the indication'' limitation in the asserted claims of the '966 and '847 patents. The Commission further remands the issue of whether the 3GPP standard supports a finding that the pilot signal (P–CPICH) satisfies the claim limitation ''synchronized to a pilot signal'' as recited in the asserted claims of the '847 patent by synchronizing to either the P–SCH or S–SCH signals under the Commission's construction of that claim limitation.

The Commission also remands the investigation for assignment to the presiding ALJ to reopen the evidentiary record and take evidence concerning Nokia's currently imported products, including: (1) Whether they contain chips other than those that were previously adjudicated, (2) whether those chips infringe the asserted claims of the patents-in-suit, and (3) whether the chips are licensed. The Commission further remands the investigation in order for the assigned ALJ to: (1) Take evidence concerning the public interest factors as enumerated in sections 337(d) and (f); (2) take briefing on whether the issue of the standard-essential patent nature of the patents-in-suit is contested; (3) take evidence concerning and/or briefing on whether there is patent hold-up or reverse hold-up in this case; and (4) include an analysis of this evidence in his remand ID.

The motion for reconsideration is granted in part with respect to claims 6, 9, and 11 of the '847 patent. The remainder of the motion is denied.

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).

By order of the Commission.

Issued: March 24, 2014.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2014–06897 Filed 3–27–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–14–009]

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 4, 2014 at 11 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000

STATUS: Open to the public

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: none
2. Minutes
3. Ratification List
4. Vote in Inv. No. 731–TA–752 (Third Review)(Crawfish Tail Meat from China). The Commission is currently scheduled to complete and file its determination and views of the Commission on April 28, 2014.
5. Outstanding action jackets: none

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: March 25, 2014.

By order of the Commission.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2014–07048 Filed 3–26–14; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–859]

Certain Integrated Circuit Chips and Products Containing the Same; Notice of Request for Statements on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge has issued a Final Initial Determination and Recommended Determination on Remedy and Bonding in the above-captioned investigation. The Commission is soliciting comments on public interest issues raised by the recommended relief, specifically a limited exclusion order against infringing integrated circuit chips and products containing the same, imported by LSI Corporation of Milpitas, California and Seagate Technology (''Seagate'') of Cupertino, California; and a cease and desist order against infringing integrated circuit chips and products containing the same, imported by Seagate. This notice is soliciting public interest comments from the public only. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

FOR FURTHER INFORMATION CONTACT: Amanda P. Fisherow, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2737. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* 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 (*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: Section 337 of the Tariff Act of 1930 provides that if the Commission finds a violation it shall exclude the articles concerned from the United States:

unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is interested in further development of the record on the public interest in these investigations. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the administrative law judge's Recommended Determination on Remedy and Bonding issued in this investigation on March 21, 2014. Comments should address whether issuance of a limited exclusion order and/or a cease a desist order 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 recommended orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended 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 recommended exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the limited exclusion order and/or cease and desist order would impact consumers in the United States.

Written submissions must be filed no later than by close of business on April 30, 2014.

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. 859'') 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.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50).

By order of the Commission.

Issued: March 24, 2014.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2014–06898 Filed 3–27–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0102]

Agency Information Collection Activities; Existing eCollection eComments Requested; Extension and Revision of Existing Collection(s); Prison Population Reports: Summary of Sentenced Population Movement—National Prisoner Statistics

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, will be submitting the following information collection to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 79, Number 16, pages 4176–4177, on January 24, 1024, allowing for a 60-day comment period.

DATES: The purpose of this notice is to allow for an additional 30 days for public comments until April 28, 2014.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden or associated response time, should be directed to the Office of Management and Budget, Officer of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or send to *OIRA_submission@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension and minor revision of currently approved collection.

(2) *Title of the Form/Collection:* Summary of Sentenced Population Movement—National Prisoner Statistics.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:*

(a) Form number: NPS–1B. Office of Justice Programs, U.S. Department of Justice.

(b) Form number: NPS–1B(T). Office of Justice Programs, U.S. Department of Justice.

(4) *Affected public who will be asked to respond, as well as a brief abstract:* For the NPS–1B form, 51 central reporters (one from each state and the Federal Bureau of Prisons) responsible for keeping records on inmates will be asked to provide information for the following categories:

(a) As of December 31, the number of male and female inmates within their custody and under their jurisdiction with maximum sentences of more than one year, one year or less; and unsentenced inmates;

(b) The number of inmates housed in privately operated facilities, county or other local authority correctional facilities, or in other state or Federal facilities on December 31;

(c) Prison admission information in the calendar year for the following categories: new court commitments, parole violators, other conditional release violators returned, transfers from other jurisdictions, AWOLs and escapees returned, and returns from appeal and bond;

(d) Prison release information in the calendar year for the following categories: expirations of sentence, commutations, other conditional releases, probations, supervised mandatory releases, paroles, other conditional releases, deaths by cause, AWOLs, escapes, transfers to other jurisdictions, and releases to appeal or bond;

(e) Number of inmates under jurisdiction on December 31 by race and Hispanic origin;

(f) Number of inmates in custody classified as non-citizens and/or under 18 years of age;

(g) Testing of incoming inmates for HIV; and HIV infection and AIDS cases on December 31; and

(h) The aggregated rated, operational, and/or design capacities, by sex, of the state/BOP's correctional facilities at year-end.

For the NPS–1B(T) form, five central reporters from the U.S. Territories and Commonwealths of Guam, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, and American Samoa will be asked to provide information for the following categories for the calendar year just ended, and, if available, for the previous calendar year:

(a) As of December 31, the number of male and female inmates within their custody and under their jurisdiction with maximum sentences of more than one year, one year or less; and unsentenced inmates; and an assessment of the completeness of these counts (complete, partial, or estimated);

(b) The number of inmates under jurisdiction on December 31 but in the custody of facilities operated by other jurisdictions' authorities solely to reduce prison overcrowding;

(c) Number of inmates under jurisdiction on December 31 by race and Hispanic origin;

(d) The aggregated rated, operational, and/or design capacities, by sex, of the territory's/Commonwealth's correctional facilities at year-end.

The Bureau of Justice Statistics uses this information in published reports and for the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, and others interested in criminal justice statistics.

(5) An estimate of the total number of respondents and the amount of time needed for an average respondent to respond:

(a) NPS–1B form: 51 respondents, each taking an average 6.5 total hours to respond.

(b) NPS–1B(T) form: 5 respondents, each taking an average of 2 hours to respond.

Burden hours remain the same for the 51 respondents to the NPS–1B form. An additional 10 hours are added for the 5 respondents to the NPS–1B(T) form.

(6) An estimate of the total public burden (in hours) associated with the collection: 342 annual burden hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Avenue, 145 N Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: March 25, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–06950 Filed 3–27–14; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0064]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension and Minor Revision of Existing Collection; Annual Parole Survey, Annual Probation Survey, and Annual Probation Survey (Short Form)

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs (OJP), Bureau of Justice Statistics (BJS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until May 27, 2014.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Tom Bonczar, Statistician, Bureau of Justice Statistics, 810 Seventh St. NW., Washington, DC 20531 (email *Tom.Bonczar@usdoj.gov*; telephone 202–616–3615).

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other

technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of information collection:* Extension and minor revision of currently approved collection.

(2) *The title of the Form/Collection:* Annual Parole Survey, Annual Probation Survey, and Annual Probation Survey (Short Form).

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Forms: CJ–7 Annual Parole Survey; CJ–8 Annual Probation Survey; and CJ–8A Annual Probation Survey (Short Form). Corrections Statistics Program, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked to respond, as well as a brief abstract:* Primary: state departments of corrections or state probation and parole authorities. Others: The Federal Bureau of Prisons, city and county courts and probation offices for which a central reporting authority does not exist. For the CJ–7 form, the affected public consists of 53 respondents including 51 central reporters (two state respondents in Pennsylvania, and one each from the remaining states), the District of Columbia, and the Federal Bureau of Prisons responsible for keeping records on parolees. For the CJ–8 form, the affected public includes 307 reporters including 51 state respondents (two state respondents in Pennsylvania, and one each from the remaining states), the District of Columbia, the Federal Bureau of Prisons, and 254 from local authorities responsible for keeping records on probationers. For the CJ–8A form, the affected public includes 161 reporters from local authorities responsible for keeping records on probationers. The Annual Parole Survey and Annual Probation surveys have been used since 1977 to collect annual yearend counts and yearly movements of community corrections populations; characteristics of the community supervision population, such as gender, racial composition, ethnicity, conviction status, offense, supervision status; outcomes including the number of revocations and the re-incarceration rate of parolees (i.e., recidivism measures); and the numbers of probationers and parolees who had their location tracked through a Global Positioning System (GPS). Starting with the 2014 Annual Probation Survey, two questions will be added to assess the scope of probation agencies being included by respondents and the levels of court responsible for referring adults to probation supervision. The Bureau of Justice Statistics uses this information in published reports and for the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, and others interested in criminal justice statistics.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 521 respondents each taking an average of 1.63 hours to respond.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 848 annual burden hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3W–1407B, Washington, DC 20530.

Dated: March 25, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–06949 Filed 3–27–14; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

[OMB Number 1190–0008]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Approval, With Change, of a Previously Approved Collection; FCS Complaint and Consent Form

AGENCY: Civil Rights Division, Federal Coordination and Compliance Section (FCS), Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Civil Rights Division, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** Volume 79, Number 15, page 3874, on January 23, 2014, allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for 30 days until April 28, 2014.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Deeana L. Jang, Chief, USDOJ–CRT–FCS, 950 Pennsylvania Avenue NW–NWB, Washington, DC 20530.

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* FCS Complaint and Consent Form.

(3) *Agency form number:* 1190–0008.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* General Public.

Information is used to find jurisdiction to investigate the alleged discrimination, to seek whether a referral to another agency is necessary and to provide information needed to initiate investigation of the complaint. Respondents are individuals.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 4000 respondents will complete each form within approximately 30 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 2000 total annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: March 25, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–06952 Filed 3–27–14; 8:45 am]

BILLING CODE 4410–13–P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0043]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Drug Questionnaire—DEA Form 341

AGENCY: Department of Justice, Drug Enforcement Administration.

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Drug Enforcement Administration (DEA) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 79, Number 13, page 3407 on January 21, 2014, allowing for a 60 day comment period.

DATES: The purpose of this notice is to allow for an additional 30 days for public comment until April 28, 2014.

FOR FURTHER INFORMATION CONTACT:

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Raymond A. Pagliarini, Jr., Assistant Administrator, Human Resources Division, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152.

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection 1117–0043

(1) Type of Information Collection: Extension of a currently approved collection.

(2) Title of the Form/Collection: Drug Questionnaire (DEA Form 341)\.

(3) Agency form number, if any, and the applicable component of the Department sponsoring the collection:

Form number: DEA Form 341.

Component: Human Resources Division, Drug Enforcement Administration, U.S. Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract:

Primary: Individuals.

Other: none.

Abstract: DEA Policy states that a past history of illegal drug use may be a disqualification for employment with DEA. This form asks job applicants specific questions about their personal history, if any, of illegal drug use.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: It is estimated that 255,000 respondents will respond annually, taking 5 minutes to complete each form.

(6) An estimate of the total public burden (in hours) associated with the collection: 21,250 annual burden hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: March 25, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–06951 Filed 3–27–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJJDP) Docket No. 1652]

Hearing of the Advisory Committee of the Attorney General's Task Force on American Indian/Alaska Native Children Exposed to Violence

AGENCY: Office of Juvenile Justice and Delinquency Prevention (OJJDP), Justice.

ACTION: Notice of hearing.

SUMMARY: This is an announcement of the third hearing of the Advisory Committee of the Attorney General's Task Force on American Indian/Alaska Native Children Exposed to Violence (hereafter referred to as the AIAN Advisory Committee). The AIAN Advisory Committee is chartered to provide the Attorney General with valuable advice in the areas of American Indian/Alaska Native children's exposure to violence for the purpose of addressing the epidemic levels of exposure to violence faced by tribal youth. Based on the testimony at four public hearings, on comprehensive research, and on extensive input from experts, advocates, and impacted families and tribal communities nationwide, the AIAN Advisory Committee will issue a final report to the Attorney General presenting its findings and comprehensive policy recommendations in the fall of 2014.

DATES: This third hearing will take place on Wednesday, April 16, 2014 from 1:00 p.m.–6:30 p.m. and Thursday, April 17, 2014 from 8:30 a.m.–12:00 p.m. A post-hearing debrief session will take place on Thursday, April 17, 2014 from 1:00 p.m.–6:00 p.m.

ADDRESSES: The hearing will take place at the Hyatt Regency Pier Sixty-Six, Panorama Ballroom, 2301 SE. 17th Street, Fort Lauderdale, FL 33316. Phone: (954) 525–6666.

FOR FURTHER INFORMATION CONTACT: Jim Antal, AIAN Advisory Committee Designated Federal Officer (DFO) and Deputy Associate Administrator, Youth Development, Prevention and Safety Division, Office of Juvenile Justice & Delinquency Prevention, Office of Justice Programs, 810 7th Street NW., Washington, DC 20531. Phone: (202)

514–1289 [note: this is not a toll-free number]; email: *james.antal@usdoj.gov*.

SUPPLEMENTARY INFORMATION: This hearing is being convened to provide information to the AIAN Advisory Committee about the issue of American Indian/Alaska Native children's exposure to violence. The focus for this third hearing will be on American Indian Children Exposed to Violence in the Community. The final agenda is subject to adjustment, but it is anticipated that on April 16, 2014, there will be an afternoon session and on April 17, 2014, there will be a morning session. The agenda for the afternoon session on April 16, 2014 will likely include welcoming remarks and introductions, and panel presentations from invited guests on topics focused on American Indian Children Exposed to Violence in the Community. The agenda for the morning session on April 17, 2014, will likely include presentations from witnesses invited to brief the AIAN Advisory Committee on community violence issues faced by American Indian Children, and existing programs that attempt to address this issue. It is anticipated there will be scheduled opportunities for public testimony at the end of both days of the hearing, including an opportunity for public comment during an open microphone session just prior to the conclusion of both days of the hearing. On April 17th, there will be a post-hearing debrief session that will include a review of material presented during the previous day and planning for subsequent hearings. The debrief session will not have an opportunity for public comment; however both the public hearing and the debrief meeting are open to the public.

Those wishing to provide scheduled oral public testimony on either day of the hearing should register through the registration link at *www.justice.gov/defendingchildhood* at least seven (7) days in advance of the meeting. The scheduled public oral testimony will be accepted on a space available basis. Those wishing to provide oral testimony during the open microphone session, which will likely occur just prior to the conclusion of both days of the hearing, may register through the registration link at *www.justice.gov/defendingchildhood* or register onsite April 16 and 17, 2014 at the registration desk. Prior registration is encouraged.

Those wishing to provide written testimony for this third hearing should register and submit their written testimony at *www.justice.gov/defendingchildhood*. Those wishing to provide written testimony not specific to this third hearing can simply send their written testimony to *testimony@tlpi.org* on an ongoing basis. Written testimony will also be accepted onsite April 16 and 17, 2014 at the registration desk.

Anyone requiring special accommodations should notify Mr. Antal at *james.antal@usdoj.gov* at least seven (7) days in advance of the meeting.

Jeffrey Gersh,

Deputy Associate Administrator, Youth Development, Prevention and Safety Division, Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs.

[FR Doc. 2014–06989 Filed 3–27–14; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Administration and Management; Agency Information Collection Activities; Comment Request; Department of Labor Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''Department of Labor Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq. This collection has been developed as part of a Federal Government-wide effort to streamline the process for seeking feedback from the public on service delivery.

DATES: Consideration will be given to all written comments received by May 27, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3506(c)(2)(A).

SUPPLEMENTARY INFORMATION: The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the OMB for final approval. This program helps to ensure 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 can be properly assessed.

This information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback the DOL means information that provides useful insights on perceptions and opinions, but does not entail 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 DOL 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 were not collected, vital feedback from customers and stakeholders on DOL services would be unavailable.

The DOL will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collection is voluntary;
- The collection is low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and is low-cost for both the respondents and the Federal Government;
- The collection is non-controversial and does not raise issues of concern to other Federal agencies;
- The 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 is collected only to the extent necessary and is not retained;
- Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency;
- Information gathered will not be used for the purpose of substantially informing influential policy decisions; and
- Information gathered will yield qualitative information; the collection will not be designed or be expected to yield statistically reliable results or be 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 would require more rigorous designs that address: The target population to which generalizations would be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that would justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or would be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections could 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.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1225–0088.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on May 31, 2014. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1225–0088.

Submitted comments will also be a matter of public record for this ICR and posted on the Internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

The DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OASAM.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Department of Labor Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 1225–0088.

Affected Public: Individuals or Households; State Local, and Tribal Governments; and Private Sector—businesses or other for-profits and not for profit institutions.

Estimated Number of Respondents: 330,000.

Frequency: Once.

Total Estimated Annual Responses: 330,000.

Estimated Average Time per Response: Various, averaging 4 minutes.

Estimated Total Annual Burden Hours: 22,000 hours.

Total Estimated Annual Other Cost Burden: $0.

Dated: March 21, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–06909 Filed 3–27–14; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Comparability of Current Work to Coal Mine Employment

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Workers' Compensation Programs (OWCP) sponsored information collection request (ICR) revision titled, ''Comparability of Current Work to Coal Mine Employment,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.).

DATES: Consideration will be given to all comments received on or before April 28, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201312-1240-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OWCP, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov*. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov*.

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to make minor revisions to the Comparability of Current Work to Coal Mine Employment (Form CM–913) information collection, which helps to ensure that compensation paid to a claimant is accurate. Once a miner has been identified as having performed non-coal mine work subsequent to coal mine employment, the miner or the miner's survivor completes Form CM–913. The form is used to compare the physical demands of the miner's coal mine work with his or her last or current non-coal mine work. This ICR has been classified as a revision, because the OWCP has made minor clarifications to the instructions and added information on assistance available to respondents with disabilities.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1240–0035. The current approval is scheduled to expire on April 30, 2014; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on December 3, 2013 (78 FR 72717).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1240–0035. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OWCP.

Title of Collection: Comparability of Current Work to Coal Mine Employment.

OMB Control Number: 1240–0035.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 1,650.

Total Estimated Number of Responses: 1,650.

Total Estimated Annual Time Burden: 825 hours.

Total Estimated Annual Other Costs Burden: $809.

Dated: March 24, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–06914 Filed 3–27–14; 8:45 am]

BILLING CODE 4510–CH–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2013–0007]

Maritime Advisory Committee for Occupational Safety and Health (MACOSH)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of MACOSH Meeting.

SUMMARY: This **Federal Register** notice announces meetings of the full Committee and the workgroups on April 15 and 16, 2014, in Washington, DC.

DATES: *MACOSH meeting:* MACOSH will meet from 9 a.m. until approximately 5 p.m. on April 15 and 16, 2014.

Submission of comments, requests to speak, and requests for special accommodation: Submit written comments, requests to speak at the full Committee meeting, and requests for special accommodations for these meetings (postmarked, sent, or transmitted) by April 1, 2014.

ADDRESSES: The Committee and workgroups will meet at the U.S. Department of Labor, Bureau of Labor Statistics, 2 Massachusetts Avenue NE., Washington, DC 20210, Conference Rooms 4 and 8. Meeting attendees must use the entrance on the 1st Street side of the building.

Submitting comments and requests to speak: Submit comments and requests to speak at the MACOSH meetings, identified by the docket number for this **Federal Register** notice (Docket No. OSHA 2013–0007), by one of the following methods:

Electronically: Submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If comments, including attachments, are not longer than 10

pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

Regular mail, express mail, hand (courier) delivery, and messenger service: When using this method, submit a copy of comments and attachments to the OSHA Docket Office, Docket No. OSHA–2013–0007, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. The Docket Office accepts deliveries (express mail, hand (courier) delivery, and messenger service) during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Requests for special accommodations: Submit requests for special accommodations for MACOSH and its workgroup meetings by hard copy, telephone, or email to: Ms. Gretta Jameson, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–1999; email: *Jameson.GrettaH@dol.gov.*

Instructions: All submissions must include the Agency name and docket number for this **Federal Register** notice (Docket No. OSHA–2013–0007). Because of security-related procedures, submissions by regular mail may result in a significant delay in receipt. Please contact the OSHA Docket Office for information about security procedures for making submissions by express mail, hand (courier) delivery, and messenger service.

OSHA will place comments and requests to speak, including personal information, in the public docket which may be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates.

Docket: To read or download documents in the public docket for this MACOSH meeting, go to *http://www.regulations.gov.* All documents in the public docket are listed in the index; however, some documents (e.g., copyrighted material) are not publicly available to read or download through *http://www.regulations.gov.* All submissions are available for inspection and, when permitted, copying at the OSHA Docket Office at the above address. For information on using *http://www.regulations.gov* to make submissions or to access the docket, click on the ''Help'' tab at the top of the Home page. Contact the OSHA Docket Office for information about materials not available through that Web site and for assistance in using the Internet to locate submissions and other documents in the docket.

FOR FURTHER INFORMATION CONTACT: *For press inquiries:* Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, Room N–3647, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–1999; email *meilinger.frank2@dol.gov.*

For general information about MACOSH and this meeting: Mrs. Amy Wangdahl, Director, Office of Maritime and Agriculture, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–2066; email *wangdahl.amy@dol.gov.*

Copies of this ***Federal Register*** *notice:* Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, are also available at OSHA's Web page at: *http://www.osha.gov.*

SUPPLEMENTARY INFORMATION: All MACOSH committee and workgroup meetings are open to the public. Interested persons may attend the full Committee and its workgroup meetings at the time and place listed above. The agenda will include discussions on: OSHA updates (Directorates of Standards and Guidance, Enforcement, Cooperative and State Programs, and Technical Support and Emergency Management); the Federal Advisory Committee Act; Advisory Committee ethics; administrative procedures (travel); and Committee items of interest proposed at the meeting.

The workgroups, which include the Longshoring workgroup and the Shipyard workgroup, will meet from 9 a.m. until approximately 5 p.m. on April 15, 2014, in Conference Rooms 4 and 8. The workgroups will discuss items of interest, as well as other topics that may arise during the remainder of the current Committee charter. The full Committee will meet from 9 a.m. until about 5 p.m. on April 16, 2014, in Conference Room 7 and 8.

Public Participation: Any individual attending the MACOSH meeting, including the workgroup meetings, at the U.S. Department of Labor, Bureau of Labor Statistics, must use the entrance of the 1st Street side of the building and pass through Building Security. Attendees must have valid government-issued photo identification to enter the building. Please contact Vanessa Welch at (202) 693–2080 (email: *welch.vanessa@dol.gov*) for additional information about building security measures for attending the MACOSH Committee and workgroup meetings. Interested parties may submit a request to make an oral presentation to MACOSH by any one of the methods listed in the **ADDRESSES** section above. The request must state the amount of time requested to speak, the interest represented (e.g., organization name), if any, and a brief outline of the presentation. The MACOSH Chair has discretion to grant requests to address the full Committee as time permits.

Interested parties also may submit written comments, including data and other information, using any one of the methods listed in the **ADDRESSES** section above. OSHA will provide all submissions to MACOSH members prior to the meeting. Individuals who need special accommodations to attend the MACOSH meeting should contact Gretta Jameson as specified above under the heading ''*Requests for special accommodations''* in the **ADDRESSES** section.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice under the authority granted by 29 U.S.C. 655, 656, 5 U.S.C. App. 2, Secretary of Labor's Order No. 1–2012 (77 FR 3912), and 29 CFR part 1912.

Signed at Washington, DC, on March 24, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–06936 Filed 3–27–14; 8:45 am]

BILLING CODE 4510–26–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2014–0042]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal**

Register under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* NRC Form 64, ''Travel Voucher'' (Part 1); NRC Form 64A, ''Travel Voucher'' (Part 2); and NRC Form 64B, ''Optional Travel Voucher'' (Part 2).

2. *Current OMB approval number:* 3150–0192.

3. *How often the collection is required:* On occasion.

4. *Who is required or asked to report:* Contractors, consultants and invited NRC travelers who travel in the course of conducting business for the NRC.

5. *The number of annual respondents:* 100.

6. *The number of hours needed annually to complete the requirement or request:* 100 (1 hour per form).

7. *Abstract:* Consultants, contractors, and those invited by the NRC to travel (e.g., prospective employees) must file travel vouchers and trip reports in order to be reimbursed for their travel expenses. The information collected includes the name, address, social security number, and the amount to be reimbursed. Travel expenses that are reimbursed are confined to those expenses essential to the transaction of official business for an approved trip.

Submit, by May 27, 2014, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee publicly-available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.*

The document will be available on the NRC's home page site for 60 days after the signature date of this notice. Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2014–0042. You may submit your comments by any of the following methods: Electronic comments: Go to *http://www.regulations.gov* and search for Docket No. NRC–2014–0042. Mail comments to the Acting NRC Clearance Officer, Kristen Benney (T–5 F50), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the Acting NRC Clearance Officer, Kristen Benney (T–5 F50), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone at 301–415–6355, or by email to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 11th day of March, 2014.

For the Nuclear Regulatory Commission.

Kristen Benney,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–06932 Filed 3–27–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0297]

General Site Suitability Criteria for Nuclear Power Stations

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 3 of Regulatory Guide 4.7, ''General Site Suitability Criteria for Nuclear Power Stations.'' This guide describes a method that the NRC staff considers acceptable to implement the site suitability requirements for nuclear power stations. It is intended to assist applicants in the initial stage of selecting potential sites for a nuclear power station. Each site that appears to be compatible with the general criteria discussed in this guide should be examined in greater detail before it can be considered a ''candidate'' site (i.e., one of the group of sites to be considered in selecting a ''proposed'' or ''preferred'' site).

ADDRESSES: Please include Docket ID NRC–2011–0297 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2011–0297. Address questions about NRC dockets to Carol Gallagher, telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.*
- 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*. Revision 3 of Regulatory Guide 4.7 is available in ADAMS under Accession No. ML12188A053. The regulatory analysis may be found in ADAMS under Accession No. ML12188A052.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT: Jacob Philip, telephone: 301–251–7471, email: *jacob.philip@nrc.gov*; or Edward O'Donnell, telephone: 301–251–7455 or email: *edward.odonnell@nrc.gov*. Both are staff of the Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is issuing a revision to an existing guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Revision 3 of RG 4.7 was issued with a temporary identification as Draft Regulatory Guide, DG–4021. This revision of the guide incorporates references to Part 52 of Title 10 of the *Code of Federal Regulations* (10 CFR), and to relevant sections in the NRC's standard review plan (NUREG–0800)

that the staff uses to evaluate nuclear power plant license applications and the standard review plan for environmental review of nuclear power plants (NUREG–1555). In addition, the technical references were updated.

II. Further Information

DG–4021 was issued for public comment in the **Federal Register** on December 30, 2011 (76 FR 82201), for a 60-day public comment period. The public comment period closed on February 25, 2012. Public comments on DG–4021 and the staff responses to the public comments are available in ADAMS under Accession No. ML12188A054.

II. Congressional Review Act

This regulatory guide is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting and Issue Finality

Issuance of this regulatory guide does not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR Part 52. This regulatory guide will not apply to any construction permits, operating licenses, early site permits, limited work authorizations issued under 10 CFR 50.10 for which the NRC issued a final environmental impact statement (EIS) preceded by a draft EIS under 10 CFR 51.76 or 51.75, or combined licenses, any of which were issued by the NRC prior to issuance of the final regulatory guide. The NRC has already completed its siting determination for those construction permits, operating licenses, early site permits, limited work authorizations, and combined licenses. Therefore, no further NRC regulatory action on siting will occur for those licenses, permits, and authorizations, for which the guidance in the regulatory guide would be relevant.

This regulatory guide may be applied to applications for early site permits, combined licenses, and limited work authorizations issued under 10 CFR 50.10, which includes information under 10 CFR 51.49(b) or (f), where the application is docketed by the NRC as of the date of issuance of the final regulatory guide, as well as future applications for construction permits, early site permits, combined licenses, and limited work authorizations, which includes information under 10 CFR 51.49(b) or (f), where the application is submitted after the issuance of the final regulatory guide. Such action does not constitute backfitting as defined in 10 CFR 50.109(a)(1) and is not otherwise inconsistent with the applicable issue finality provisions in 10 CFR Part 52, inasmuch as such applicants or potential applicants are not within the scope of entities protected by the Backfit Rule or the relevant issue finality provisions in Part 52.

Dated at Rockville, Maryland, this 24th day of March, 2014.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2014–06888 Filed 3–27–14; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0675, SEC File No. 270–620]

Submission for OMB Review; Comment Request

Correction

In notice document 2014–06126, appearing on page 15616 in the issue of Thursday, March 20, 2014, make the following correction:

On page 15616, in the second column, immediately following the subject, insert the following text:

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

[FR Doc. C1–2014–06126 Filed 3–27–14; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71776; File No. SR–EDGA–2014–05]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add a Reference to Rule 10C–1 Under the Exchange Act in EDGA Rule 14.1 Concerning Unlisted Trading Privileges

March 24, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 12, 2014, EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend Exchange Rule 14.1 to make clear that the Exchange will not list equity securities without first ensuring that its rules comply with Rule 10C–1 under the Act (''Rule 10C–1''). The text of the proposed rule change is available on the Exchange's Internet Web site at *www.directedge.com,* at the Exchange's principal office, and at the Public Reference Room of the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 14.1 to make clear that the Exchange will not list equity securities without first ensuring that its rules comply with Rule 10C–1.

On March 30, 2011, to implement Section 10C of the Act, as added by Section 952 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010,[3] the Commission proposed Rule 10C–1 under the Act,[4] which directs each national securities exchange to prohibit the listing of any equity security of any issuer, with certain exceptions, that does not comply

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Public Law 111–203, 124 Stat. 1900 (2010).

[4] *See* Securities Act Release No. 9199, Securities Exchange Act Release No. 64149 (March 30, 2011), 76 FR 18966 (April 6, 2011) (''Rule 10C–1 Proposing Release'').

with the rule's requirements regarding compensation committees of listed issuers and related requirements regarding compensation advisers. On June 20, 2012, the Commission adopted Rule 10C–1.[5]

Exchange Rule 14.1 states that the Exchange extends unlisted trading privileges (''UTP'') to equity securities listed on another national securities exchange.[6] Rule 14.1 further states that, should the Exchange wish to permit the listing of equity securities, pursuant to Rules 14.2 through 14.9, it must first file a proposed rule change with the Commission amending its rules to comply with Rule 10A–3 under the Act, among other requirements.[7] Accordingly, the Exchange proposes to add a reference to Rule 10C–1 under the Act, which requires securities exchanges that list equity securities to adopt rules relating to the independence of compensation committees and their advisers.[8] In particular, the following change will be made to the text of Rule 14.1(a) (proposed text to be added is *underlined*):

Therefore, the provisions of Rules 14.2 through 14.9 that permit the listing of Equity Securities other than common stock, secondary classes of common stock, preferred stock and similar issues, shares or certificates of beneficial interest of trusts, notes, limited partnership interests, warrants, certificates of deposit for common stock, convertible debt securities, American Depositary Receipts (''ADRs''), and contingent value rights (''CVRs'') will not be effective until the Exchange files a proposed rule change under Section 19(b)(2) under the Exchange Act to amend its rules to comply with Rules 10A–3 *and 10C–1* under the Exchange Act and to incorporate qualitative listing criteria, and such proposed rule change is approved by the Commission.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5) of the Act,[10] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The rule change will promote these goals by clarifying further the intent of Rule 14.1, which exists to permit the Exchange to extend UTP to stocks that are listed on another national securities exchange pursuant to Section 12(f) of the Act.[11] The proposed amendments to Rule 14.1 emphasize that the Exchange will not list securities pursuant to Rules 14.2 through 14.9 until it proposes certain rule changes and those changes are approved by the Commission. The Exchange believes the proposed rule change is consistent with the protection of investors because it clarifies the fact that the Exchange will not list equity securities without first ensuring that its rules comply with Rule 10C–1, which implements Section 10C of the Act. These clarifications will also serve to protect investors and the public interest by preventing confusion about the intent of Rule 14.1.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The proposed rule change simply requires the codification of standards to which compensation committees of listed companies will be held should such companies choose to list their securities on the Exchange if the Exchange were to become a relevant listing exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)[12] of the Act and Rule 19b–4(f)(6)[13] thereunder. The proposed rule change effects a change that (A) does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

The Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five (5) business days prior to the date of filing.[14] The Exchange has satisfied this requirement [sic].

The Exchange believes that the proposed rule change meets the requirements of Rule 19b–4(f)(6).[15] Specifically, the proposal does not significantly affect the protection of investors or the public interest because it simply requires the codification of standards to which compensation committees of listed companies will be held if the Exchange were to become a listing market. Further, it does not involve any novel or complex issue and is substantially similar to the UTP listing rules of the BATS–Y Exchange, Inc. (''BYX'').[16] Furthermore, the proposed rule change benefits investors in that it increases transparency for investors and promotes responsible corporate governance by requiring the codification of standards for compensation committees of listed companies should the Exchange become a primary listing exchange. Accordingly, the Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act[17] and paragraph (f)(6) of Rule 19b–4 thereunder.[18]

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.

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.

[5] *See* 17 CFR 240.10C–1 and Securities Exchange Act Release No. 67220 (June 20, 2012), 77 FR 38422 (June 27, 2012) (''Rule 10C–1 Adopting Release'').

[6] *See* Exchange Rule 14.1.

[7] *Id.*

[8] 17 CFR 240.10C–1.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78l(f).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] 17 CFR 240.19b–4(f)(6).

[16] *See* BYX Rule 14.1. Securities Exchange Act Release No. 70623 (October 8, 2013), 78 FR 6277 (October 22, 2013).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b– 4(f)(6).

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EDGA–2014–05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGA–2014–05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGA–2014–05, and should be submitted on or before April 18, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–06896 Filed 3–27–14; 8:45 am]

BILLING CODE 8011–01–P

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71778; File No. SR–NYSEArca–2014–23)

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change to List and Trade Shares of the iShares Interest Rate Hedged Corporate Bond ETF and iShares Interest Rate Hedged High Yield Bond ETF Under NYSE Arca Equities Rule 8.600

March 24, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 19, 2014, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to list and trade the following under NYSE Arca Equities Rule 8.600 (''Managed Fund Shares''): iShares Interest Rate Hedged Corporate Bond ETF and iShares Interest Rate Hedged High Yield Bond ETF. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (''Shares'') of the following under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares [4]: iShares Interest Rate Hedged Corporate Bond ETF and iShares Interest Rate Hedged High Yield Bond ETF (each, a ''Fund'' and collectively, the ''Funds''). The Shares of the Funds will be offered by iShares U.S. ETF Trust (the ''Trust'').[5]. The Trust is registered with the Commission as an open-end management investment company.[6] BlackRock Fund Advisors (''BFA'') will serve as the investment adviser to the Funds (the ''Adviser''). BFA is an indirect wholly-owned subsidiary of BlackRock, Inc. BlackRock Investments, LLC (the ''Distributor'') will be the principal underwriter and distributor of the Funds' Shares. State Street Bank and Trust Company (the

[4] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[5] The Commission has previously approved listing and trading on the Exchange of a number of actively managed funds under Rule 8.600. *See, e.g.,* Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca-2008–31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 60460 (August 7, 2009), 74 FR 41468 (August 17, 2009) (SR–NYSEArca–2009–55) (order approving listing and trading of Dent Tactical ETF); 63076 (October 12, 2010), 75 FR 63874 (October 18, 2010) (SR–NYSEArca–2010–79) (order approving listing and trading of Cambria Global Tactical ETF).

[6] The Trust is registered under the 1940 Act. On August 22, 2013, the Trust filed with the Commission post-effective amendments on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) and under the 1940 Act relating to the iShares Interest Rate Hedged Corporate Bond ETF (the ''Corporate Bond Registration Statement'') and the iShares Interest Rate Hedged High Yield Bond ETF (the ''High Yield Registration Statement'' and together with the Corporate Bond Registration Statement, the ''Registration Statements'') (File Nos. 333–179904 and 811–22649). The description of the operation of the Trust and the Funds herein is based, in part, on the Registration Statements. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 29571 (File No. 812–13601) (''Exemptive Order'').

''Administrator'', ''Custodian'' or ''Transfer Agent'') will serve as administrator, custodian and transfer agent for the Funds.

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio.[7] Commentary .06 to Rule 8.600 is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Equities Rule 5.2(j)(3); however, Commentary .06 in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not registered as a broker-dealer but is affiliated with multiple broker-dealers and has implemented a ''fire wall'' with respect to such broker-dealers regarding access to information concerning the composition and/or changes to a Fund's portfolio. In the event (a) the Adviser or any sub-adviser registers as a broker-dealer or becomes 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 a portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

iShares Interest Rate Hedged Corporate Bond ETF

According to the Corporate Bond Registration Statement, the Fund will seek to mitigate the interest rate risk of a portfolio composed of U.S. dollar-denominated, investment grade corporate bonds. The Fund will seek to achieve its investment objective by investing, under normal circumstances,[8] at least 80% of its net assets in U.S. dollar-denominated investment-grade bonds, in one or more investment companies (exchange-traded and non-exchange-traded funds) that principally invest in investment-grade bonds, in U.S. Treasury securities (or cash equivalents), and by taking short positions in U.S. Treasury futures and other interest rate futures contracts.

According to the Corporate Bond Registration Statement, the Fund initially intends to invest a substantial portion of its assets in the iShares iBoxx $ Investment Grade Corporate Bond ETF (the ''Underlying Corporate Bond Fund''). The Fund will attempt to mitigate interest rate risk primarily through the use of U.S. Treasury futures contracts. The Fund may also take short positions in other interest rate futures contracts, including but not limited to, Eurodollar and Federal Funds futures. The Fund will invest only in futures contracts that are traded on an exchange that is a member of the Intermarket Surveillance Group (''ISG'') or with which the Exchange has in place a comprehensive surveillance sharing agreement.

BFA will utilize a model-based proprietary investment process to assemble an investment portfolio comprised of (i) long positions in the Underlying Corporate Bond Fund, (ii) long positions in U.S. dollar-denominated investment-grade corporate bonds, (iii) long positions in U.S. Treasury securities and (iv) short positions in U.S. Treasury futures and other interest rate futures contracts. The short positions are expected to have, in the aggregate, approximately equivalent duration to the underlying securities in the Underlying Corporate Bond Fund and to the investment-grade corporate bonds. By taking these short positions, BFA will seek to mitigate the potential impact of rising Treasury interest rates on the performance of the Underlying Corporate Bond Fund and the investment-grade corporate bonds (conversely also limiting the potential positive impact of falling interest rates). The short positions will not be intended to mitigate other factors influencing the price of investment-grade bonds, such as credit risk, which may have a greater impact than rising or falling interest rates. Relative to a long-only investment in the same investment-grade bonds, the Fund's investment strategy will be designed to outperform in a rising interest rate environment and underperform in a falling interest rate environment.

iShares Interest Rate Hedged High Yield Bond ETF

According to the High Yield Registration Statement, the Fund will seek to mitigate the interest rate risk of a portfolio composed of U.S. dollar-denominated, high yield corporate bonds. The Fund will seek to achieve its investment objective by investing, under normal circumstances, at least 80% of its net assets in U.S. dollar-denominated high yield corporate bonds, in one or more investment companies (exchange-traded and non-exchange-traded funds) that principally invest in high yield bonds, in U.S. Treasury securities (or cash equivalents), and by taking short positions in U.S. Treasury futures and other interest rate futures contracts.

According to the High Yield Registration Statement, the Fund initially intends to invest a substantial portion of its assets in the iShares iBoxx $ High Yield Corporate Bond ETF (the ''Underlying High Yield Bond Fund'' and together with the Underlying Corporate Bond Fund, the ''Underlying Funds''). The Fund will attempt to mitigate interest rate risk primarily through the use of U.S. Treasury futures contracts. The Fund may also take short positions in other interest rate futures contracts, including but not limited to, Eurodollar and Federal Funds futures. The Fund will invest only in futures contracts that are traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[7] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its 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

[8] The term ''under normal circumstances'' includes, but is not limited to, the absence of extreme volatility or trading halts in the equity 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.

BFA will utilize a model-based proprietary investment process to assemble an investment portfolio comprised of (i) long positions in the Underlying High Yield Bond Fund, (ii) long positions in U.S. dollar-denominated high yield corporate bonds, (iii) long positions in U.S. Treasury securities and (iv) short positions in U.S. Treasury futures and other interest rate futures contracts. The short positions are expected to have, in the aggregate, approximately equivalent duration to the underlying securities in the Underlying High Yield Bond Fund and to the high yield corporate bonds. By taking these short positions, BFA will seek to mitigate the potential impact of rising Treasury interest rates on the performance of the Underlying High Yield Bond Fund and the high yield corporate bonds (conversely also limiting the potential positive impact of falling interest rates). The short positions will not be intended to mitigate other factors influencing the price of high yield bonds, such as credit risk, which may have a greater impact than rising or falling interest rates. Relative to a long-only investment in the same high yield bonds, the Fund's investment strategy will be designed to outperform in a rising interest rate environment and underperform in a falling interest rate environment.

Other Investments

While each Fund, under normal circumstances, will invest at least 80% of its net assets in its investments as described above, a Fund may directly invest in certain other investments, as described below. The Funds may temporarily depart from its normal investment process,[9], provided that the alternative, in the opinion of BFA, is consistent with a Fund's investment objective and is in the best interest of a Fund. However, BFA will not seek to actively time market movements.

A 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.[10] 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 a Fund's net assets are held in illiquid assets. Illiquid assets include assets subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.[11]

Each Fund may invest in repurchase and reverse repurchase agreements. A repurchase agreement is an instrument under which the purchaser (*i.e.,* a Fund or an Underlying Fund) acquires the security and the seller agrees, at the time of the sale, to repurchase the security at a mutually agreed upon time and price, thereby determining the yield during the purchaser's holding period. Reverse repurchase agreements involve the sale of securities with an agreement to repurchase the securities at an agreed-upon price, date and interest payment and have the characteristics of borrowing.

Each Fund may invest in money market instruments on an ongoing basis to provide liquidity or for other reasons. Money market instruments are generally short-term investments that may include but are not limited to: (i) Shares of money market funds (including those advised by BFA or otherwise affiliated with BFA); (ii) obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities (including government-sponsored enterprises); (iii) negotiable certificates of deposit (''CDs''), bankers' acceptances, fixed-time deposits and other obligations of U.S. and non-U.S. banks (including non-U.S. branches) and similar institutions; (iv) commercial paper rated, at the date of purchase, ''Prime-1'' by Moody's® Investors Service, Inc., ''F–1'' by Fitch Inc., or ''A–1'' by Standard & Poor's® (''S&P®''), or if unrated, of comparable quality as determined by BFA; (v) non-convertible corporate debt securities (*e.g.,* bonds and debentures) with remaining maturities at the date of purchase of not more than 397 days and that satisfy the rating requirements set forth in Rule 2a–7 under the 1940 Act; and (vi) short-term U.S. dollar-denominated obligations of non-U.S. banks (including U.S. branches) that, in the opinion of BFA, are of comparable quality to obligations of U.S. banks which may be purchased by a Fund. Any of these instruments may be purchased on a current or forward-settled basis. Time deposits are non-negotiable deposits maintained in banking institutions for specified periods of time at stated interest rates.

A Fund may invest in options that are traded on a U.S. or non-U.S. exchange and that reference U.S. Treasury securities. To the extent that a Fund invests in options, not more than 10% of such investment would be in options whose principal trading market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

A Fund or the Underlying Funds may invest in debt securities of non-U.S. issuers and may invest in privately-issued debt securities.

Each Fund will be classified as a ''diversified'' investment company under the 1940 Act.[12]

Each Fund will not purchase the securities of issuers conducting their principal business activity in the same industry if, immediately after the purchase and as a result thereof, the value of a Fund's investments in that industry would equal or exceed 25% of the current value of a Fund's total assets, provided that this restriction does not limit a Fund's: (i) Investments in securities of other investment companies, (ii) investments in securities issued or guaranteed by the U.S. government, its agencies or

[9] Circumstances under which a Fund may temporarily depart from their normal investment process include, but are not limited to, extreme volatility or trading halts in the equity 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.

[10] In reaching liquidity decisions, the Adviser may consider factors including: 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; 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); any legal or contractual restrictions on the ability to transfer the security or asset; significant developments involving the issuer or counterparty specifically (*e.g.,* default, bankruptcy, etc.) or the securities markets generally; and settlement practices, registration procedures, limitations on currency conversion or repatriation, and transfer limitations (for foreign securities or other assets).

[11] 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 of 1933).

[12] The diversification standard is set forth in Section 5(b)(1) of the 1940 Act.

instrumentalities, (iii) investments in securities of state, territory, possession or municipal governments and their authorities, agencies, instrumentalities or political subdivisions; or (iv) investments in repurchase agreements collateralized by any such obligations.[13]

Each Fund intends to qualify for and to elect treatment as a separate regulated investment company (''RIC'') under Subchapter M of the Internal Revenue Code.[14]

Each Fund's investments will be consistent with its investment objective.

The Shares

The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. The Exchange represents that, for initial and/or continued listing, the Funds will be in compliance with Rule 10A–3 [15] under theAct, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares for each Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the net asset value (''NAV'') per Share of each Fund will be calculated daily and that the NAV and the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) will be made available to all market participants at the same time.

Creation and Redemption of Shares

According to the Registration Statements, each Fund will issue and redeem Shares on a continuous basis at NAV only in large specified numbers of Shares called a ''Creation Unit''.

The consideration for purchase of Creation Units of each Fund generally will consist of the in-kind deposit of a designated portfolio of securities (including any portion of such securities for which cash may be substituted) (*i.e.,* the Deposit Securities (as defined below)) and the Cash Component (as defined below) computed as described below. Together, the Deposit Securities and the Cash Component constitute the ''Fund Deposit,'' which will be applicable (subject to possible amendment or correction) to creation requests received in proper form. The Fund Deposit represents the minimum initial and subsequent investment amount for a Creation Unit of a Fund.

The Cash Component will be an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the ''Deposit Amount,'' which is an amount equal to the market value of the Deposit Securities, and serve to compensate for any differences between the NAV per Creation Unit and the Deposit Amount.

BFA will make available through the National Securities Clearing Corporation (''NSCC'') on each business day, prior to the opening of business on the Exchange, the list of names and the required number or par value of each Deposit Security and the amount of the Cash Component to be included in the current Fund Deposit (based on information as of the end of the previous business day) for the applicable Fund. Such Fund Deposit is applicable, subject to any adjustments as described below, in order to effect purchases of Creation Units of Shares of a Fund until such time as the next-announced Fund Deposit is made available.

The identity and number or par value of the Deposit Securities may change pursuant to changes in the composition of a Fund's portfolio and as rebalancing adjustments and corporate action events occur from time to time. The composition of the Deposit Securities may also change in response to adjustments to the weighting or composition of the component securities constituting a Fund's portfolio.

The portfolio of securities required for purchase of a Creation Unit may not be identical to the portfolio of securities a Fund will deliver upon redemption of Fund Shares. The Deposit Securities and Fund Securities (as defined below), as the case may be, in connection with a purchase or redemption of a Creation Unit, generally will correspond *pro rata* to the securities held by such Fund.

Each Fund reserves the right to permit or require the substitution of a ''cash in lieu'' amount to be added to the Cash Component to replace any Deposit Security that may not be available in sufficient quantity for delivery or that may not be eligible for transfer through the Depository Trust Company (''DTC'') or through the continuous net settlement system of the NSCC. Each Fund also reserves the right to permit or require a ''cash in lieu'' amount in certain other circumstances, including circumstances in which (i) the delivery of the Deposit Security by the authorized participant would be restricted under applicable securities laws or (ii) the delivery of the Deposit Security to the authorized participant would result in the disposition of the Deposit Security by the authorized participant becoming restricted under applicable securities laws, or in certain other situations. The Adviser represents that, to the extent the Trust permits or requires a ''cash in lieu'' amount, such transactions will be effected in the same or equitable manner for all authorized participants.

Creation Units may be purchased only by or through a DTC participant that has entered into an authorized participant agreement (as described in the Registration Statements) with the Distributor. Except as noted below, all creation orders must be placed for one or more Creation Units and must be received by the Distributor in proper form no later than the closing time of the regular trading session of the Exchange (normally 4:00 p.m., Eastern time) in each case on the date such order is placed in order for creation of Creation Units to be effected based on the NAV of Shares of a Fund as next determined on such date after receipt of the order in proper form. Orders requesting substitution of a ''cash in lieu'' amount generally must be received by the Distributor no later than 4:00 p.m., Eastern time. On days when the Exchange or other markets close earlier than normal, a Fund may require orders to create Creation Units to be placed earlier in the day. A standard creation transaction fee will be imposed to offset the transfer and other transaction costs associated with the issuance of Creation Units.

Shares of a Fund may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Distributor and only on a business day. BFA will make available through the NSCC, prior to the opening of business on the Exchange on each business day, the designated portfolio of securities (including any portion of such securities for which cash may be substituted) that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day (''Fund Securities''). Fund Securities received on redemption may not be identical to Deposit Securities that are applicable to creations of Creation Units.

Unless cash redemptions are available or specified for a Fund, the redemption proceeds for a Creation Unit generally will consist of a specified amount of cash, Fund Securities, plus additional cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after the receipt of a request in proper form, and the value of the specified amount of cash and Fund

[13] *See* Form N–1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. *See, e.g.,* Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

[14] 26 U.S.C. 851 *et seq.*

[15] 17 CFR 240.10A–3.

Securities, less a redemption transaction fee. Each Fund currently will redeem Shares for Fund Securities, but each Fund reserves the right to utilize a ''cash'' option for redemption of Shares.

A standard redemption transaction fee will be imposed to offset transfer and other transaction costs that may be incurred by a Fund.

Redemption requests for Creation Units of a Fund must be submitted to the Distributor by or through an authorized participant no later than 4:00 p.m. Eastern time on any business day, in order to receive that day's NAV. The authorized participant must transmit the request for redemption in the form required by a Fund to the Distributor in accordance with procedures set forth in the authorized participant agreement.

Determination of Net Asset Value

According to the Registration Statements, the NAV of each Fund normally will be determined once each business day, generally as of the regularly scheduled close of business of the New York Stock Exchange (''NYSE'') (normally 4:00 p.m., Eastern time) on each day that the NYSE is open for trading, based on prices at the time of closing provided that (a) any Fund assets or liabilities denominated in currencies other than the U.S. dollar are translated into U.S. dollars at the prevailing market rates on the date of valuation as quoted by one or more data service providers, and (b) U.S. fixed-income assets may be valued as of the announced closing time for trading in fixed-income instruments in a particular market or exchange. The NAV per Share of each Fund will be calculated by dividing the value of the net assets of each Fund (*i.e.,* the value of its total assets less total liabilities) by the total number of outstanding Shares of a Fund, generally rounded to the nearest cent.

The value of the securities and other assets and liabilities held by each Fund will be determined pursuant to valuation policies and procedures approved by the Trust's Board of Directors (''Board'').

Except as described below, each Fund will value fixed-income portfolio securities, including money market instruments and U.S. government securities, using prices provided directly from one or more broker-dealers, market makers, or independent third-party pricing services which may use matrix pricing and valuation models, as well as recent market transactions for the same or similar assets, to derive values. Certain money market instruments with maturities of 60 days or less will generally be valued on the basis of amortized cost. Repurchase agreements and reverse repurchase agreements are generally valued at par.

Exchange-traded options are generally valued at the mean of the last bid and ask prices as quoted on the exchange or the board of trade on which such options are traded. Futures contracts, including U.S. Treasury futures contracts, will be valued at their last sale price or settle price as of the close of such exchange.

Investments in other investment companies will be valued using market valuations. Investment companies that are exchange traded will generally be valued using the last reported official closing price or last trading price on the exchange or other market on which the fund is primarily traded at the time of valuation. Investment companies that are not exchange traded will be valued at their net asset value.

Generally, trading in U.S. Treasury futures, non-U.S. securities, U.S. government securities, money market instruments and certain fixed-income securities is substantially completed each day at various times prior to the close of business on the NYSE. The values of such securities used in computing the NAV of each Fund are determined as of such times.

When market quotations are not readily available or are believed by BFA to be unreliable, each Fund's investments will be valued at fair value. Fair value determinations will be made by BFA in accordance with policies and procedures approved by the Trust's Board. BFA may conclude that a market quotation is not readily available or is unreliable if a security or other asset or liability does not have a price source due to its lack of liquidity, if a market quotation differs significantly from recent price quotations or otherwise no longer appears to reflect fair value, where the security or other asset or liability is thinly traded, or where there is a significant event subsequent to the most recent market quotation. A ''significant event'' is an event that, in the judgment of BFA, is likely to cause a material change to the closing market price of the asset or liability held by the Fund.

Availability of Information

The Funds' Web site (*www.ishares.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for a Fund that may be downloaded. The Funds' Web site will include additional quantitative information updated on a daily basis, including, for the Funds, (1) the prior business day's reported closing price, NAV and mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[16] and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. 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 that will form the basis for such Fund's calculation of NAV at the end of the business day.[17]

On a daily basis, the Fund will disclose for each portfolio security or other financial instrument of each Fund the following information on the Funds' Web site: ticker symbol (if applicable), name of security or 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.

In addition, a basket composition file, which includes the security names and share quantities required to be delivered in exchange for each Fund's Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the NYSE via NSCC. The basket represents one Creation Unit of a Fund.

Investors can also obtain the Trust's Statement of Additional Information (''SAI''), each Fund's Shareholder Reports, and the Trust's Form N–CSR and Form N–SAR, filed twice a year. The Trust's SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.* Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout

[16] The Bid/Ask Price of each Fund will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of a Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Funds and their service providers.

[17] Under accounting procedures followed by the Funds, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Accordingly, the Funds will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares of each Fund and the shares of the Underlying Funds and any ETFs held by each Fund will be available via the Consolidated Tape Association (''CTA'') high-speed line. Quotation and last sale information for exchange-listed options contracts will be available via the Options Price Reporting Authority. In addition, the Indicative Optimized Portfolio Value (''IOPV''),[18] which is the Portfolio Indicative Value as defined in NYSE Arca Equities Rule 8.600 (c)(3), will be widely disseminated at least every 15 seconds during the Core Trading Session by one or more major market data vendors.[19] The dissemination of the IOPV, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of each Fund on a daily basis and to provide a close estimate of that value throughout the trading day. The intra-day, closing and settlement prices of exchange-traded portfolio assets, including investment companies, money market instruments, futures and options will be readily available from the securities exchanges and futures exchanges trading such securities and futures, as the case may be, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. Such price information on fixed income portfolio securities, including money market instruments, and other Fund assets traded in over-the-counter markets including bonds and money market instruments is available from major broker-dealer firms or market data vendors, as well as from automated quotation systems, published or other public sources, or online information services.

Additional information regarding the Trust and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions and taxes is included in the Registration Statements. All terms relating to the Funds that are referred to, but not defined in, this proposed rule change are defined in the Registration Statements.

Trading Halts

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 the Funds.[20] Trading in Shares of a 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. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of a Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. 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 a Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m. Eastern time in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing surveillance procedures administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[21] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The Exchange's current trading surveillance focuses on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares of the Funds, as well as underlying equity securities, futures and options contracts with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares of the Funds as well as underlying equity securities and futures from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares of the Funds from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[22] The Exchange may obtain information regarding trading in the Shares of the Funds as well as underlying equity securities, futures and exchange-traded options contracts from ISG member markets or markets with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income instruments reported to FINRA's Trade Reporting and Compliance Engine (''TRACE'').

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

[18] According to the Registration Statements, the IOPV calculations will be estimates of the value of each Fund's NAV per Share using market data converted into U.S. dollars at the current currency rates. The IOPV price will be based on quotes and closing prices from the securities' local market and may not reflect events that occur subsequent to the local market's close. Premiums and discounts between the IOPV and the market price may occur. This should not be viewed as a ''real-time'' update of the NAV per Share of the Funds, which will be calculated only once a day. The quotations of certain Fund holdings may not be updated during U.S. trading hours if such holdings do not trade in the United States.

[19] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available IOPVs taken from CTA or other data feeds.

[20] *See* NYSE Arca Equities Rule 7.12.

[21] 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.

[22] For a list of the current members of ISG, see *www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio for a Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit (''ETP'') Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) 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; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated IOPV will not be calculated or publicly disseminated; (4) how information regarding the IOPV is disseminated; (5) 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 (6) trading information.

In addition, the Bulletin will reference that each Fund is subject to various fees and expenses described in the Registration Statements. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m. Eastern time each trading day.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [23] that an exchange have rules that are 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, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Adviser has implemented a ''fire wall'' with respect to its affiliated broker-dealers regarding access to information concerning the composition and/or changes to a Fund's portfolios. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares of the Funds, as well as underlying equity securities, futures and options contracts with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares of the Funds as well as underlying equity securities and futures from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares of the Funds from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange may obtain information regarding trading in the Shares of the Funds as well as underlying equity securities, futures and options contracts from ISG member markets or markets with which the Exchange has in place a comprehensive surveillance sharing agreement. A 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. With respect to its exchange-listed equity securities investments, a Fund will invest only in equity securities that trade in markets that are members of the ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange. To the extent that a Fund invests in options, not more than 10% of such investment would be in options whose principal trading market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share of each Fund will be calculated daily and that the NAV and the Disclosed Portfolio for each Fund will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Funds and the Shares, thereby promoting market transparency. Moreover, the IOPV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Funds will disclose on their Web site the Disclosed Portfolio that will form the basis for a Fund's calculation of NAV at the end of the business day. 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, and quotation and last sale information will be available via the CTA high-speed line. The Web site for the Funds will include a form of the prospectus for the Funds and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of a Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and 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 a Fund may be halted. In addition, as noted above, investors will have ready access to information regarding a Fund's holdings, the IOPV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding a Fund's holdings, the IOPV, the Disclosed

[23] 15 U.S.C. 78f(b)(5).

Portfolio, and quotation and last sale information for the Shares. The proposed rule change would benefit investors by providing them with additional choice of transparent and tradable products.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of other actively-managed exchange-traded products that hold equity securities and will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca-2014–23 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca-2014–23. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca-2014–23, and should be submitted on or before April 18, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–06966 Filed 3–27–14; 8:45 am]

BILLING CODE 8011–01–P

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71786; File No. SR–FINRA–2014–010]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change To Adopt FINRA Rule 2243 (Disclosure and Reporting Obligations Related to Recruitment Practices)

March 24, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 10, 2014, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. 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

FINRA is proposing to adopt FINRA Rule 2243, which would establish disclosure and reporting obligations related to member recruitment practices.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org*, at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

FINRA members dedicate substantial resources each year to recruit registered persons (''representatives'') to their firms. Implicit in these recruitment efforts is an expectation that many of the representative's former customers will transfer assets to the member recruiting the representative (''recruiting firm'') based on the relationship that the representative has developed with those customers. To induce representatives to leave their current firm, recruiting firms often offer inducements to the representatives in the form of recruitment compensation packages. Recruitment compensation packages provide a significant layer of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

compensation in addition to the commission payout grid or other compensation that a representative receives based on production at a new firm. Recruitment compensation typically takes the form of some combination of upfront payments, such as cash bonuses or forgivable loans, and potential future payments, such as performance-based bonuses or special commission schedules that are not provided to similarly situated representatives.

FINRA understands that representatives who contact former customers to join them at their new firm often emphasize the benefits the former customers would experience by transferring their assets to the firm, such as superior products, platforms and service. However, while the recruiting firm and the representative understand the financial incentives at stake in a transfer, the representative's former customers who are contacted or notified about moving assets to the recruiting firm generally are not informed that their representative is receiving a recruitment compensation package to transfer firms, or the potential magnitude of such packages. Furthermore, the former customers often may not be aware of the potential financial impacts to their assets that may result if they decide to transfer assets to a new firm, including, among other things, costs incurred to close an account with their current firm, transfer assets or open an account at the recruiting firm, and tax consequences if some assets are not portable and must be liquidated before transfer.

The proposed rule change aims to provide former customers of a representative with a more complete picture of the factors involved in a decision to transfer assets to a recruiting firm. FINRA believes that former customers would benefit from information regarding recruitment compensation packages and such other considerations as costs, fees and portability issues that may impact their assets before they make a decision to transfer assets to a recruiting firm. A representative's most recent 12-month gross production and revenue, often referred to as his or her ''trailing 12,'' is typically the prominent factor in how firms calculate recruitment compensation packages. Other factors may include the firm from which the representative is transferring, the representative's book of business, the percentage of a representative's book of business that he or she expects will transfer to the new firm, the representative's years of service, debts to his or her previous firm, and the business model of the firm offering the package. FINRA understands that for representatives transferring to a large wirehouse firm, a standard recruitment compensation package may include an upfront payment, usually in the form of a forgivable loan, with a 7 to 10 year term that equals from 150 to 200 percent of the representative's trailing 12. These packages also typically include potential future payments that the representative earns if specified production targets are met at the recruiting firm.

FINRA understands that smaller firms generally do not offer significant recruitment compensation packages to representatives. For representatives that move to a firm with an independent broker-dealer model, recruitment compensation also may not include significant upfront payments. Firms that operate under an independent model typically offer compensation packages that include transition assistance and higher commission payout grid compensation in lieu of upfront payments. Transition assistance packages are intended to offset costs incurred by a representative to transfer firms, such as moving expenses, leasing space, buying office supplies and furniture, and hiring staff. These arrangements also are often based on the representative's trailing 12 and can result in significant recruitment compensation packages depending on the recruited representative's production and client base.

FINRA recognizes the business rationales for offering financial incentives and transition assistance to recruit experienced representatives and seeks neither to encourage nor discourage the practice with the proposed rule change. However, FINRA believes that former customers currently are not receiving important information from recruiting firms and representatives when they are induced to move assets to the recruiting firm. There are a number of factors a former customer should consider when making a decision to transfer assets to a new firm. These factors include, among other things, a representative's motives to move firms, whether those motives align with the interests and objectives of the former customer, and any costs, fees, or product portability issues that will arise as a result of an asset transfer to the recruiting firm. The proposed rule change is intended to provide former customers information pertinent to these considerations, so they have a more complete picture of the factors relevant to a decision to transfer assets to a new firm and can engage in further conversations with the recruiting firm or their representative in areas of personal concern. FINRA believes that former customers would benefit from knowing, among other things, the magnitude of the financial incentives that may have led their representative to change firms, how the former customer's assets, or trading activity, factored into the calculation of such incentives, and whether moving their assets to the recruiting firm will impact their holdings or impose new costs. The proposed rule change is intended to focus a former customer's attention on the decision to transfer assets to a new firm, and the direct and indirect impacts of such a transfer on those assets, so they are in a position to make an informed decision whether to follow their representative.

In addition, the proposed rule change would require members to report to FINRA information related to significant increases in total compensation over the representative's prior year compensation that would be paid to the representative during the first year at the recruiting firm so that FINRA can assess the impact of these arrangements on a member's and representative's obligations to customers and detect potential sales practices abuses. FINRA believes that incorporating such data into its risk-based examination program will help to identify and mitigate potential harm to customers associated with member recruitment practices.

Disclosure and Reporting Obligations Related to Recruitment Practices

The proposed rule change would provide targeted and meaningful information to customers at what FINRA believes to be a relatively low cost to firms and without implying any bad faith on the part of representatives who receive recruitment compensation to move firms. The proposed rule change includes a disclosure obligation to ''former customers''[3] who the recruiting firm attempts to induce to follow a transferring representative and a reporting obligation to FINRA. First, it would require disclosure to former customers of a representative of the financial incentives the representative will receive in conjunction with the transfer to the recruiting firm and the basis for those incentives. Second, the proposed rule change would require disclosure to former customers of any costs, fees or product portability issues, including taxes if some assets must be liquidated prior to transfer, that will result if the former customer decides to transfer assets to the recruiting firm. The

[3] *See* definition of ''former customer'' discussed *infra* at page 81.

proposed disclosures are intended to encourage customers to make further inquiry to reach an informed decision by providing a framework with some specific information to consider the impact to their accounts. Finally, the proposed rule change would require a recruiting firm to report to FINRA, at the beginning of a representative's employment or association with the firm, significant increases in total compensation over the representative's prior year compensation that would be paid to the representative during the first year at the recruiting firm. The details of proposed FINRA Rule 2243 (Disclosure and Reporting Obligations Related to Recruitment Practices) are set forth in detail below.

Disclosure Requirement

The proposed rule change would require a member that hires or associates with a representative and directly or through that representative attempts to induce a former customer of that representative to transfer assets to an account assigned, or to be assigned, to the representative at the member to disclose to the former customer if the representative has received or will receive $100,000 or more of either (1) aggregate ''upfront payments'' or (2) aggregate ''potential future payments'' in connection with transferring to the member.[4] The proposed rule change would require members to disclose recruitment compensation by separately indicating aggregate upfront payments and aggregate potential future payments in the following ranges: $100,000 to $500,000; $500,001 to $1,000,000; $100,000,001 to $2,000,000; $2,000,001 to $5,000,000; and above $5,000,000.[5] Thus, the proposed rule change effectively establishes two separate de minimis exceptions for payments of less than $100,000: One applied to aggregate upfront payments and one applied to aggregate potential future payments. Members also would be required to disclose the basis for determining any upfront payments and potential future payments (*e.g.,* asset-based or production-based) the representative has received or will receive in connection with transferring to the member.[6]

The proposed rule change would define a ''former customer'' as any customer that had a securities account assigned to a representative at the representative's previous firm. The term ''former customer'' would not include a customer account that meets the definition of an ''institutional account'' pursuant to FINRA Rule 4512(c); provided, however, accounts held by a natural person would not qualify for the ''institutional account'' exception.[7] For the purpose of the proposed rule, ''upfront payments'' would mean payments that are either received by the representative upon commencement of employment or association or specified amounts guaranteed to be paid to the representative at a future date, including, *e.g.,* payments in the form of cash, deferred cash bonuses, forgivable loans, loan-bonus arrangements, transition assistance, or in the form of equity awards (*e.g.,* restricted stock, restricted stock units, stock options, etc.) or other ownership interest.[8] The term ''potential future payments'' would include, *e.g.,* payments (including the forms of payments described in the definition of the term ''upfront payments'') offered as a financial incentive to recruit the representative to a member that are contingent upon satisfying performance-based criteria, or a special commission schedule for representatives paid on a commissioned basis beyond what is ordinarily provided to similarly situated representatives, or are an allowance for additional travel and expense reimbursement beyond what is ordinarily provided to similarly situated representatives.[9] FINRA understands that members sometimes partner with another financial services entity, such as an investment adviser or insurance company, to recruit a representative. In those circumstances, both upfront payments and potential future payments would include payments by the third party as part of the recruitment arrangement.

In addition to the recruitment compensation disclosure, the proposed rule change would require the member to disclose to a former customer of the representative if transferring the former customer's assets to the member: (1) Will result in costs to the former customer, such as account termination or account transfer fees from the former customer's current firm or account opening or maintenance fees at the member, that will not be reimbursed to the former customer by the member; [10] and (2) if any of the former customer's assets are not transferable to the member and that the former customer may incur costs, including taxes, to liquidate and transfer those assets in their current form to the member or inactivity fees to leave those assets with the former customer's current firm.[11]

The proposed rule change would allow a member to rely on the reasonable representations of the representative, supplemented by the actual knowledge of the member, in determining whether the proposed disclosures must be made to a former customer.[12] In the event that a member, after considering the representations of the newly hired representative, cannot make a determination whether any of the former customer's assets are not transferable to the member, the member must advise former customers in the disclosure: (1) To ask their current firms whether any of their assets will not transfer to the member and what costs, if any, the customers will incur to liquidate and transfer such assets or keep them in an account with their current firm and (2) that nontransferable securities account assets will be identified to the former customer in writing prior to, or at the time of, validation of the account transfer instruction pursuant to FINRA Rule 11870 (Customer Account Transfer Contracts).[13]

FINRA believes that the proposed rule change would provide key information to investors that they seldom receive today—that compensation may have been a motivating factor for a representative's transfer of firms, that the basis of any recruitment compensation may have or could impact the representative's treatment of the customer or the recommendation to move assets to the recruiting firm, that there may be costs associated with

[4] *See* proposed FINRA Rule 2243(a)(1). *See also* FINRA Rule 0140(a), which states that persons associated with a member shall have the same duties and obligations as a member under FINRA rules.

[5] *See* proposed FINRA Rule 2243.01 (Disclosure of Ranges of Compensation).

[6] *See* proposed FINRA Rule 2243(a)(2).

[7] *See* proposed FINRA Rule 2243.05(a). FINRA Rule 4512(c) defines ''institutional account'' to mean the account of (1) a bank, savings and loan association, insurance company, or registered investment company; (2) an investment adviser registered either with the SEC under Section 203 of the Investment Advisers Act of 1940 or with a state securities commission (or any agency or office performing like functions); or (3) any other entity (whether a natural person, corporation, partnership, trust, or otherwise) with total assets of at least $50 million.

[8] *See* proposed FINRA Rule 2243.05(b).

[9] *See* proposed FINRA Rule 2243.05(c). FINRA notes that neither category of recruitment compensation would include higher commission schedule payouts received by a transferring representative, such as may occur where a representative transfers to an independent broker-dealer, unless such payouts are beyond what is provided to similarly situated representatives, and that amount, alone or in combination with other payments, meets the $100,000 threshold for one of the categories of recruitment compensation.

[10] *See* proposed FINRA Rule 2243(a)(3).

[11] *See* proposed FINRA Rule 2243(a)(4).

[12] *See* proposed FINRA Rule 2243.03 (Representations of a Registered Person).

[13] *See supra* note 12.

transferring assets, and that there may be direct and indirect costs associated with liquidating or leaving behind nontransferable assets—relevant to a decision to follow the representative to the recruiting firm.

FINRA believes starting the disclosure of ranges of compensation at $100,000 for each category of recruitment compensation creates a reasonable de minimis exception from the proposed disclosure requirement at a level where the recruitment compensation or transition assistance are lesser motivating factors for a representative to move. FINRA will consider with interest comments on the appropriateness of the proposed de minimis exception amount of $100,000 for aggregate upfront payments and aggregate potential future payments; whether the disclosure of ranges of recruitment compensation should begin at a different amount; and whether the threshold should apply separately to upfront payments and potential future payments.

More generally, FINRA believes disclosure of ranges of compensation received strikes a balance that will provide former customers detailed information about the nature and magnitude of the financial incentives involved in their representative's move to factor into their decision whether to transfer assets to the new firm, while reducing privacy concerns about specific disclosure of a representative's compensation. FINRA believes the specified level of detail regarding the representative's recruitment compensation and the treatment of former customer's assets is necessary to make the disclosures valuable to former customers. The disclosures are intended to prompt a dialogue between the former customer and the representative or recruiting firm by providing a framework to consider the impact of a decision to transfer assets to a new firm. FINRA believes that the proposed disclosures would encourage customers to make further inquiries to the representative and the recruiting firm to reach an informed decision about whether to transfer assets. In addition, FINRA believes that requiring the basis for recruitment compensation to be disclosed would allow a former customer to review his or her account activity during the relevant time to see if any unusual activity occurred to boost the representative's revenue base in anticipation of a move and to more closely monitor activity at the new firm, should the customer decide to move assets there.

Delivery of Disclosures

The proposed rule change would require a member to deliver the proposed disclosures at the time of first individualized contact with a former customer by the representative or the member that attempts to induce the former customer to transfer assets to the member.[14] If such contact is in writing, the written disclosures must accompany the written communication; if such contact is oral, the member must give the disclosures orally at the time of contact followed by written disclosures sent within 10 business days from such oral contact or with the account transfer approval documentation, whichever is earlier. If the representative or the member attempts to induce a former customer to transfer assets to an account assigned, or to be assigned, to the representative at the member, but no individualized contact with the former customer by the representative or member occurs before the former customer seeks to transfer assets, the disclosures must be delivered to the former customer with the account transfer approval documentation.[15] The disclosure requirement would apply for a period of one year following the date the representative begins employment or associates with the member.[16]

FINRA believes that any action taken by a recruiting firm directly or through a representative that attempts to induce former customers of the representative to transfer assets to the recruiting firm should trigger the disclosures. As such, under the proposed rule change, actions by the recruiting firm or the representative that do not involve individualized contact, such as a tombstone advertisement, a general announcement, or a billboard, would be considered attempts to induce former customers to move their assets. In these circumstances, if a former customer subsequently decides to transfer assets to the recruiting firm without individualized contact, the proposed rule change would require the recruiting firm to provide the proposed disclosures to former customers with the account transfer approval documentation.

Format of Disclosures

The proposed rule change would require a member to deliver the proposed disclosures in paper or electronic form in a format prescribed by FINRA, or an alternative format with substantially similar content.[17] The proposed rule change would require that written disclosures must be clear and prominent.[18] To facilitate uniform disclosure under the proposed rule change and to assist members in making the proposed disclosures to former customers of a representative, FINRA has developed a disclosure template form that members may use to make the required disclosures.[19] Members may, however, create their own disclosure form, as long as it contains substantially similar content to the FINRA-developed template.

On the disclosure form, a member would be required to indicate the applicable range of compensation in each category of recruitment compensation (*i.e.,* aggregate upfront payments and aggregate potential future payments), for compensation in amounts of $100,000 or more that the representative has received or will receive in connection with transferring to the member. Thus, a representative who receives $75,000 in aggregate upfront payments and $75,000 in potential future payments would not trigger the compensation disclosure under the proposed rule because the $100,000 threshold applies separately to each category of recruitment compensation. Members also would be required to indicate the basis for those payments, *e.g.,* assets brought in or future production. In addition, members would be required to indicate if transferring assets to the representative's new firm will result in costs to the former customer that will not be reimbursed by the member, if any of the former customer's assets are not transferable to the member and that the former customer may incur costs, including taxes, to liquidate and transfer those assets in their current form to the member or inactivity fees to leave those assets with the former customer's current firm.

The FINRA-developed disclosure template would include a free text section in which the member or representative may include additional, contextual information regarding the disclosures, as long as such information is not false or misleading. A member could provide the same context in a disclosure form of its own design, as long as it does not obscure or overwhelm the required disclosures and is not false or misleading. FINRA believes that allowing members and representatives an opportunity to provide context regarding the disclosures will alleviate concerns that

[14] *See* proposed FINRA Rule 2243(b)(1).

[15] *See* proposed FINRA Rule 2243(b)(2).

[16] *See* proposed FINRA Rule 2243(b)(3).

[17] *See* proposed FINRA Rule 2243.02 (Format of Disclosures).

[18] *See supra* note 17.

[19] *See* Exhibit 3, attached to FINRA's filing with the Commission.

the disclosures will be confusing or imply bad faith on the part of the representative. FINRA believes that providing a uniform disclosure form will allow members to make the required disclosures at a relatively low cost and without significant administrative burdens.

Reporting Requirement

The proposed rule change would require a member to report to FINRA at the beginning of the employment or association of a representative that has former customers (as defined by proposed Rule 2243.05) if the member reasonably expects the total compensation paid to the representative by the member during the representative's first year of employment or association with the member to result in an increase over the representative's prior year compensation by the greater of 25% or $100,000.[20] In determining total compensation, the member must include any aggregate upfront payments, aggregate potential future payments, increased payout percentages or other compensation the member reasonably expects to pay the representative during the first year of employment or association with the member. A member's report to FINRA must include the amount and form of such total compensation and other related information, in the time and manner that FINRA may prescribe.

The compensation information reported to FINRA pursuant to the proposed rule would not be made available to the public. FINRA intends to use the reported compensation information as a data point in its risk-based examination program. As such, FINRA believes it is important to capture the compensation information in a structured way. FINRA believes this data will help FINRA examiners better assess the adequacy of firm systems to monitor conflicts of interest and systems to detect and prevent underlying business conduct abuses potentially attributable to recruitment compensation incentives, and target exams where concerns appear. This data also will help FINRA to identify whether the conflicts of interest attendant to particular levels or structures of increased compensation when a representative transfers firms result in customer harm that is not adequately addressed by current FINRA rules.[21] Further, FINRA believes such data would inform any future rulemaking to require firms to manage conflicts arising from specific compensation arrangements. In addition, FINRA believes the proposed reporting requirement itself could mitigate potential sales practice violations, as it might encourage firms to give greater supervisory attention to the more lucrative compensation packages that will be reported to FINRA.

Calculating Compensation

The proposed rule change would provide that in calculating compensation for the purpose of the proposed disclosure requirement and the proposed reporting requirement to FINRA, a member: (1) Must assume that all performance-based conditions on the representative's compensation are met; (2) may make reasonable assumptions about the anticipated gross revenue to which an increased payout percentage will be applied; and (3) may net out any increased costs incurred directly by the representative in connection with transferring to the member.[22] Members must include as part of such calculations all compensation the representative has received or will receive that is based on gross commissions and assets under care from brokerage business and, if applicable, fee income and assets under management from investment advisory services. For example, a dual-hatted representative that receives from the recruiting firm an upfront payment of $1.5 million based on gross commissions from brokerage business and an upfront payment of $1 million based on fees and assets under management from investment adviser business would be required to indicate on the customer disclosure form that he or she has received recruitment compensation in the range of $2,000,001 to $5,000,000 in aggregated upfront payments, and include $2.5 million in upfront payments as part of calculating total compensation for the purposes of the reporting requirement to FINRA.

FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval. The effective date will be no later than 180 days following publication of the *Regulatory Notice* announcing Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[23] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will promote investor protection by providing information on the costs and conflicts associated with a former customer's important decision whether to transfer assets to a representative's new firm. FINRA further believes that the proposed rule change would allow a former customer to make a more informed decision, taking into account the financial incentives that may motivate a representative to move firms and induce a customer to follow, as well as the costs to be borne by the customer in connection with transferring assets and the possibility that some assets cannot transfer. In addition, the proposed requirement to report to FINRA significant increases in total compensation in a representative's first year at a recruiting firm will enhance investor protection by allowing FINRA to monitor such practices and use the data collected to detect potential sales practice abuses.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. By relying on disclosure and reporting, the proposed rule seeks to focus a former customer's attention on the decision to transfer assets to a new firm, and the direct and indirect impacts of such a transfer on those assets, so they are in a position to make an informed decision whether to follow their representative.

The proposed rule would require a recruiting firm to determine the dollar

[20] *See* proposed FINRA Rule 2243(c) (Reporting Requirement).

[21] Recruitment compensation packages offered to representatives have been the subject of regulatory concern for many years. Former SEC Chairman Schapiro identified potential conflicts raised by recruitment practices in 2009 in an open letter to broker-dealer CEOs. The letter noted that: ''[s]ome types of enhanced compensation practices may lead registered representatives to believe that they must sell securities at a sufficiently high level to justify special arrangements that they have been given. Those pressures may in turn create incentives to engage in conduct that may violate obligations to investors. For example, if a registered representative is aware that he or she will receive enhanced compensation for hitting increased commission targets, the registered representative could be motivated to churn customer accounts, recommend unsuitable investment products or otherwise engage in activity that generates commission revenue but is not in investors' interest.'' *See* Open Letter to Broker-Dealer CEOs from SEC Chairman Mary L. Schapiro, dated August 31, 2009.

[22] *See* proposed FINRA Rule 2243.04 (Calculating Compensation).

[23] 15 U.S.C. 78*o*–3(b)(6).

value of a representative's recruitment compensation, and if meeting a threshold, provide disclosure to former customers the recruiting firm or representative attempt to induce to transfer assets during the representative's first year of employment or association. In addition, the proposed rule would require the recruiting firm to report information about a representative's total compensation to FINRA if it meets the proposed threshold. Firms also would be responsible for developing compliance policies, training and tracking for the proposed rule. Some commenters have noted that the proposed rule also may have an impact on the market for representatives.

FINRA does not believe that the proposed rule change will impose undue operational costs on members to comply with the disclosure and reporting obligations because the information needed to make the calculations resides with either the recruiting firm or the representative. The recruiting firm knows how much upfront compensation they will be paying the representative, as well as the additional potential future income the representative may earn if he or she satisfies conditions. Furthermore, the proposed rule change permits the recruiting firm to make reasonable assumptions about the gross revenue to which any increased payout percentage may apply. In addition, FINRA understands that the recruiting firm or the representative typically has ongoing contact with former customers, thereby facilitating the opportunity for the disclosures to be made. With respect to the disclosure of costs, FINRA believes that the representative will know of costs a former customer will incur at the current firm to transfer assets or leave them inactive and that the recruiting firm knows the costs it imposes to transfer assets and open and maintain an account there. Also, the proposed rule change allows the recruiting firm to rely on the reasonable representations of the representative for much of the information, and with respect to portability, give more generalized disclosure where the information cannot be ascertained from the representative or other actual knowledge.

In developing the proposed rule change, FINRA considered several alternatives to the proposed rule change, which are set forth below, to ensure that it is narrowly tailored to achieve its purposes described previously without imposing unnecessary costs and burdens on members or resulting in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change addresses many of the concerns noted by commenters in response to an earlier version of the proposal.[24]

First, the earlier version of the proposed rule change would have required a member that provides, or has agreed to provide, to a representative enhanced compensation in connection with the transfer of securities employment of the representative from another financial services firm to disclose the details, including specific amounts, of such enhanced compensation [25] to any former customer of the representative at the previous firm that is contacted regarding the transfer of the securities employment (or association) of the representative to the recruiting firm, or who seeks to transfer assets, to a broker-dealer account assigned to the representative with the recruiting firm. The earlier proposal did not include any disclosure of costs or portability ramifications associated with transferring assets to the new firm. As discussed in detail in Item C., a majority of the comments received on the earlier version of the proposal opposed specific disclosure of enhanced compensation, stating that it was burdensome, an invasion of privacy and failed to address a particular harm to customers. Some commenters instead favored general disclosure that a representative is receiving unspecified compensation as part of a transfer.

FINRA considered, as an alternative to the proposed rule change, a proposal that would have included a general recruitment compensation disclosure (*i.e.,* no specific dollar amounts) and general disclosure that the former customer *may* incur costs or encounter portability issues in connection with any asset transfer. However, FINRA believes that the proposed rule change is preferable to alternatives with general disclosure requirements because the general disclosure approach does not give former customers any sense of the scope or magnitude of a representative's recruitment compensation package or whether the cost and portability disclosures will actually impact their personal holdings. FINRA developed the revised approach in the proposed rule change to strike a balance between specific disclosure and general disclosure by requiring disclosure of ranges of compensation of $100,000 or more as applied separately to aggregate upfront payments and aggregate potential future payments and affirmative cost and portability statements.

The proposed disclosure of ranges of recruitment compensation provides customers with meaningful information, *i.e.,* that compensation may have been a motivating factor in their representative's decision to change firms, to consider in conjunction with a representative's other stated reasons for changing firms, without requiring members to disclose specific information about the payments that may compromise the privacy of the representative. As noted in Item A., representatives often emphasize the superior products, platforms and services of the recruiting firm without disclosing the lucrative financial incentives they have received or will receive in connection with the transfer. In addition, to assist members with compliance with the proposed rule change and to mitigate costs and administrative burdens, FINRA developed a disclosure form that members may use to make the required disclosures. The proposed rule change adds flexibility by allowing recruiting firms to deliver the disclosures in an alternative format with substantially similar content so firms can leverage existing compliance efforts or procedures.

Second, as noted above, the proposed rule change exempts compensation that does not meet a $100,000 threshold as applied separately to aggregate upfront payments and aggregate potential future payments for purposes of disclosure to former customers and compensation that does not meet a threshold of the greater of 25% or $100,000 over the representative's prior year's compensation for purposes of reporting total compensation to FINRA, and allows members to net out direct costs paid by the representative in a transfer to a new firm when making such calculations. The initial proposal included a $50,000 exception, which many commenters opposed because, among other things, they felt it was arbitrary, too low to cover expenses incurred by representatives to transfer firms and did not allow firms to net out direct costs incurred by the representative in calculating recruitment compensation. Based on the

[24] *See* Item C., which contains a detailed discussion of the earlier version of the proposal that was published in *Regulatory Notice* 13–02 (January 2013).

[25] In the initial proposal, the term ''enhanced compensation'' was defined as compensation paid in connection with the transfer of securities employment (or association) to the recruiting firm other than the compensation normally paid by the recruiting firm to its established registered persons. Enhanced compensation included but was not limited to signing bonuses, upfront or back-end bonuses, loans, accelerated payouts, transition assistance, and similar arrangements, paid in connection with the transfer of securities employment (or association) to the recruiting firm.

comments and discussions with firms, FINRA believes that raising the proposed de minimis exception for recruitment compensation to $100,000 for each of aggregate upfront payments and aggregate potential future payments will substantially mitigate costs for firms without compromising investor protection. Based on input from firms that offer recruitment compensation, FINRA believes the proposed de minimis exception will except from the disclosure obligation those firms whose payments are only intended as transition assistance to help cover relocation and overhead costs, such as new business cards and letterhead, and that amounts below this threshold significantly diminish the motivating impact for the representative to move firms and therefore would not be as meaningful to customers. FINRA also understands that recruitment compensation that exceeds the $100,000 threshold for aggregate upfront payments and aggregate potential future payments is typically offered only by the largest firms and therefore the disclosure obligation should not impact most small firms or independent broker-dealers, where the relative costs of compliance would be more burdensome.

FINRA understands the proposed de minimis exception for disclosure of compensation under $100,000 in each category of recruitment compensation may impose some burden on small member firms to establish administrative processes to track compensation and to ensure that records are available to evidence compliance. FINRA does not believe that the administrative costs to track recruitment compensation outweighs the investor protection benefits of increased transparency to inform former customers about recruitment compensation that may have motivated their representative to move firms before they decide to transfer account assets to their representative's new firm. In addition, FINRA notes that the proposed rule change incorporates a provision that permits members to net out costs directly incurred by a representative in connection with a transfer to the recruiting firm. Members would measure compensation amounts for purposes of determining the $100,000 threshold in each category of recruitment compensation after direct costs to the representative in connection with the transfer have been netted out. Therefore, FINRA believes it is more likely that the de minimis exception will apply when a representative moves from a wirehouse firm to a firm with an independent broker-dealer model or when a representative otherwise incurs direct costs associated with a transition.

Third, the proposed rule change limits the proposed disclosures to situations where a member, directly or through a representative, attempts to induce that representative's former customers to transfer assets to the member. Recruiting firms would not have to make the disclosures to former customers if the recruiting firm or representative does not undertake any efforts to induce former customers to transfer assets to the member, either through individualized contact, such as an email or phone call, or non-individualized contact, such as a tombstone advertisement, a billboard or a notification on the firm's Web site.

Fourth, FINRA notes that the proposed rule change includes a one-year disclosure period so that members do not have to track for or provide disclosures to customers after the representative has been with the firm for a year. FINRA considered an alternative that would have required disclosure for as long as the representative continued to receive recruitment compensation, which in some cases, could be 10 years. FINRA understands that most former customers who transfer assets to the representative's new firm do so soon after the representative changes firms so the one-year period should provide a reasonable end date for the proposed disclosure requirement.

Fifth, FINRA considered whether the proposed rule should apply to any new customers of the representative at the new firm, or whether disclosure to just former customers would accomplish the goals of the proposed rule change. FINRA determined that it would limit the proposed rule to former customers of the representative because the recruitment compensation the representative has received or will receive in a transfer is likely based on activity in the accounts of such former customers and the expectation that they will transfer assets to follow the representative to the recruiting firm. In addition, representatives should have a sense of how moving assets to the recruiting firm will impact former customers' accounts because they are aware of the costs associated with account termination, transfer and opening and product limitations at their previous firm and at the recruiting firm. Representatives are less likely to have similar information for new customers opening an account with the recruiting firm. A customer opening a new account also does not have an established relationship with the representative and, in many cases, has already determined to place assets with a new firm without any inducement from the representative.

Sixth, FINRA considered whether the proposed rule should require disclosure to current customers when their representative receives a retention bonus. As explained in more detail in Item C., the proposed rule change does not include that requirement because the proposal is more narrowly focused on providing a former customer important information when deciding whether to follow his or her representative to a new firm, and incentives offered to a representative while at a firm do not implicate the same considerations for customers, such as transfer costs and portability issues. FINRA notes that to the extent a retention bonus is part of a recruitment compensation package, disclosure would be required as a potential future payment if the magnitude of the bonus exceeds the $100,000 threshold. FINRA further notes that the reporting requirement in the proposed rule change is intended, in part, to provide insight as to whether compensation packages are resulting in increased risk to customers of inappropriate sales practice activities. That information will help inform whether additional regulation around retention bonuses or other compensation incentives is necessary.

Finally, in considering the proposed requirement that members report to FINRA significant increases in a recruited representative's total compensation over the prior year, FINRA notes that it consulted with its advisory committees to determine the proposed threshold of the greater of $100,000 or 25%, which is intended to exclude compensation arrangements that do not pose the same level of potential conflicts of interest. FINRA believes compensation increases of amounts below the threshold are less valuable for its examination program, particularly when compared to the burden of compliance on smaller firms that are more likely to offer recruitment packages in those ranges. FINRA will consider with interest comment on whether the proposed threshold is appropriate and, if commenters favor an alternative, the reasons why such alternative is preferable.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

FINRA published an earlier version of the proposal for comment in *Regulatory Notice* 13–02 (January 2013) (the ''Notice Proposal''). A copy of the

Notice Proposal is attached as Exhibit 2a. The comment period expired on March 5, 2013. FINRA received 567 comment letters in response to the proposal, of which 65 were unique letters. A list of the comment letters received in response to the Notice Proposal is attached as Exhibit 2b.[26] Copies of the comment letters received in response to that proposal are attached as Exhibit 2c.[27] Of the 65 unique comment letters received, 21 were generally in favor of the proposed rule change, 43 were generally opposed, and one letter did not address the merits of the proposal.

The Notice Proposal required a member that provides, or has agreed to provide, to a representative ''enhanced compensation'' in connection with the transfer of securities employment of the representative from another financial services firm to disclose the details of such enhanced compensation to any former customer of the representative at the previous firm who: (1) Is individually contacted by the member or representative, either orally or in writing, regarding the transfer of employment (or association) of the representative to the member; or (2) seeks to transfer an account from the previous firm to an account assigned to the representative with the member. The proposal defined enhanced compensation to include signing bonuses, upfront or back-end bonuses, loans, accelerated payouts, transition assistance, and similar arrangements. The proposal would have required disclosure for one year following the date the representative associates with the recruiting firm. The proposal included an exception for enhanced compensation of less than $50,000 and customers that meet the definition of an institutional account pursuant to FINRA Rule 4512(c), except any natural person or a natural person advised by a registered investment adviser.

Comments in support of the proposal were split between those that favored specific disclosure and those that advocated general disclosure of recruitment compensation. In general, comments opposed to the proposal asserted that it did not address an identifiable harm to customers, was pejorative toward representatives, invaded their privacy, and failed to include other cost impacts to customers when transferring their accounts. The comments and FINRA's responses are set forth in detail below.

[26] All references to the commenters under this Item are to the commenters as listed in Exhibit 2b.

[27] Exhibits 2a, 2b, and 2c are attached to FINRA's filing with the Commission.

Support for the Notice Proposal

In general, commenters that supported the proposal stated that disclosing specific recruitment compensation to customers would provide investors with information relevant to investment decisions, promote greater transparency, increase investor confidence and trust, and increase customer awareness of potential conflicts of interest relating to recruitment compensation packages.[28] One commenter noted that the proposal put the interest of customers first, supported a high standard of business ethics, and provided disclosure appropriate for customers to make informed decisions without prohibiting legitimate business practices.[29] Another commenter noted that informing customers of potential conflicts of interest regarding recruitment compensation is especially important if the representative's compensation is determined by the assets a customer moves to the representative's new firm.[30] One commenter also noted that most representatives do not tell customers that they are receiving recruitment compensation for moving customer assets to the new firm and inflate production to benefit trailing 12 calculations.[31] Another commenter stated that registered investment advisers are required to disclose all conflicts of interest, including those that may arise when the adviser changes firms.[32] Two commenters noted that transparency is a key component of a customer's ability to make an informed decision about transferring his or her assets.[33]

Specific vs. General Enhanced Compensation Disclosure

Several commenters wrote in support of uniform, industry-wide disclosure of recruitment compensation to customers, including the form of the recruitment compensation arrangement and specific dollar amounts.[34] One commenter suggested that FINRA should work with the industry to create a model approach that clearly articulates appropriate disclosure for enhanced compensation arrangements and supported concise, direct and plain English disclosures of information that is sufficient to inform an investor of the potential material conflicts of interest that may arise in connection with recruiting related bonus payments.[35] Another commenter noted that specific disclosure would make it significantly easier for former customers to assess the merits of the change to reach an informed decision about whether to transfer an account to the new firm.[36]

The Notice Proposal requested comment on an alternative approach that would require a general upfront disclosure by the recruiting firm or representative that the representative is receiving, or will receive, material enhanced compensation in connection with the transfer of securities employment (or association) to the recruiting firm and that additional specific information regarding the details of such compensation would be available at a specified location on the firm's Web site or upon request.

A few commenters asserted that a general disclosure would dilute the goal of proactive, timely disclosure because customers would carry the burden to seek out the more detailed disclosures from the member or representative.[37] One commenter opposed the alternative approach because the more detailed web-based disclosure would be accessible not only by customers, but also the public.[38] Numerous commenters suggested that the proposal should require general disclosure of recruitment compensation, instead of specific disclosure, with an opportunity for customers to request more information from the representative or member regarding the details of such compensation.[39] Some commenters also stated that a general disclosure would prompt a dialogue between the representative and retail customers that would be more valuable than raw numbers without context.[40]

Several commenters stated that a brief, plain English, generic disclosure with the delivery of Automated Customer Account Transfer Service (''ACATS'') forms or at account opening would be more meaningful to customers than specific disclosure of compensation, and also would avoid

[28] APA, Arrigo, Capstone-FA, Cornell, Edward Jones, HDVest, JGHeller, Merrill, Miami, Morgan Wilshire, MSWM, NASAA, Oppenheimer, PIABA, Ruchin, Scott Smith, Summit-E, UBS, Wedbush, WFA.

[29] UBS.

[30] Capstone-FA.

[31] APA.

[32] Cornell.

[33] Morgan Wilshire, Wedbush.

[34] Edward Jones, Merrill, MSWM, NASAA, Summit-E, UBS, WFA.

[35] SIFMA.

[36] Oppenheimer.

[37] Edward Jones, Summit-E, UBS.

[38] Summit-E.

[39] Advisor Group, Ameriprise, BDA, Bischoff, Cetera, Janney, LaBastille, Lax, Lincoln, Miami, NAIFA, Plexus, Stifel, Summit-B, Sutherland, Wedbush.

[40] Ameriprise, Cetera, Wedbush.

privacy and anti-competitive issues.[41] Several other commenters noted that specific disclosure might mislead or confuse customers and would, therefore, not be helpful or serve the purposes of investor protection.[42] One commenter stated that customers might view recruitment compensation as a bribe or excessive.[43] One commenter suggested that firms should provide customers with a single page, plain English form to inform the client that their representative is receiving recruitment compensation exceeding $50,000 and, although the representative is under no suspicions of acting unethically, FINRA has identified enhanced compensation as an area prone to conflicts, and any concerns regarding the management of investment accounts and objectives should be raised with the representative.[44] Two commenters noted that disclosure of specific recruitment compensation may be viewed as a measure of the new firm's endorsement of the representative.[45]

As discussed in Item B., FINRA does not agree that general disclosure of recruitment compensation would provide sufficient information for a former customer to weigh in a decision whether to transfer assets to his or her representative's new firm. FINRA continues to believe that some level of specificity regarding the magnitude of recruitment compensation paid by a member to a representative is necessary for the disclosure to be meaningful to former customers. FINRA believes that customers need some quantifiable measure to evaluate the impact recruitment compensation may have had on the representative's decision to move firms and his or her attempt to induce former customers to transfer assets to that new firm. FINRA further believes that the disclosure of ranges of compensation will provide a former customer enough sense of the magnitude of the payments to foster further inquiry with the representative if the customer finds the compensation relevant to his or her decision to transfer assets to the new firm.[46]

Opposition to the Notice Proposal

In general, commenters opposed to the proposal stated that it does not address an identifiable harm or conflict of interest, is unnecessary and redundant, and does not provide additional protections to retail investors beyond existing rules (*e.g.,* FINRA's suitability rule already addresses churning and unsuitable recommendations and FINRA's supervision rules address firms' supervisory systems).[47] Three commenters noted that the benefits of the proposal are unclear because, among other things, a representative's compensation has no direct impact on a customer's account and recruitment compensation does not present a conflict of interest that is distinguishable from other compensation arrangements not covered by the proposal.[48]

Five commenters stated that the proposal is not helpful to customers and will not assist them in making a decision to transfer assets to a new firm.[49] Three commenters stated that the proposal is not well designed to mitigate conflicts or help customers because it does not prohibit any action; it merely provides an incomplete disclosure of one of many potential conflicts.[50] A few commenters stated that if the true intent of the proposal is to reduce conflicts of interest by curtailing recruitment compensation packages, then it would be more efficient for FINRA to address such arrangements, rather than requiring disclosure to customers with the hope that the second order impact will be for firms to change their practices.[51]

Numerous commenters questioned the purpose of the proposal given the lack of evidence that recruitment compensation harms clients in any way.[52] Several commenters noted that FINRA cited no enforcement actions, cases, customer complaints or other empirical evidence that enhanced compensation creates a conflict of interest between customers and representatives and requested that FINRA consider modifying the proposal to more accurately address any perceived harm.[53] One commenter stated that more rigorous analysis is needed to determine if an actual conflict exists.[54]

Several commenters were concerned that the proposal assumes that representatives act in bad faith and implies that customers should not trust representatives if they have received recruitment compensation, even if it merely helps offset the cost of moving firms.[55] One commenter noted that the backlash from customers will outweigh any benefits of the proposal.[56] Another commenter noted that the proposal does not explain how the significant consequences to the representative of specific compensation disclosure are outweighed by the benefit to retail customers and suggested focus group testing to determine whether a general disclosure would be as effective as specific disclosure.[57] One commenter stated that the proposal will cause jealousy and bad will among clients, create a more litigious environment, and will force representatives to take on larger and fewer clients.[58] Another commenter stated that the disclosure will put pressure on representatives to perform above prevailing market conditions to justify payouts.[59] One commenter stated that the proposal will further sensationalize the transition of a representative to another firm.[60] Another commenter stated that it, instead, could harm a representative's interests with no practical purpose.[61] However, one commenter stated that specific disclosure of recruitment compensation that is moderate and reasonable will not negatively affect representatives because he or she can explain the benefits of the move and the costs and lost revenues involved in the transition.[62]

Some commenters raised concerns that the proposed disclosure will be confusing to customers because they cannot understand the complexity of compensation packages and, therefore, the proposal will not be valuable to them or serve the purposes of investor protection.[63] One commenter noted that customers are not in a position to judge the merits of recruitment compensation to understand their value to the future

[41] Ameriprise, Cetera, Janney, Lax, Stifel, Sutherland, Wedbush.

[42] Advisor Group, BDA, Bischoff, Burns, Miami, NAIFA, Plexus, Sutherland.

[43] Smith Moore.

[44] Cornell.

[45] Burns, Elzweig.

[46] *See also* FINRA's responses to comments regarding privacy and anti-competitive concerns on pages 110 through 116.

[47] Abel, Advisor Group, Ameriprise, APA, BDA, Bischoff, Burns, Capstone-AG, Cetera, Commonwealth, Cutter, Edde, Elzweig, FORM, FSI, Gompert, Janney, LaBastille, Lincoln, LPL, NPB, SIPA, Smith Moore, Spartan, Stifel, Sutherland, Summit-B, Summit-E, Taylor, Taylor English, Whitehall, Wilson, Wood.

[48] Smith Moore, Sutherland, Taylor English.

[49] Advisor Group, Bischoff, Commonwealth, Spartan, Wedbush.

[50] Burns, Taylor English, Showalter.

[51] Cutter, Taylor English, Whitehall.

[52] Advisor Group, Burns, Cutter, Edde, Herskovits, Smith Moore, Summit-B, Sutherland, Taylor English, Wedbush and Whitehall.

[53] Burns, Commonwealth, Janney, Stifel, Sutherland.

[54] Janney.

[55] Abel, Ameriprise, Burns, Capstone-AG, Commonwealth, Cutter, FORM, FSI, Lincoln, LPL, Whitehall.

[56] Bischoff.

[57] FSI.

[58] Wilson.

[59] Taylor.

[60] Smith Moore.

[61] Lax.

[62] Korth.

[63] Advisor Group, BDA, Miami, Plexus, Sutherland.

of a firm or branch, and are more likely to view them all negatively.[64] Other commenters requested clarification of what is meant by disclosure of ''details'' of enhanced compensation and ''similar arrangements.''[65]

A number of commenters also noted that recruitment compensation may actually benefit investors because it may cover ACATS transfer fees, moving expenses, or new advertising materials, and allow the representative to move to a new firm with better service.[66] One commenter noted that the proposal does not consider that representatives who receive significant recruitment compensation packages are those that are in high demand and the firms that recruit them will have quality platforms and services that will benefit clients.[67]

FINRA believes the proposed rule change addresses many of the commenters' concerns by better focusing the proposal on the impact to customers when they are considering transferring assets to a representative's new firm, rather than specific amounts of recruitment compensation paid to a representative. As stated in Item A., FINRA recognizes the business rationales for offering financial incentives and transition assistance to recruit experienced representatives and seeks neither to encourage nor discourage the practice with the proposed rule change. The proposed rule change also does not intend to cast representatives in a negative light for receiving recruitment compensation when they accept a new position.

The proposed rule change would require disclosure of ranges of compensation, instead of specific amounts of compensation, and expands the disclosures to include information about the costs, fees, and portability issues that will directly impact a customer's assets. The proposed rule change is intended to provide former customers with this information, so they have a more complete picture of the factors relevant to a decision to transfer assets to a new firm and can engage in further conversations with the recruiting firm or their representative in areas of personal concern. Moreover, the proposed rule change will focus a former customer's attention on the decision to transfer assets to a new firm, and the direct and indirect impacts of such a transfer on those assets, so they are in a position to make an informed decision whether to follow their representative.

FINRA does not believe that former customers will be confused by a clear, plain English disclosure regarding a representative's recruitment compensation. However, FINRA notes that the proposed rule change amends the Notice Proposal to require disclosure of ranges of compensation, the basis for such compensation, and other important considerations that a former customer should consider when they are deciding whether to transfer assets to a new firm. The proposed rule change would require members to use the FINRA-developed disclosure template, or their own form with substantially similar content, and would include a free text section to include contextual information regarding the disclosures. In addition, members would be required to include descriptions regarding ''upfront payments'' and ''potential future payments'' to assist customers in understanding the types of payments that their representative has received or will receive from the recruiting firm.

As noted in Item A., FINRA believes the proposed rule change provides targeted and meaningful information to customers at a relatively limited cost to firms and without implying any bad faith on the part of the registered representative. The disclosures are intended to encourage customers to make further inquiry to reach an informed decision by providing a framework with some specific information to consider the impact to their accounts. In addition, FINRA believes that former customers should be given enough information to understand how their assets factor into the calculation of their representative's recruitment compensation package, and how much money is at stake in these transfers.

Privacy Concerns

Numerous commenters opposed specific disclosure of recruitment compensation because it would interfere with a representative's right to privacy.[68] Some commenters stated that the proposal threatens the financial privacy of representatives in a manner that is unfair, needlessly intrusive, and may jeopardize client relationships.[69] Others noted that it will expose personal and confidential information without any tangible benefit to the customer and should not be required absent a compelling public policy reason to do so.[70] One commenter minimized the operational and privacy concerns stating that they do not outweigh clients' best interests, and disclosures may enhance client relationships based on transparency and trust.[71]

A number of commenters stated that the proposal exposes representatives to safety risks, including, *e.g.,* identity theft, data security incidents,[72] financial fraud, kidnapping, black mail and extortion.[73] One commenter expressed concerns that disclosure of recruitment compensation will make a representative's compensation a factor when customers are considering the settlement of outstanding complaints and negotiating settlement offers.[74] Two commenters further stated that firms will be unable to protect widespread dissemination of a representative's compensation information once it is disclosed.[75] One commenter suggested including with the proposed disclosure a customer confidentiality provision with an exception for the customer to share the information with an attorney or financial professional for consulting purposes.[76] One commenter noted that the information gained by the disclosure will eventually be obtained and aggressively used by the previous firm to try to persuade clients not to follow their representatives to the new firm.[77] Two commenters warned that the proposed disclosure would expose trade secrets and destroy proprietary business formulas that have been developed by firms.[78] Another commenter stated that it threatens the confidential nature and success of firms' recruiting programs and impacts a core and currently proprietary tool that broker-dealers use to manage their business (*i.e.,* compensation of personnel) without a measurable increase in customer protection or evidence that the disclosure will impact the perceived conflicts.[79] Three commenters stated that the proposal could violate applicable state and federal privacy regulations, including the Gramm-Leach-Bliley Act and Regulation S–P, which are designed to protect the dissemination of non-public customer personal information.[80] One commenter

[64] Bischoff.
[65] Sutherland, Lax, NAIFA, Cutter, Summit-E.
[66] FORM, Lincoln, LPL, Capstone-AG.
[67] Elzweig.
[68] Ameriprise, Burns, Cetera, Gompert, Janney, Lax, Stifel, Sutherland, Wedbush, Whitehall, Wilson.
[69] FSI, Herskovits, LaBastille, Lax, Stifel.
[70] Ameriprise, BDA, Stifel.
[71] MSWM.
[72] Cetera, Janney.
[73] FSI, Janney, SIPA.
[74] SIPA.
[75] Ameriprise, Janney.
[76] Miami.
[77] Burns.
[78] Janney, Miami.
[79] Sutherland.
[80] FSI, Janney, Taylor English.

encouraged FINRA to consider the operational challenges presented by the proposal, such as non-compete agreements and the prohibitions in Regulation S–P.[81]

FINRA believes that many of the privacy concerns noted by commenters are reduced by the proposed rule change that would provide for simplified and less specific disclosure of recruitment compensation in ranges. FINRA believes that the proposed disclosure of ranges of compensation and affirmative cost and portability disclosures, collectively, strike an appropriate balance to alleviate privacy and anti-competitive concerns, while providing customers with important information upon which to base a decision to transfer assets to a new firm. FINRA does not agree with the commenters that stated that there is no benefit or significant policy reason to provide recruitment compensation disclosure to former customers of a transferring representative. FINRA believes that receiving lucrative financial incentives that are often based on the amount of assets that will transfer with a representative to a new firm or the representative's trailing 12 creates a conflict of interest when a member, directly or through that representative, attempts to induce the owners of such assets to transfer them to the new firm. The representative's interest in receiving recruitment compensation may not align with the customer's best interest as to where to maintain his or her assets. FINRA believes that the investor protection benefits of providing this important information to former customers to inform their decision whether to transfer assets to their representative's new firm outweigh any remaining privacy issues that may arise under the proposed rule change.

In addition, FINRA does not agree that the proposal to require disclosure of ranges of recruitment compensation to former customers would encourage violations of federal or state privacy regulations because it does not require the disclosure of any information related to non-public customer personal information. With respect to commenters' concerns regarding non-compete agreements and the prohibitions in Regulation S–P, FINRA notes that the proposed rule change should not impact any contractual agreement between a representative and his or her former firm or new firm and does not require members to disclose information in a manner inconsistent with Regulation S–P.[82] The proposed rule change assumes that recruiting firms and representatives will act in accordance with the contractual obligations established in employment contracts, state law, and, if applicable, the Protocol for Broker Recruiting.[83]

Anti-Competitive Consequences of the Notice Proposal

The Notice Proposal solicited comment on whether the proposal will affect business practices and competition among firms with respect to recruiting and compensation practices. Many commenters stated that a general disclosure is preferable to specific disclosure of recruitment compensation because specific disclosure may have anti-competitive consequences.[84] Two of these commenters noted that the proposal is an indirect restraint on trade and suppresses fair competition inconsistent with the requirements of a registered securities association under the Exchange Act.[85] Numerous commenters stated that the proposal may constructively operate as a restrictive covenant not to compete if representatives are essentially restrained from transitioning to a new firm because of disclosures that are applicable only to their industry, which may result in a representative remaining with a less competitive or unethical firm.[86] Two commenters noted that the proposal will dampen innovation and harm customers.[87] One commenter cautioned that the proposal could cripple the opportunities for representatives to merge and consolidate their practices and to be compensated for their expenses.[88] Another commenter disagreed and stated that competition for talented representatives will not be affected by the proposal.[89]

Three commenters noted that the proposal deepens the regulatory gap between broker-dealers and registered investment advisers and posited that it could have the result of driving representatives into the registered investment adviser business.[90] One commenter suggested that FINRA work with the Commission and the states to adopt similar disclosure requirements for registered investment advisers so that representatives who switch to an adviser firm will also be subject to the proposed disclosure requirements.[91]

FINRA believes that representatives should have the freedom to transfer firms for any business reason. The proposed rule change is not designed to obstruct representatives from moving to a situation that better suits their needs and the needs of their customers. FINRA does not believe that the proposed rule change will prevent representatives from transferring firms by simply requiring the disclosure of key information that a former customer should consider before making a decision to move his or her assets to a new firm. Further, the proposed disclosure of recruitment compensation ranges is less intrusive than the more specific requirements of the Notice Proposal and should cure many of the concerns that the proposed rule change would be anti-competitive. Based on consultation with FINRA's advisory committees and discussions with member firms, FINRA does not anticipate that industry-wide uniform disclosure of recruitment compensation of $100,000 or more for each category of recruitment compensation will have the effect of stalling representatives' movement between firms. With respect to commenters' concerns regarding the disparate treatment of registered investment advisers under the proposed rule, FINRA notes that registered investment advisers are subject to the oversight of the SEC pursuant to the Investment Advisers Act of 1940 and a disclosure regime established by the Form ADV (Uniform Application for Investment Adviser Registration).[92]

Disclosure Is Misleading to Customers Without Context

Two commenters questioned the value of the proposed disclosure without any context to explain the justification and basis for the

[81] Sutherland.

[82] *See* 17 CFR 248.15(a)(7)(i).

[83] The Protocol for Broker Recruiting (the ''Protocol'') was created in 2004 and permits departing representatives to take certain limited customer information with them to a new firm, and solicit those customers at the new firm, without the fear of legal action by their former employer. The Protocol provides that representatives of firms that have signed the Protocol can take client names, addresses, phone numbers, email addresses and account title information when they change firms, provided they leave a copy of this information, including account numbers, with their branch manager when they resign.

[84] Ameriprise, Cetera, Janney, Lax, Stifel, Sutherland, Wedbush.

[85] Cetera, Janney.

[86] Burns, Burke, Elzweig, Janney, Smith Moore, Steiner, Stifel, Taylor, Wilson.

[87] Burns, Elzweig.

[88] Capstone-AG.

[89] UBS.

[90] Ameriprise, FSI, Janney.

[91] WFA.

[92] *See* Form ADV, Section 2B, Item 5 (Additional Compensation): ''If someone who is not a client provides an economic benefit to the supervised person for providing advisory services, generally describe the arrangement. For purposes of this Item, economic benefits include sales awards and other prizes, but do not include the supervised person's regular salary. Any bonus that is based, at least in part, on the number or amount of sales, client referrals, or new accounts should be considered an economic benefit, but other regular bonuses should not.''

recruitment compensation arrangement.[93] Two other commenters stated that customers may think that the amount is a measure of the new firm's endorsement of the representative.[94] Commenters also noted that customers will not be able to fully understand a recruitment package without having a full picture of all the factors involved, including, among other things, the risks and costs of a transition,[95] personal reasons for a move,[96] lost revenues suffered during the transition and first months at a new firm, and without relative frames of reference regarding the representative's compensation, such as the size of the representative's book of business or average annual revenues.[97] Other commenters stated that customers are not experienced enough to know the right questions to ask or the proper due diligence to perform without context, including, among other things, that the arrangement may involve minimum customer asset transfer amounts or minimum revenue amounts attached to asset transfers for payments to fully vest.[98] One commenter asked whether the disclosure may be accompanied by a statement explaining the other factors considered when making the move to the new firm, such as the availability of research and market analysis.[99] Three commenters noted that there are many reasons why a representative will move firms so the financial incentives received should not call into question the motivation behind such a move or serve as an indication that the move was for any other reason than in the best interest of clients.[100]

FINRA believes it appropriate to allow a member to provide context to inform a former customer's decision-making process and enhance his or her understanding of recruitment compensation arrangements, and other considerations such as costs, fees and portability issues that may impact the customer. Therefore, FINRA plans to include on the FINRA-developed disclosure template a free text section in which a member or representative may choose to include contextual information to explain the reasoning and basis for the recruitment compensation package and information regarding costs, fees and portability issues that may impact the former customer. FINRA believes that any information that may clarify the disclosures is appropriate so long as it is not misleading.

Notice Proposal Is Too Broad

Four commenters suggested that the proposal should exclude transition assistance designed solely to help offset the costs incurred by representatives to switch firms.[101] One commenter requested that transition assistance associated with loss of insurance renewals due to vesting restrictions be excluded from the proposed disclosure requirement.[102] Two commenters questioned the need for a disclosure requirement for asset-based recruitment compensation.[103] One commenter recommended that FINRA incorporate an exception in the proposed rule for firms that do not include commission targets as part of enhanced compensation arrangements.[104] Some commenters also noted that the proposal should be narrowed to include only compensation that presents a material conflict of interest[105] or FINRA should prohibit practices deemed to have greater conflicts of interest, *e.g.,* bonuses tied to commission or revenue goals and enhanced payout arrangements.[106] One commenter stated that enhanced compensation means something different to a wirehouse representative than transition assistance for a representative in an independent broker-dealer model who employs a staff, has mortgage payments on leased commercial space, and may take three or more months to get the business up and running.[107]

FINRA believes the proposed rule change to require disclosure of recruitment compensation ranges beginning at $100,000 as applied separately to aggregate upfront payments and aggregate potential future payments would establish a threshold that would exclude many payments intended only to cover transition assistance, such as relocation and various overhead costs (*e.g.,* office equipment, new business cards and letterhead). FINRA believes amounts above that threshold, particularly those based on a representative's trailing 12, are properly included in the disclosure requirement, as they are significant enough to bear on the representative's motivation to move firms and may prompt questions by former customers based on a review of their account activity. FINRA also notes that the proposed rule change would permit members to net out any increased costs incurred directly by the registered person in connection with transferring to the member in calculating whether a threshold is met.

With respect to commenters' suggestion that asset-based recruitment compensation be excluded from the proposed rule change, FINRA does not agree. FINRA believes that asset-based recruitment packages present the same level of conflicts of interest when a member or a representative attempts to induce a former customer to transfer assets to the member because the representative's interest in asset gathering at the new firm may not align with the customer's best interest as to where to maintain those assets. As noted in Item A., most recruitment compensation packages are based, in part, on a representative's asset levels at his or her previous firm and members take these numbers into consideration when calculating recruitment compensation packages with an understanding that many of the representative's former customers will follow their representative to a new firm.

De Minimis Exception

The Notice Proposal included an exception to the disclosure requirement for recruitment compensation of less than $50,000. The proposal requested comment on whether FINRA should establish an amount different from the proposed $50,000 for a de minimis exception. One commenter supported the $50,000 de minimis proposal, asserting that it was reasonable, would significantly reduce the burden for firms that pay only true transition assistance, and would allow firms to cover a representative's out of pocket expenses in many cases without triggering disclosure.[108] Several commenters stated that $50,000 is an arbitrary and nominal threshold.[109] Some commenters stated that the proposed de minimis was too low a threshold amount to cover the substantial costs incurred by representatives who transition firms.[110] Two of these commenters suggested that the de minimis exception should be raised to

[93] MarketCounsel, Taylor English.

[94] Burns, Elzweig.

[95] Cutter, Smith Moore.

[96] Noble.

[97] Bischoff, Burns, Wedbush.

[98] Capstone-FA, Plexus.

[99] LaBastille.

[100] Janney, NAIFA, Summit-B.

[101] Commonwealth, NAIFA, Summit-B, Summit-E.

[102] Summit-E.

[103] Burns, Sutherland.

[104] Summit-E.

[105] Commonwealth, FORM, Herskovits, Lincoln, LPL, Sutherland.

[106] Wedbush.

[107] Ameriprise.

[108] HDVest.

[109] Commonwealth, Cutter, FSI, Lax, Smith Moore, Summit-B, Summit-E.

[110] Commonwealth, Lax, NAIFA, Wedbush.

$100,000 or higher.[111] Other commenters thought the $50,000 disclosure was too high and suggested a $25,000 de minimis exception.[112] Others suggested an alternative to the $50,000 de minimis amount that would require disclosure of any recruitment compensation that exceeds a certain percentage of the previous 12-month calendar year commissions.[113] One commenter asked if FINRA considered account transfer and registration costs when establishing the de minimis exception.[114] A few commenters warned that firms may restructure arrangements and use the de minimis exception as a means to avoid disclosure.[115] Two commenters ask how the de minimis exception would be calculated in cases of unspecified dollar amounts at the time of transfer, such as covering transfer costs and deferred incentives.[116]

In response to the comments, FINRA revised the proposal to include an effective de minimis exception for any recruitment compensation in an amount less than $100,000, as applied separately to aggregate upfront payments and aggregate potential future payments. In addition, the proposed rule change permits members to net out from the calculation of recruitment compensation (and total compensation for purposes of reporting to FINRA) any increased costs incurred directly by the representative in connection with transferring to the member. FINRA believes that the combination of raising the de minimis amount and allowing firms to net out costs directly incurred by a representative in a transfer addresses many of the commenters' concerns.

With respect to the comments regarding how the de minimis exception would be calculated in cases of unspecified dollar amounts at the time of transfer, such as covering transfer costs and deferred incentives, FINRA notes that the proposed rule change includes supplementary material that clarifies that the member must assume that all performance-based conditions on the compensation are met and may make reasonable assumptions about the anticipated gross revenue to which an increased payout percentage will be applied.

[111] NAIFA, Wedbush.

[112] PIABA, UBS.

[113] Commonwealth, Korth, Summit-B, Summit-E.

[114] Taylor English.

[115] Lax, Miami, Showalter.

[116] NAIFA, Taylor English.

Notice Proposal Should Be Expanded

Numerous commenters questioned why FINRA singled out recruitment compensation when it is just one piece of a total compensation package offered by a recruiting firm.[117] Such commenters noted that isolating recruitment compensation for inspection by customers is misleading because it does not present a conflict of interest significantly greater than other incentives offered in the ordinary course of business or in the form of retention bonuses and other compensation. One commenter recommended that firms report to FINRA their recruitment compensation, retention compensation and other incentives, and FINRA can determine whether a compensation package is justified.[118] One commenter noted that the proposal seemed unnecessarily limited by excluding such benefits as new territories, new titles, and new high net worth customers.[119] Another commenter suggested that FINRA require disclosure of additional gross compensation paid to the representative when it is more than 15 percentage points higher than a representative received at his or her previous firm.[120]

One commenter suggested that FINRA consider the fair dealing obligations of the representative's former firm when communicating with a representative's clients about staying with the firm because they may offer financial incentives to retain the accounts.[121] One commenter noted that many current employee contracts are full of deterrent and non-compete provisions that can also be seen as conflicts of interest.[122] In addition, one commenter noted that branch managers may be paid a bonus six to nine months after a representatives departs a firm based on the amount of assets that did not follow the representative to his or her new firm.[123] Another commenter stated that firms should be required to disclose when they terminate representative payouts thus incentivizing the representative to look for new opportunities.[124]

FINRA understands the commenters' concerns that the proposal does not require disclosure of retention bonuses and other incentive compensation to customers. With the proposed rule change, FINRA is primarily concerned with providing customers impactful information to consider when deciding whether to transfer assets to a representative's new firm. Therefore, in response to these comments, FINRA has focused more narrowly on the costs and conflicts associated with that decision by a customer. FINRA notes that incentives offered while the representative is situated at a firm do not implicate the same considerations, such as transfer costs and portability issues.

However, FINRA is interested in how compensation packages may be influencing representatives and their sales practice activities, so it is proposing a requirement that members report to FINRA at the beginning of the employment or association of a representative that has former customers if the member reasonably expects the total compensation paid to the representative by the member during the representative's first year of employment or association with the member to result in an increase over the representative's prior year compensation by the greater of 25% or $100,000. In determining total compensation, the member must include any aggregate upfront payments, aggregate potential future payments, increased payout percentages or other compensation the member reasonably expects to pay the representative during the first year of employment or association with the member. FINRA will review the proposed rule within an appropriate period after its approval and implementation to determine whether it is achieving its intended purpose and whether it is having unintended effects. As part of that review, FINRA will determine whether to eliminate the reporting requirement if the information is not useful, or expand it to other material increases in compensation, such as retention bonuses, that may result in increased risk to customers.

One commenter stated that the proposal should more clearly spell out for customers the practical and personal impacts of the potential conflicts to permit an informed decision about whether to transfer assets to the representative's new firm.[125] Another commenter suggested that investors should have answers to questions such as whether: (1) Products and services can be transferred to the new firm; (2) the investor will have to pay fees to the old or new firm to make a transition; or (3) the recruitment compensation package involves sales targets or other

[117] BDA, Bischoff, Burke, Burns, Capstone-AG, FORM, FSI, MarketCounsel, Miami, Lincoln, NAIFA, NASAA, Smith Moore, Steiner, Taylor English, WFA.

[118] Smith Moore.

[119] Plexus.

[120] Korth.

[121] WFA.

[122] Spartan.

[123] Burns.

[124] Showalter.

[125] SIFMA.

incentives that may impact their accounts.[126] The proposed rule change addresses these comments by requiring disclosure to former customers if transferring the former customer's assets to the member will result in costs to the former customer, such as account termination or account transfer fees from the former customer's current firm or account opening or maintenance fees at the member, that will not be reimbursed by the member, and if any of the former customer's assets are not transferable to the member and that the former customer may incur costs, including taxes, to liquidate and transfer those assets to the member or inactivity fees to leave those assets with the former customer's current firm. In addition, the proposed rule would require disclosure of the basis of any aggregate upfront payments and aggregate potential future payments received, or to be received, of at least $100,000 by the representative. FINRA believes such disclosure will prompt a dialogue between former customers and their representatives about the impacts the structure and magnitude of a recruitment package may have had on their accounts at the previous firm, and may have on an account at the recruiting firm if the customer decides to transfer assets.

Disclosure at First Contact With a Former Customer

The Notice Proposal required disclosure of the details of the enhanced compensation to be made orally or in writing at the time of first individualized contact by the member or representative with the former customer after the representative has terminated his or her association with the previous firm. If the disclosure was made orally, the recruiting firm also would have been required to provide the disclosure in writing to the former customer with the account transfer approval documentation. When individualized contact with that former customer had not occurred and the customer sought to transfer an account from the previous firm to a broker-dealer account assigned to the representative with the recruiting firm, the recruiting firm also would have been required to provide the disclosure in writing to the former customer with the account transfer approval documentation. The Notice Proposal asked for comment on whether the proposed rule should require written disclosure at first individualized contact in all instances, rather than allowing oral disclosure.

[126] Edward Jones.

Many commenters opposed the proposal to require oral disclosure of recruitment compensation at the time of first individualized contact by the member or the representative, contending that such a requirement is unworkable and would present significant tracking and supervisory challenges for recruiting firms.[127] One commenter supported oral disclosure at first contact in lieu of written disclosure, stating that written disclosure at first contact is not practical from a business standpoint, jeopardizes the representative's move to the new firm, delays the transfer, and is a segmented approach.[128] Two commenters requested clarification that the requirement is limited to the initial contact that relates to the former client's transfer of an account and not an announcement of the representative's new employment.[129]

The proposed rule change retains the requirement to provide oral disclosures to a former customer when a member or representative makes individualized oral contact to attempt to induce the former customer to transfer assets to the member. FINRA believes that the administrative and tracking challenges of oral disclosure asserted by commenters do not outweigh the value in providing disclosures at the time of first individualized contact because it is the point at which a customer begins the decision-making process on whether to follow a representative to a new firm. FINRA does not believe that setting up policies and procedures to supervise a registered person's communications with former customers presents an unreasonable burden to members. Members already are obligated to supervise representatives' communications with customers and have flexibility to design their supervisory systems. FINRA notes that the commenters did not provide specific data to support their contention that oral disclosure at first individualized contact would be unworkable for recruiting firms.

Under the proposed rule, FINRA would consider a phone call to a former customer announcing a representative's new position with the member to qualify as first individualized contact and an attempt to induce the former customer to transfer assets to the member even when the conversation is limited to an announcement. Therefore, the proposed disclosures must be provided orally during the phone call and must be followed by written disclosures sent within 10 business days from such oral contact or with the account transfer approval documentation, whichever is earlier.

One commenter supported written disclosure at first individualized contact, noting that disclosure may be overlooked by a customer if written disclosure is not required until the account transfer documentation.[130] Several commenters objected to the proposal to require written disclosure at first individualized contact, stating that it is impractical and interferes with the representative's ability to timely contact customers.[131] These commenters suggested instead that written disclosure be required at or prior to account opening because it gives customers an opportunity to comprehensively review the disclosure.

The proposed rule change retains the requirement to provide written disclosures at the time of first individualized contact with a former customer if such contact is in writing. FINRA believes disclosure at first individualized contact is more effective than disclosure at or prior to account opening because customers typically have already made the decision to transfer assets by that point in the process. FINRA does not believe that it is particularly burdensome to require members to include as part of a written communication to former customers a disclosure form that includes key information for the customer to consider in making a decision to transfer assets to a new firm. In addition, FINRA believes that the information required by the proposed disclosures should be accessible to the recruiting firm and the representative at the time first contact is made by the recruiting form or the representative. The proposed rule change provides that a recruiting firm may rely on the reasonable representations of the representative, supplemented by the actual knowledge of the recruiting firm, in determining whether a disclosure must be made to a former customer. If after considering the representations of the newly hired representative, the firm cannot make a determination regarding the portability of a former customer's products, the firm must advise former customers in the disclosure to ask their current firm whether any of their securities account assets will not transfer and what costs, if any, the customers will incur to liquidate and transfer such assets or

[127] Advisor Group, Cetera, Cutter, Merrill, Miami, PIABA, Showalter, Summit-B, Taylor English, WFA.

[128] Summit-E.

[129] Ameriprise, Gehring.

[130] PIABA.

[131] Commonwealth, Lax, Merrill, Summit-B, Summit-E, Taylor English, UBS, WFA.

keep them in an account with their current firm. The firm must further disclose that nontransferable securities account assets will be identified to the former customer in writing prior to, or at the time of, validation of the account transfer instructions.

The Notice Proposal also solicited comment on whether the proposal should require a representative to disclose specific amounts of recruitment compensation to any customer individually contacted by the representative regarding such transfer while the representative is still at the previous firm. Numerous commenters objected to such a requirement while the representative is still at the previous firm,[132] suggesting that it would be unworkable from an operational and supervisory standpoint,[133] unnecessary to fulfill the goals of the proposal,[134] would interfere with the representative's ability to give notice to the firm, and may violate existing statutory or contractual obligations to the firm.[135] Based on the comments, FINRA did not incorporate such a requirement in the proposed rule change. However, if FINRA finds that representatives are contacting former customers before association or employment with the new firm as a way to avoid making the disclosures required by the proposed rule, FINRA will consider future rulemaking in this area.

One-Year Disclosure Period

The Notice Proposal would have required the proposed disclosure to former customers for one year following the date the representative associates with the recruiting firm. The Notice Proposal requested comment on whether the proposal should apply a different time period. Commenters had mixed views on the issue. Three commenters supported the proposed disclosure period of one year following the date the representative associates with the recruiting firm.[136] Four commenters recommended that the disclosures should apply for the period that the representative is receiving enhanced compensation.[137] Two commenters recommended a disclosure period of 90 days from the date the representative associates with the new firm [138] and one commenter recommended 90 to 180 days from such date.[139] One commenter suggested a disclosure period of six months to one year from the date of hire because most representatives contact their clients within the first six months of employment.[140] Another commenter stated that the one-year time period is arbitrary and seems extensive based on typical transfer time.[141]

The proposed rule change retains the proposed requirement for disclosure to former customers for a period of one year following the date the representative begins employment or associates with a member. As noted in Item B., FINRA understands that most customers who transfer assets to the recruiting firm do so soon after the representative changes firms so the one-year period should be sufficient to ensure that virtually all former customers that the recruiting firm or representative attempt to induce to transfer assets to the recruiting firm receive the disclosure. FINRA is not proposing a shorter time period for the proposed disclosures because it also understands it may take some former customers longer to make a determination to transfer assets to the representative's new firm, particularly if such customer is initially hesitant about transferring assets to the new firm. FINRA believes the disclosure information is equally relevant for customers that wait some time to consider transferring assets to the new firm and that one year is a reasonable cutoff. FINRA believes the burden of compliance should diminish over the year period, consistent with early efforts to induce former customers to transfer their assets.

Who Should Receive Disclosure

The Notice Proposal would have required disclosure to any former customer with an account assigned to the representative at the previous firm who is individually contacted by the recruiting firm or representative, either orally or in writing, regarding the transfer of the securities employment (or association) of the representative to the recruiting firm; or seeks to transfer an account from the previous firm to a broker-dealer account assigned to the representative with the recruiting firm. The Notice Proposal requested comment on whether the proposal should apply to all customers recruited by the transferring representative during the year after transfer. FINRA also asked for comment on whether it should apply to any new broker-dealer account assigned to the representative with the recruiting firm opened by a former customer of the representative in addition to accounts transferring from the previous firm.

Commenters were split on who should receive the proposed disclosure of specific compensation. One set of commenters suggested that the proposal should focus on the conflict that exists when a representative asks a former customer to move to the recruiting firm, so only former customers should receive the disclosure.[142] Another set of commenters stated that all clients, including new clients at the recruiting firm, should receive the proposed disclosure.[143] One commenter stated that the proposal should be expanded beyond retail customers to include institutional customers, because their asset levels make them particularly susceptible to misconduct aimed at increasing a representative's production.[144]

The proposed rule change would apply to customers that meet the definition of a ''former customer'' under the proposed rule. This would include any customer that had a securities account assigned to a representative at the representative's previous firm and would not include a customer account that meets the definition of an institutional account pursuant to FINRA Rule 4512(c); provided, however, accounts held by any natural person would not qualify for the ''institutional account'' exception. FINRA agrees with the commenters that suggested that the proposed rule change should address the conflict that exists when a representative attempts to induce a former customer to move assets to the recruiting firm. FINRA believes that former customers that a member or representative attempts to induce to transfer assets to a new firm are most vulnerable in recruitment situations because they have already developed a trusting relationship with the representative and because their assets may be both the basis for the representative's recruitment compensation (if the representative's upfront payments and potential future payments are asset-based or production-based) and subject to potential costs and changes if the customer decides to move those assets to the recruiting firm. FINRA did not extend the application of the proposed rule to non-natural person institutional accounts because it believes that such accounts are more sophisticated in their dealings with

[132] Advisor Group, Ameriprise, Cetera, Lax, Taylor English, SIFMA, UBS, Wedbush, WFA.

[133] Ameriprise, SIFMA.

[134] Taylor English, WFA.

[135] Lax.

[136] Summit-B, UBS, WFA.

[137] Cornell, Miami, PIABA, Ruchin.

[138] Commonwealth, Sutherland.

[139] Summit-E.

[140] Wedbush.

[141] Cutter.

[142] Commonwealth, Cutter, NAIFA, Summit-B, Summit-E, Sutherland, UBS.

[143] Cornell, Miami, PIABA, Ruchin.

[144] Miami.

representatives and that the proposed disclosure would not have as significant an impact on their decision whether to transfer assets to a new firm.

Customer Affirmation

The Notice Proposal also requested comment on whether the proposed rule should include a requirement that a customer affirm receipt of the disclosure regarding recruitment compensation at or before account opening at the new firm. FINRA was interested, in particular, in the potential for such a requirement to delay the account opening process in a manner that could disadvantage customers. A majority of the commenters that responded to this request opposed a customer affirmation requirement because it would cause delays in the account opening and transfer process, create an additional layer of tracking, review and approval to members' operations, may disadvantage clients, and would impose costs and an undue burden on members.[145] Two commenters supported a requirement for written customer affirmation and suggested using a standard form in the new account paperwork that would not be overly burdensome to members.[146]

The proposed rule change does not incorporate a written customer affirmation requirement. FINRA believes that the requirements to provide disclosure at the time of first individualized contact with a former customer, to follow up in writing if such contact is oral, and to deliver the disclosures with the account transfer approval documentation when no individual contact is made, will ensure that former customers receive and have an opportunity to review the proposed disclosure before they decide to transfer assets to a new firm. At this time, FINRA does not believe that a customer affirmation is necessary to accomplish the goals of the proposed rule change, especially in light of commenters' concerns that such a requirement may delay the account opening and transfer process. FINRA will assess the effectiveness of the disclosure requirement without a customer affirmation requirement following implementation of the proposed rule. If FINRA finds that the proposed disclosures alone are not attracting the attention of customers to influence their decision-making process, then it will reconsider a customer affirmation requirement.

[145] Cetera, Janney, NAIFA, Taylor English, Wedbush.

[146] Cornell, Summit-E.

Economic Impacts of the Notice Proposal

The Notice Proposal requested comments on the economic impact and expected beneficial results of the proposed rule. Specifically, FINRA asked for comment on what direct costs for the recruiting firm will result from the rule, and what indirect costs will arise for the recruiting firm or its transferring persons. Three commenters stated that the proposal will generate significant administrative challenges and implementation costs for firms and representatives, including additional paperwork and forms, tracking mechanisms, training, and new policies and procedures.[147] Two commenters stated that there will be initial implementation costs, but they are warranted to elevate industry standards and provide better information to clients before they transfer their accounts to a new firm.[148] One commenter stated that the disclosure can be included with new account documentation so it will not delay the account transfer process or impose significant costs on firms.[149] One commenter suggested that FINRA should conduct a cost-benefit analysis of the proposal that assesses the impact not only on customers, but also the attendant impact on representatives, firms, and restraints on trade.[150] Two commenters asked whether the proposal would include an obligation to disclose modifications to recruitment compensation packages with an updated disclosure to former customers who have already transferred assets to the recruiting firm.[151]

Despite a request for quantitative comments, the commenters that stated that the proposal will generate significant administrative challenges and implementation costs did not provide specific costs or empirical data upon which to base their assertions. FINRA has given careful consideration to the economic impacts of the proposed rule change. It has considered the comments to the Notice Proposal, as well as feedback from its advisory committees, other industry members and the public. Based on the input received, FINRA does not believe that the proposed rule change will result in unsupportable administrative and implementation challenges for members. As with most rule changes, the proposed rule change would likely require updates to members' systems and procedures; however, FINRA believes the burden of such updates are outweighed by the significant benefit to retail investors in receiving key information relevant to a decision to transfer their assets to a new firm and the benefit to FINRA's risk-based examination process by receiving information related to significant increases in a representative's compensation in the first year at a recruiting firm.

As discussed in Item B., FINRA has made several changes to the Notice Proposal that will assist members and reduce the burdens of compliance: Among other things, the proposed rule change includes a $100,000 de minimis exception that applies separately to aggregate upfront payments and aggregate potential future payments, allows members to net out costs paid to a representative as reimbursement for direct costs incurred by a representative in a move, includes a FINRA-developed disclosure template, and allows disclosure of recruitment compensation ranges instead of specific amounts to protect the privacy of transferring representatives. In addition, members may rely on the reasonable representations of a representative regarding the cost and portability disclosures and, although such disclosures must be affirmative as they relate to each former customer's assets, the disclosures do not have to be specific as to the amount of costs or products that will not transfer.

With respect to the commenters' question regarding disclosure of modifications to a representative's recruitment compensation package, FINRA is not aware that recruitment packages typically are modified after a recruited representative has associated with the recruiting firm. To the extent that practice occurs and is not designed to circumvent the requirements of the proposed rule, the proposed rule change would not require any such modifications to be disclosed to customers that have already transferred their accounts. FINRA notes that the proposed rule is focused on a former customer's decision to transfer assets to the recruiting firm. A modification to the recruitment package cannot affect the decisions of customers that have already transferred assets (unless they have additional assets that could still be transferred). However, FINRA cautions that any aspects of the recruitment package that were agreed upon prior to the representative associating with the recruiting firm—including any modifications that would take effect at a later date—would be considered either upfront or potential future payments for

[147] Advisor Group, Summit-E, Sutherland.

[148] Edward Jones, UBS.

[149] Cornell.

[150] Janney.

[151] Cetera, Taylor English.

the purposes of the disclosure obligation.

Small Firms Concerns

The Notice Proposal solicited comment on whether the impacts of the proposal with respect to changes in business practices and recruiting efforts differentially will affect small or specialized broker-dealers. Six commenters stated that compliance with the proposal will be more difficult for small firms with limited operational resources and supervisory personnel and will make recruiting efforts more challenging.[152]

In crafting the proposed rule change, FINRA considered its potential impacts on small firms and specialized broker-dealers. The proposed rule change provides for disclosure of recruitment compensation in ranges only for amounts of $100,000 or more, as applied to two separate categories of recruitment compensation. Based on input from members, including independent broker-dealers and small firms, FINRA believes that the $100,000 thresholds as applied separately to aggregate upfront payments and aggregate potential future payments for purposes of disclosure to former customers and the greater of 25% or $100,000 over the representative's prior year's compensation for purposes of reporting total compensation to FINRA will exclude most small firms and specialized broker-dealers from the proposed rule because such firms are not likely to offer recruitment compensation or total compensation packages that meet the proposed thresholds, particularly when, as permitted under the proposed rule, direct costs incurred by the representative in connection with the transfer are netted out from the calculation.[153] FINRA believes that, to the extent that a small firm or specialized broker-dealer does pay the significant levels of recruitment compensation captured by the proposed rule change, their customers should similarly be provided the disclosure that will facilitate an informed decision as to whether to transfer assets to the representative's new firm. FINRA also is proposing disclosure to former customers via a FINRA-developed template that would save all members, small and large, from the resources, administration and costs related to developing a disclosure form that would meet the requirements of the proposed rule.

[152] Cetera, Gompert, Janney, Plexus, Summit-E, Whitehall.

[153] *See* proposed FINRA Rule 2243.04.

Alternatives Suggested

One commenter recommended that FINRA adopt a rule that would prohibit recruitment compensation over $100,000 to level the recruiting playing field among all members and eliminate potential or perceived conflicts of interest.[154] Another commenter suggested that the disclosure should be given by the firm the representative is leaving and should be provided to all clients of the departing representative at the time of his or her resignation.[155] A few commenters believed that placing the burden on firms to enhance their supervisory structure and develop comprehensive policies and procedures related to conflicts identification and disclosure would better serve the industry and investors.[156] One commenter suggested that FINRA allow members to make their own business decisions and determine what is competitive and profitable for them regarding recruitment practices.[157] Another commenter suggested amending the proposal to require the member to disclose compensation paid by its non-member affiliates to a transferring representative to avoid a loophole for dual-hatted representatives.[158] One commenter asked FINRA to evaluate whether the proposed rule should apply to all client-facing professionals (investment bankers, institutional sales representatives, financial planners, sales traders) who receive recruitment compensation.[159] Two commenters stated that recruiting firms should be required to send clients a FINRA-drafted pamphlet that flags issues related to transitions, so clients can make their own determination as to what information they consider important in evaluating whether they should follow their representative to a new firm.[160]

As detailed in Item B., FINRA has considered numerous alternatives suggested by the commenters to the Notice Proposal but believes that the proposed rule change strikes an appropriate balance to increase transparency with respect to recruitment practices without creating unnecessary costs or burdens on members and their representatives. As to these commenters' suggestions, FINRA does not believe it appropriate to regulate the amount of recruitment compensation paid to representatives; rather, the proposed rule change seeks to provide disclosure related to compensation incentives to the extent it may impact a retail investor's decision whether to follow his or her representative to a new firm. FINRA believes the recruiting firm that is paying representatives recruitment compensation in amounts that meet the proposed thresholds is in the best position to provide the required disclosures. FINRA encouraged members in its *Report on Conflicts of Interest* to enhance their supervision of representative's activity around the time of compensation thresholds;[161] however, the primary focus of the proposed rule change is to provide retail investors with important cost information and transparency of conflicts related to the decision whether to transfer assets to a representative's new firm. FINRA also notes that the proposed rule change would require disclosure of recruitment compensation paid by non-member affiliates to the extent those amounts, when combined with any recruitment compensation paid by the recruiting member, exceed the $100,000 thresholds for each category of recruitment compensation. The proposed rule change would apply to recruitment compensation paid to any registered person; however, FINRA notes that investment bankers and other types of registered persons not involved in retail sales are unlikely to have retail customers whose assets might be induced to transfer.

Finally, FINRA believes the more specific disclosure that would be required under the proposed rule change will appreciably benefit retail customers more than a general pamphlet that sets out considerations without providing the actual information related to those considerations. FINRA will continue to evaluate alternatives based on the comments received on the revised proposal.

Implementation and Requests To Delay Rulemaking

Some commenters expressed concerns regarding the implementation of the proposal. Five commenters noted that due to the nature of some enhanced compensation arrangements (*e.g.,* deferred incentives or modifications to a package) it will be difficult to calculate dollar amounts at the time of transfer.[162] Two commenters requested guidance on how recruitment

[154] Wedbush.

[155] Oppenheimer.

[156] FSI, Janney, NASAA.

[157] Midwestern.

[158] Gehring.

[159] Janney.

[160] Burns, Miami.

[161] *Report on Conflicts of Interest,* FINRA, October 2013, available at, *http://www.finra.org/web/groups/industry/@ip/@reg/@guide/documents/industry/p359971.pdf.*

[162] Ameriprise, NAIFA, Summit-B, Sutherland, Taylor English.

compensation should be calculated and disclosed, by group or individual, where bonuses are given to a group of brokers and assistants who move to a new firm together.[163] One commenter requested that FINRA allow adequate time for implementation.[164] Another commenter suggested limiting the application of the rule to those hired after the rule goes into effect.[165]

One commenter suggested that it would be prudent for FINRA to assemble a working group to collect qualitative information related to the use of recruitment compensation in the industry to make a well-informed decision about how best to proceed in order to achieve its intended goals.[166] One commenter noted that the proposal should consider FINRA's proposal in *Regulatory Notice* 10–54 (Disclosure of Services, Conflicts and Duties) and Section 919 of the Dodd-Frank Act,[167] which grants permissive authority to the SEC to engage in rulemaking with respect to compensation practices, because a comprehensive review of the required disclosure regime for broker-dealers would result in a more thoughtful, consistent and effective set of disclosures that would be most likely to benefit investors.[168] Another commenter suggested that FINRA integrate the proposal with the pre-engagement disclosures contemplated in *Regulatory Notice* 10–54.[169] Two commenters recommended that FINRA delay further regulatory action until the conflicts initiative is completed.[170] Finally, one commenter noted that FINRA should do a global conflicts assessment not limited to this isolated and singular conflict.[171]

FINRA believes that members are in a position to calculate recruitment compensation for purposes of the proposed disclosure requirement at the time a representative or the member attempts to induce a former customer of the representative to transfer assets to the representatives' new firm. FINRA notes that the representative will already be associated with or employed by the member, so all compensation arrangements between the representative and the member should be clear and agreed to by all parties. The proposed rule change also provides guidance with respect to calculating recruitment compensation and total compensation for the purpose of the proposed disclosure and reporting requirements, respectively: members must assume that all performance-based conditions on the representative's compensation are met, may make reasonable assumptions about the anticipated gross revenue to which an increased payout percentage will be applied and may net out any increased costs incurred directly by the registered person in connection with transferring to the member. With respect to a transfer of a group, or team, of representatives and staff, FINRA believes that members can make a reasonable determination regarding the application of recruitment compensation to each individual that transferred to the firm to make the required disclosures. FINRA will consider further guidance regarding application of the proposed rule change as issues arise.

FINRA understands the commenters' suggestions to delay rulemaking and incorporate the proposed rule change into other ongoing efforts related to conflicts of interest. However, FINRA believes that the proposed rule change should move forward at this time, as it is narrowly focused on a retail investor's important decision whether to transfer assets to a new firm, rather than conflicts associated with compensation practices more broadly. FINRA believes that former customers should begin receiving the proposed disclosures as soon as practicable so that they are fully informed before making a decision to transfer assets to a representative's new firm. FINRA will consider how the proposed rule change fits within the larger scheme of conflicts of interest regulations as the timetables on such other proposals progress. In addition, FINRA will establish a reasonable implementation period for the proposed rule change to provide members with sufficient time to update their internal systems and policies.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2014–010 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2014–010. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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–FINRA–2014–010 and should be submitted on or before April 18, 2014.

[163] Cetera, LaBastille.

[164] Advisor Group.

[165] Gehring.

[166] FSI.

[167] Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111–203, 124 Stat. 1376 (2010).

[168] Sutherland.

[169] FSI.

[170] Advisor Group, FSI.

[171] Janney.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[172]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–06895 Filed 3–27–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71784; File No. SR–BX–2014–014]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to the Clearly Erroneous Rule

March 24, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on March 18, 2014, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot period of recent amendments to Rule 11890, concerning clearly erroneous transactions.

The text of the proposed rule change is available from BX's Web site at *http://nasdaqomxbx.cchwallstreet.com,* at BX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the effectiveness of the Exchange's current rule applicable to Clearly Erroneous Executions. Portions of Rule 11890, explained in further detail below, are currently operating as a pilot program set to expire on April 8, 2014.[3] The Exchange proposes to extend the pilot program to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the ''Limit Up-Limit Down Plan'' or the ''Plan''), including any extensions to the pilot period for the Plan.[4]

On September 10, 2010, the Commission approved, for a pilot period, a proposed rule change to Rule 11890 to provide for uniform treatment: (1) Of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the Exchange.[5] The Exchange also adopted additional changes to Rule 11890 that reduced the ability of the Exchange to deviate from the objective standards set forth in Rule 11890,[6] and in 2013, adopted a provision designed to address the operation of the Plan.[7]

The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan. The Exchange believes that continuing the pilot will protect against any unanticipated consequences. Thus, the Exchange believes that the protections of the Clearly Erroneous Rule should continue while the industry gains further experience operating the Plan.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 (the ''Act''),[8] which requires the rules of an exchange 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. Although the Limit Up-Limit Down Plan is operational, the Exchange believes that maintaining the pilot will help to protect against unanticipated consequences. Thus, the Exchange believes that the protections of the Rule 11890 should continue while the industry gains further experience operating the Plan. The Exchange also believes that the pilot program promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning review of transactions as clearly erroneous. Thus, the Exchange believes that the extension of the pilot would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed rule change would also help assure consistent results in handling erroneous trades across the U.S. markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change implicates any competitive issues. To the contrary, the Exchange believes that the Financial Industry Regulatory Authority and other national securities exchanges are also filing similar proposals, and thus, that the proposal will help to ensure consistency across market centers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

[172] 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. 70542 (Sept. 27, 2013), 78 FR 61427 (Oct. 3, 2013) (SR–BX–2013–053).

[4] Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the ''Limit Up-Limit Down Release'').

[5] Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (September 16, 2010).

[6] *Id.*

[7] Securities Exchange Act Release No. 68818 (Feb. 1, 2013), 78 FR 9100 (Feb. 7, 2013) (SR–BX–2013–010); *see also* Rule 11890(g).

[8] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6)(iii) thereunder.[10]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the clearly erroneous pilot program to continue uninterrupted while the industry gains further experience operating under the Limit Up-Limit Down Plan, and avoid any investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BX–2014–014 on the subject line.

Paper Cmments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2014–014. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2014–014 and should be submitted on or before April 18, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–06893 Filed 3–27–14; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6)(iii). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[11] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71773; File No. SR–C2–2014–005]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Certain C2 Real-Time Data Feeds and a New Book Depth Data Feed

March 24, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 11, 2014, C2 Options Exchange, Incorporated (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

C2 Options Exchange, Incorporated (the ''Exchange'' or ''C2'') proposes to (i) update the description of the data included in certain C2 real-time data feeds and (ii) offer a book depth data feed for C2 listed options. The text of the proposed rule change is available on the Exchange's Web site (*http://www.C2.com/AboutC2/C2LegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to (i) update the description of the data included in the C2 BBO Data Feed and Complex Order Book (''COB'') Data Feed, and (ii) offer a book depth data feed for C2 listed options.

BBO and COB Data Feeds

The BBO Data Feed is a real-time, low latency data feed that includes C2 ''BBO data'' and last sale data.[3] The BBO and last sale data contained in the BBO Data Feed is identical to the data that C2 sends to the Options Price Reporting Authority (''OPRA'') for redistribution to the public.[4] The BBO Data Feed is made available by C2's affiliate Market Data Express, LLC (''MDX'').

The BBO Data Feed also includes certain data that is not included in the data sent to OPRA, namely, (i) totals of customer versus non-customer contracts at the BBO, (ii) All-or-None contingency orders priced better than or equal to the BBO, (iii) BBO data and last sale data for complex strategies (e.g., spreads, straddles, buy-writes, etc.), and (iv) expected opening price (''EOP'') and expected opening size (''EOS'') information that is disseminated prior to the opening of the market and during trading rotations (collectively, ''EOP/EOS data'').

The COB Data Feed is a real-time data feed that includes data regarding the Exchange's Complex Order Book and related complex order information. The COB Data Feed includes BBO quotes and identifying information for all C2-traded complex order strategies, as well as all executed C2 complex order trades (and identifies whether the trade was a customer trade or whether a complex order in the COB is a customer order).[5] The COB Data Feed is made available by MDX and is a subset of the BBO Data Feed.

The Exchange, through MDX, plans to make additional data available in the BBO and COB Data Feeds and therefore proposes to update the description of the data included in the feeds. Specifically, the Exchange proposes to add end-of-day (''EOD'') summary messages and recap messages to the feeds. EOD summary messages are messages that will be disseminated after the close of a trading session that will include summary information about trading in C2 listed options. Such information includes product name, opening price, high and low price during the trading session and last sale price. Recap messages are messages that will be disseminated during a trading session any time there is a change in the open, high, low or last sale price of a C2 listed option. In addition to open, high, low and last sale prices, such messages will also include product name and total volume traded in the product during the trading session.

At this time, the Exchange does not intend to amend the fees for the BBO and COB Data Feeds.

Book Depth Data Feed

The Exchange proposes to make available, through MDX, a real-time, low latency data feed that includes all outstanding quotes and standing orders up to the first five price levels on each side of the market, with aggregate size (''Book Depth Data Feed'').[6] The Book Depth Data Feed will also include all of the other data contained in the BBO Data Feed (as described above), including last sale data and BBO and book depth data for complex strategies.[7] The data in the Book Depth Data Feed would be refreshed periodically during the trading session.

The Exchange will file a separate proposed rule change to establish the fees to be charged by MDX for the Book Depth Data Feed.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[8] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[10] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers because the enhanced BBO and COB Data Feeds and the Book Depth Data Feed would be made available by MDX to any market participant that wishes to subscribe to any of the feeds.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that this proposal is in keeping with those principles by promoting increased transparency through the dissemination of useful data and also by clarifying its availability to market participants. The Exchange believes that updating the description of the BBO and COB Data Feeds will benefit users by making clearer what data is included in each feed. The Exchange believes offering the Book Depth Data Feed will increase transparency, help attract order flow and provide investors with additional information that may help to inform their trading decisions.

B. Self-Regulatory Organization's Statement on Burden on Competition

C2 does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal to update the description of the BBO and COB Data Feeds is intended not to address any competitive issue but rather to reflect the data that is included in the feeds. The Exchange notes other exchanges offer depth of market

[3] The BBO Data Feed includes the ''best bid and offer,'' or ''BBO,'' consisting of all outstanding quotes and standing orders at the best available price level on each side of the market, with aggregate size (''BBO data,'' sometimes referred to as ''top-of-book data''). Data with respect to executed trades is referred to as ''last sale'' data. *See* Securities Exchange Act Release No. 69400 (April 18, 2013), 78 FR 24285 (April 24, 2013).

[4] The Exchange notes that MDX makes available to Customers the BBO data and last sale data that is included in the BBO Data Feed no earlier than the time at which the Exchange sends that data to OPRA. A ''Customer'' is any entity that receives the BBO Data Feed, either directly from MDX's system or through a connection to MDX provided by an approved redistributor (i.e., a market data vendor or an extranet service provider) and then distributes it externally or uses it internally.

[5] *See* Securities Exchange Act Release No. 70119 (August 5, 2013), 78 FR 48750 (August 9, 2013).

[6] The Exchange notes that MDX will make available the BBO and last sale data that is included in the Book Depth Data Feed no earlier than the time at which the Exchange sends that data to OPRA.

[7] With the introduction of the Book Depth Data Feed, the COB Data Feed would also be enhanced to include book depth data for complex strategies.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *Id.*

products similar to the Book Depth Data Feed. For example, BATS offers Multicast PITCH, which is their depth of market and last sale feed similar to the Book Depth Data Feed. The International Securities Exchange offers a data feed that shows the top five price levels entitled Depth of Market. NASDAQ OMX PHLX offers a Depth of Market data feed that includes full depth of quotes and orders and last sale data for options listed on PHLX. NASDAQ Options Market offers a product entitled ''NASDAQ ITCH-to-Trade Options'' (ITTO) that is similar to the Book Depth Data Feed. NYSE offers market data products entitled ''NYSE ArcaBook for Amex Options'' and ''NYSE ArcaBook for Arca Options'' that include top-of-book, last sale and depth of quote data. In addition, the OPRA data feed is a significant competitive alternative to both the BBO Data Feed and the Book Depth Data Feed. The Exchange believes the enhanced BBO and COB Data Feeds and the Book Depth Data Feed will help to attract new users and new order flow to the Exchange, thereby improving the Exchange's ability to compete in the market for options order flow and executions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6)[12] thereunder.

The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange has stated that it does not intend to amend the fees for the BBO and COB Data Feeds, and that the proposed Book Depth Data Feed mostly includes data already made available by the Exchange through the BBO Data Feed. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, because such waiver will enable market participants to receive more market data via the Exchange's new and existing data feeds at no charge. For this reason, the Commission hereby waives the 30-day operative delay requirement and designates the proposed rule change to be operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–C2–2014–005 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–C2–2014–005. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–C2–2014–005, and should be submitted on or before April 18, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–06885 Filed 3–27–14; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71777; File No. SR–EDGX–2014–06]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add a Reference to Rule 10C–1 Under the Exchange Act in EDGX Rule 14.1 Concerning Unlisted Trading Privileges

March 24, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 12, 2014, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b 4.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend Exchange Rule 14.1 to make clear that the Exchange will not list equity securities without first ensuring that its rules comply with Rule 10C–1 under the Act (''Rule 10C–1''). The text of the proposed rule change is available on the Exchange's Internet Web site at *www.directedge.com,* at the Exchange's principal office, and at the Public Reference Room of the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 14.1 to make clear that the Exchange will not list equity securities without first ensuring that its rules comply with Rule 10C–1.

On March 30, 2011, to implement Section 10C of the Act, as added by Section 952 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010,[3] the Commission proposed Rule 10C–1 under the Act,[4] which directs each national securities exchange to prohibit the listing of any equity security of any issuer, with certain exceptions, that does not comply with the rule's requirements regarding compensation committees of listed issuers and related requirements regarding compensation advisers. On June 20, 2012, the Commission adopted Rule 10C–1.[5]

Exchange Rule 14.1 states that the Exchange extends unlisted trading privileges (''UTP'') to equity securities listed on another national securities exchange.[6] Rule 14.1 further states that, should the Exchange wish to permit the listing of equity securities, pursuant to Rules 14.2 through 14.9, it must first file a proposed rule change with the Commission amending its rules to comply with Rule 10A–3 under the Act, among other requirements.[7] Accordingly, the Exchange proposes to add a reference to Rule 10C–1 under the Act, which requires securities exchanges that list equity securities to adopt rules relating to the independence of compensation committees and their advisers.[8] In particular, the following change will be made to the text of Rule 14.1(a) (proposed text to be added is underlined):

Therefore, the provisions of Rules 14.2 through 14.9 that permit the listing of Equity Securities other than common stock, secondary classes of common stock, preferred stock and similar issues, shares or certificates of beneficial interest of trusts, notes, limited partnership interests, warrants, certificates of deposit for common stock, convertible debt securities, American Depositary Receipts (''ADRs''), and contingent value rights (''CVRs'') will not be effective until the Exchange files a proposed rule change under Section 19(b)(2) under the Exchange Act to amend its rules to comply with Rules 10A–3 *and 10C–1* under the Exchange Act and to incorporate qualitative listing criteria, and such proposed rule change is approved by the Commission.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5) of the Act,[10] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The rule change will promote these goals by clarifying further the intent of Rule 14.1, which exists to permit the Exchange to extend UTP to stocks that are listed on another national securities exchange pursuant to Section 12(f) of the Act.[11] The proposed amendments to Rule 14.1 emphasize that the Exchange will not list securities pursuant to Rules 14.2 through 14.9 until it proposes certain rule changes and those changes are approved by the Commission. The Exchange believes the proposed rule change is consistent with the protection of investors because it clarifies the fact that the Exchange will not list equity securities without first ensuring that its rules comply with Rule 10C–1, which implements Section 10C of the Act. These clarifications will also serve to protect investors and the public interest by preventing confusion about the intent of Rule 14.1.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The proposed rule change simply requires the codification of standards to which compensation committees of listed companies will be held should such companies choose to list their securities on the Exchange if the Exchange were to become a relevant listing exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)[12] of the Act and Rule 19b–4(f)(6)[13] thereunder. The proposed rule change effects a change that (A) does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the

[3] Public Law 111–203, 124 Stat. 1900 (2010).

[4] *See* Securities Act Release No. 9199, Securities Exchange Act Release No. 64149 (March 30, 2011), 76 FR 18966 (April 6, 2011) (''Rule 10C–1 Proposing Release'').

[5] *See* 17 CFR 240.10C–1 and Securities Exchange Act Release No. 67220 (June 20, 2012), 77 FR 38422 (June 27, 2012) (''Rule 10C–1 Adopting Release'').

[6] *See* Exchange Rule 14.1.

[7] *Id.*

[8] 17 CFR 240.10C–1.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78l(f).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

proposed rule change, or such shorter time as designated by the Commission.

The Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five (5) business days prior to the date of filing.[14] The Exchange has satisfied this requirement [sic].

The Exchange believes that the proposed rule change meets the requirements of Rule 19b–4(f)(6).[15] Specifically, the proposal does not significantly affect the protection of investors or the public interest because it simply requires the codification of standards to which compensation committees of listed companies will be held if the Exchange were to become a listing market. Further, it does not involve any novel or complex issue and is substantially similar to the UTP listing rules of the BATS–Y Exchange, Inc. (''BYX'').[16] Furthermore, the proposed rule change benefits investors in that it increases transparency for investors and promotes responsible corporate governance by requiring the codification of standards for compensation committees of listed companies should the Exchange become a primary listing exchange. Accordingly, the Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act[17] and paragraph (f)(6) of Rule 19b–4 thereunder.[18]

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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EDGX–2014–06 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGX–2014–06. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGX–2014–06, and should be submitted on or before April 18, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–06965 Filed 3–27–14; 8:45 am]

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[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] 17 CFR 240.19b–4(f)(6).

[16] *See* BYX Rule 14.1. Securities Exchange Act Release No. 70623 (October 8, 2013), 78 FR 6277 (October 22, 2013).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71781; File No. SR–FINRA–2014–013]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Clearly Erroneous Pilot Program for Exchange-Listed Securities

March 24, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on March 19, 2014, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. 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

FINRA is proposing to extend a pilot program related to FINRA Rule 11892, entitled ''Clearly Erroneous Transactions in Exchange-Listed Securities.''

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the effectiveness of FINRA's current rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

applicable to clearly erroneous transactions in exchange listed securities. Portions of Rule 11892 (Clearly Erroneous Transactions in Exchange-Listed Securities), explained in further detail below, currently are operating as a pilot program set to expire on April 8, 2014.[3] FINRA proposes to extend the pilot program to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the ''Limit Up-Limit Down Plan'' or the ''Plan''), including any extensions to the pilot period for the Plan.[4]

On September 10, 2010, the Commission approved, on a pilot basis, changes to FINRA Rule 11892 to provide for uniform treatment: (1) Of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect over-the-counter.[5] FINRA also adopted additional changes to Rule 11892 that reduced FINRA's ability to deviate from the objective standards set forth in Rule 11892,[6] and in 2013, adopted a provision designed to address the operation of the Plan.[7]

FINRA believes the benefits to market participants from the more objective clearly erroneous transactions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan. FINRA believes that continuing the pilot will protect against any unanticipated consequences. Thus, FINRA believes that the protections of the clearly erroneous rule should continue while the industry gains further experience operating the Plan.

FINRA has filed the proposed rule change for immediate effectiveness. The effective date and the implementation date will be the date of filing.

[3] *See* Securities Exchange Act Release No. 70516 (September 26, 2013), 78 FR 60952 (October 2, 2013) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2013–041).

[4] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the ''Limit Up-Limit Down Release'').

[5] *See* Securities Exchange Act Release No. 62885 (September 10, 2010), 75 FR 56641 (September 16, 2010) (Order Approving File No. SR–FINRA–2010–032).

[6] *See supra* note 5.

[7] *See* Securities Exchange Act Release No. 68808 (February 1, 2013), 78 FR 9083 (February 7, 2013) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2013–012).

2. Statutory Basis

FINRA believes that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities association and, in particular, with the requirements of Section 15A of the Act.[8] In particular, the proposal is consistent with Section 15A(b)(6)[9] because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest.

Although the Limit Up-Limit Down Plan is operational, FINRA believes that maintaining the pilot will help to protect against unanticipated consequences. Thus, FINRA believes that the protections of the clearly erroneous rule should continue while the industry gains further experience operating the Plan. FINRA also believes that the pilot program promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning review of transactions as clearly erroneous. Thus, FINRA believes that the extension of the pilot would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed rule change also would help assure consistent results in handling erroneous trades across the U.S. markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, FINRA believes the benefits to market participants from the more objective clearly erroneous transactions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change implicates any competitive issues. To the contrary, FINRA believes that the other self-regulatory organizations also are filing similar proposals, and thus, that the proposal will help to ensure consistency across the U.S.

[8] 15 U.S.C. 78*o*–3.

[9] 15 U.S.C. 78*o*–3(b)(6).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

FINRA has not solicited, and does not intend to solicit, comments on this proposed rule change. FINRA has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)(iii) thereunder.[11]

FINRA has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the clearly erroneous pilot program to continue uninterrupted while the industry gains further experience operating under the Limit Up-Limit Down Plan, and avoid any investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6)(iii). As required under Rule 19b–4(f)(6)(iii), FINRA provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[12] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2014–013 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2014–013. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. 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–FINRA–2014–013 and should be submitted on or before April 18, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–06890 Filed 3–27–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71783; File No. SR–Phlx–2014–18]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to the Clearly Erroneous Rule

March 24, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on March 18, 2014, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot period of recent amendments to Rule 3312, concerning clearly erroneous transactions.

The text of the proposed rule change is available from Phlx's Web site at *http://nasdaqomxphlx.cchwallstreet.com,* at Phlx's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the effectiveness of the Exchange's current rule applicable to clearly erroneous executions. Portions of Rule 3312, explained in further detail below, are currently operating as a pilot program set to expire on April 8, 2014.[3] The Exchange proposes to extend the pilot program to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the ''Limit Up-Limit Down Plan'' or the ''Plan''), including any extensions to the pilot period for the Plan.[4]

On September 10, 2010, the Commission approved, for a pilot period, the proposed rule changes of the other national securities exchanges and the Financial Industry Regulatory Authority (''FINRA'') to their respective rules concerning clearly erroneous executions to provide for uniform treatment: (1) Of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the other markets.[5] The other national securities exchanges and FINRA also adopted additional changes to their respective clearly erroneous execution rules that reduced their ability to deviate from the objective standards set forth in those rules.[6] In connection with its resumption of trading of NMS Stocks through NASDAQ OMX PSX system, the Exchange amended Rule 3312 to conform it to the newly-adopted changes to the clearly erroneous execution rules of other national securities exchanges and FINRA, so that it could participate in the pilot program.[7] In 2013, the Exchange

[13] 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. 70541 (Sept. 27, 2013), 78 FR 61431 (Oct. 3, 2013) (SR–Phlx–2013–97).

[4] Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

[5] Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010).

[6] *Id.*

[7] Securities Exchange Act Release No. 63023 (Sept. 30, 2010), 75 FR 61802 (Oct. 6, 2010) (SR–Phlx–2010–125).

adopted a provision designed to address the operation of the Plan.[8]

The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan. The Exchange believes that continuing the pilot will protect against any unanticipated consequences. Thus, the Exchange believes that the protections of the Clearly Erroneous Rule should continue while the industry gains further experience operating the Plan.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 (the ''Act''),[9] which requires the rules of an exchange 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. Although the Limit Up-Limit Down Plan is operational, the Exchange believes that maintaining the pilot will help to protect against unanticipated consequences. Thus, the Exchange believes that the protections of the Rule 3312 should continue while the industry gains further experience operating the Plan. The Exchange also believes that the pilot program promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning review of transactions as clearly erroneous. Thus, the Exchange believes that the extension of the pilot would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed rule change would also help assure consistent results in handling erroneous trades across the U.S. markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change implicates any competitive issues. To the contrary, the Exchange believes that FINRA and other national securities exchanges are also filing similar proposals, and thus, that the proposal will help to ensure consistency across market centers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)(iii) thereunder.[11]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the clearly erroneous pilot program to continue uninterrupted while the industry gains further experience operating under the Limit Up-Limit Down Plan, and avoid any investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2014–18 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2014–18. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal

[8] Securities Exchange Act Release No. 68820 (Feb. 1, 2013), 78 FR 9436 (Feb. 8, 2013) (SR–Phlx–2013–12); *see also* Rule 3312(g).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6)(iii). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[12] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2014–18 and should be submitted on or before April 18, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–06892 Filed 3–27–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71774; File No. SR–CBOE–2014–020]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Certain CBOE Real-Time Data Feeds and a New Book Depth Data Feed

March 24, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on March 11, 2014, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') proposes to (i) update the description of the data included in certain CBOE real-time data feeds and (ii) offer a book depth data feed for CBOE listed options. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to (i) update the description of the data included in the following CBOE real-time data feeds: BBO Data Feed, Complex Order Book (''COB'') Data Feed and Flexible Exchange option (''FLEX'') Data Feed, and (ii) offer a book depth data feed for CBOE listed options.

BBO, COB and FLEX Data Feeds

The BBO Data Feed is a real-time, low latency data feed that includes CBOE ''BBO data'' and last sale data.[3] The BBO and last sale data contained in the BBO Data Feed is identical to the data that CBOE sends to the Options Price Reporting Authority (''OPRA'') for redistribution to the public.[4] The BBO Data Feed is made available by CBOE's affiliate Market Data Express, LLC (''MDX'').

The BBO Data Feed also includes certain data that is not included in the data sent to OPRA, namely, (i) totals of customer versus non-customer contracts at the BBO, (ii) All-or-None contingency orders priced better than or equal to the BBO, (iii) BBO data and last sale data for complex strategies (e.g., spreads, straddles, buy-writes, etc.), (iv) BBO data and last sale data for FLEX options traded on the CBOE FLEX Hybrid Trading System, including BBO data and last sale data for FLEX complex strategies (collectively, ''FLEX BBO data''), and (v) expected opening price (''EOP'') and expected opening size (''EOS'') information that is disseminated prior to the opening of the market and during trading rotations (collectively, ''EOP/EOS data'').

The COB Data Feed is a real-time data feed that includes data regarding the Exchange's Complex Order Book and related complex order information. The COB Data Feed includes BBO quotes and identifying information for all CBOE-traded complex order strategies, as well as all executed CBOE complex order trades (and identifies whether the trade was a customer trade, or whether a complex order in the COB is a customer order).[5] The FLEX Data Feed is a real-time data feed that includes FLEX BBO data, as described above.[6] The COB and FLEX Data Feeds are both made available by MDX and are subsets of the BBO Data Feed.

The Exchange, through MDX, plans to make additional data available in the BBO, COB and FLEX Data Feeds and therefore proposes to update the description of the data included in the feeds. Specifically, the Exchange proposes to add end-of-day (''EOD'') summary messages and recap messages to the feeds. EOD summary messages are messages that will be disseminated after the close of a trading session that will include summary information about trading in CBOE listed options. Such information includes product name, opening price, high and low price during the trading session and last sale price. Recap messages are messages that will be disseminated during a trading session any time there is a change in the open, high, low or last sale price of a CBOE listed option. In addition to open, high, low and last sale prices, such messages will also include product name and total volume traded in the product during the trading session.

At this time, the Exchange does not intend to amend the fees for the BBO and COB Data Feeds. The FLEX Data Feed is currently made available at no charge.

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] The BBO Data Feed includes the ''best bid and offer,'' or ''BBO'', consisting of all outstanding quotes and standing orders at the best available price level on each side of the market, with aggregate size (''BBO data,'' sometimes referred to as ''top-of-book data''). Data with respect to executed trades is referred to as ''last sale'' data. *See* Securities Exchange Act Release No. 69438 (April 23, 2013), 78 FR 25334 (April 30, 2013).

[4] The Exchange notes that MDX makes available to Customers the BBO data and last sale data that is included in the BBO Data Feed no earlier than the time at which the Exchange sends that data to OPRA. A ''Customer'' is any entity that receives the BBO Data Feed, either directly from MDX's system or through a connection to MDX provided by an approved redistributor (i.e., a market data vendor or an extranet service provider) and then distributes it externally or uses it internally.

[5] *See* Securities Exchange Act Release No. 70118 (August 5, 2013), 78 FR 48757 (August 9, 2013).

[6] *See* Securities Exchange Act Release No. 69438 (April 23, 2013), 78 FR 25334 (April 30, 2013).

Book Depth Data Feed

The Exchange proposes to make available, through MDX, a real-time, low latency data feed that includes all outstanding quotes and standing orders up to the first five price levels on each side of the market, with aggregate size (''Book Depth Data Feed'').[7] The Book Depth Data Feed will also include all of the other data contained in the BBO Data Feed (as described above), including last sale data and BBO and book depth data for complex strategies.[8] The data in the Book Depth Data Feed would be refreshed periodically during the trading session.

The Exchange will file a separate proposed rule change to establish the fees to be charged by MDX for the Book Depth Data Feed.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[10] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[11] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers because the enhanced BBO, COB and FLEX Data Feeds and the Book Depth Data Feed would be made available by MDX to any market participant that wishes to subscribe to any of the feeds.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that this proposal is in keeping with those principles by promoting increased transparency through the dissemination of useful data and also by clarifying its availability to market participants. The Exchange believes that updating the description of the BBO, COB and FLEX Data Feeds will benefit users by making clearer what data is included in each feed. The Exchange believes offering the Book Depth Data Feed will increase transparency, help attract order flow and provide investors with additional information that may help to inform their trading decisions.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal to update the description of the BBO, COB and FLEX Data Feeds is intended not to address any competitive issue but rather to reflect the data that is included in the feeds. The Exchange notes other exchanges offer depth of market products similar to the Book Depth Data Feed. For example, BATS offers Multicast PITCH, which is their depth of market and last sale feed similar to the Book Depth Data Feed. The International Securities Exchange offers a data feed that shows the top five price levels entitled Depth of Market. NASDAQ OMX PHLX offers a Depth of Market data feed that includes full depth of quotes and orders and last sale data for options listed on PHLX. NASDAQ Options Market offers a product entitled ''NASDAQ ITCH-to-Trade Options'' (ITTO) that is similar to the Book Depth Data Feed. NYSE offers market data products entitled ''NYSE ArcaBook for Amex Options'' and ''NYSE ArcaBook for Arca Options'' that include top-of-book, last sale and depth of quote data. In addition, the OPRA data feed is a significant competitive alternative to both the BBO Data Feed and the Book Depth Data Feed.

The Exchange believes the enhanced BBO, COB and FLEX Data Feeds and the Book Depth Data Feed will help to attract new users and new order flow to the Exchange, thereby improving the Exchange's ability to compete in the market for options order flow and executions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6)[13] thereunder.

The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange has stated that it does not intend to amend the fees for the BBO and COB Data Feeds, that the FLEX Data Feed is currently made available at no charge, and that the proposed Book Depth Data Feed mostly includes data already made available by the Exchange through the BBO Data Feed. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, because such waiver will enable market participants to receive more market data via the Exchange's new and existing data feeds at no charge. For this reason, the Commission hereby waives the 30-day operative delay requirement and designates the proposed rule change to be operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[7] The Exchange notes that MDX will make available the BBO and last sale data that is included in the Book Depth Data Feed no earlier than the time at which the Exchange sends that data to OPRA.

[8] With the introduction of the Book Depth Data Feed, the COB Data Feed would also be enhanced to include book depth data for complex strategies.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *Id.*

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b-4(f)(6).

[14] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2014–020 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2014–020. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2014–020, and should be submitted on or before April 18, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–06886 Filed 3–27–14; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71785; File No. SR–NASDAQ–2014–028]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to the Clearly Erroneous Rule

March 24, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on March 18, 2014, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot period of recent amendments to Rule 11890, concerning clearly erroneous transactions.

The text of the proposed rule change is available from NASDAQ's Web site at *http://nasdaq.cchwallstreet.com/Filings/,* at NASDAQ's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the effectiveness of the Exchange's current rule applicable to Clearly Erroneous Executions. Portions of Rule 11890, explained in further detail below, are currently operating as a pilot program set to expire on April 8, 2014.[3] The Exchange proposes to extend the pilot program to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the ''Limit Up-Limit Down Plan'' or the ''Plan''), including any extensions to the pilot period for the Plan.[4]

On September 10, 2010, the Commission approved, for a pilot period, a proposed rule change to Rule 11890 to provide for uniform treatment: (1) Of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the Exchange.[5] The Exchange also adopted additional changes to Rule 11890 that reduced the ability of the Exchange to deviate from the objective standards set forth in Rule 11890,[6] and in 2013, adopted a provision designed to address the operation of the Plan.[7]

The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan. The Exchange believes that continuing the pilot will protect against any unanticipated consequences. Thus, the Exchange believes that the protections of the Clearly Erroneous Rule should continue while the industry gains further experience operating the Plan.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 (the

[3] Securities Exchange Act Release No. 70529 (Sept. 26, 2013), 78 FR 60977 (Oct. 2, 2013) (SR–NASDAQ–2013–127).

[4] Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

[5] Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010).

[6] *Id.*

[7] Securities Exchange Act Release No. 68819 (Feb. 1, 2013), 78 FR 9438 (Feb. 8, 2013) (SR–NASDAQ–2013–022); *see also* Rule 11890(g).

''Act''),[8] which requires the rules of an exchange 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. Although the Limit Up-Limit Down Plan is operational, the Exchange believes that maintaining the pilot will help to protect against unanticipated consequences. Thus, the Exchange believes that the protections of the Rule 11890 should continue while the industry gains further experience operating the Plan. The Exchange also believes that the pilot program promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning review of transactions as clearly erroneous. Thus, the Exchange believes that the extension of the pilot would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed rule change would also help assure consistent results in handling erroneous trades across the U.S. markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change implicates any competitive issues. To the contrary, the Exchange believes that the Financial Industry Regulatory Authority and other national securities exchanges are also filing similar proposals, and thus, that the proposal will help to ensure consistency across market centers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6)(iii) thereunder.[10]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the clearly erroneous pilot program to continue uninterrupted while the industry gains further experience operating under the Limit Up-Limit Down Plan, and avoid any investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2014–028 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number *SR–NASDAQ–2014–028.* This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2014–028 and should be submitted on or before April 18, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–06894 Filed 3–27–14; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6)(iii). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[11] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71780; File No. SR–NYSEArca–2014–21]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Equities Rule 7.44 To Change the Priority of Displayable Odd Lot Interest Within the Recently Approved Retail Liquidity Program

March 24, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 10, 2014, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Arca Equities Rule 7.44, which governs the Exchange's recently approved Retail Liquidity Program (''Program''), to provide that odd-lot interest priced between the PBBO will trade together with other undisplayed interest according to price-time priority. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Rule 7.44, which governs the Exchange's recently approved Program,[3] to provide that odd-lot interest priced between the PBBO will trade together with other undisplayed interest according to price-time priority. The current rule provides that displayable odd-lot interest priced between the PBBO will be ranked ahead of any Retail Price Improvement Orders (''RPIs'') and other non-displayed interest at any given price point. For purposes of this rule, displayable odd lot interest refers to odd lot interest that is not displayed because it is priced better than the best protected bid or offer (''PBBO''), but would be displayed if, when aggregated with other same-priced displayable interest, [sic] equals a round lot or greater.

Background

Under the Program, ETP Holders are able to provide price improvement to Retail Orders, as defined in Rule 7.44(a)(3) and (k), by submitting an RPI, which is non-displayed liquidity in NYSE Arca-listed securities and UTP Securities, excluding NYSE-listed (Tape A) securities, that is priced more aggressively than the PBBO by at least $0.001 per share and that is identified as an RPI in a manner prescribed by the Exchange. RPIs are entered at a single limit price, rather than being pegged to the PBBO; however, RPIs can be designated as a Mid-Point Passive Liquidity (''MPL'') Order, in which case the order will re-price as the PBBO changes.[4] RPIs remain non-displayed and only execute against Retail Orders.

Odd Lot Interest Within the Program

According to NYSE Arca Equities Rule 7.44(l), displayable odd-lot interest priced between the PBBO is currently ranked ahead of any RPIs and other non-displayed liquidity at any given price point. The Exchange is proposing to amend Rule 7.44(l) to rank odd-lot interest priced better than the PBBO in price-time priority with RPIs and other non-displayed liquidity. The Exchange believes that ranking undisplayed odd lots priced better than the PBBO in price-time priority with other undisplayed interest is consistent with expectations of market participants entering odd-lot sized interest. Specifically, odd-lot sized interest, standing alone, is not eligible to be part of the displayed quote.[5] Because odd-lot orders are not displayed, they are not the protected bid or offer of a market and can be traded through. The Exchange therefore believes it is consistent with the expectations of market participants that when odd-lot interest is not displayed, it should be treated similarly to other undisplayed interest. The Exchange does not believe that the proposed rule change would provide a disincentive for market participants to enter odd-lot interest because market participants are already on notice that odd-lot interest does not receive the benefit of displayed interest if it is not part of the displayed quote.

The Exchange believes that the proposed rule change is consistent with Rule 7.38 (Odd and Mixed Lots), which provides that round lot, mixed lot, and odd lot orders are treated in the same manner in the NYSE Arca Marketplace. Specifically, the Exchange believes that consistent with this rule, odd-lot orders that are undisplayed should be treated in the same manner as round-lot orders that are undisplayed. As such, they should be ranked in price-time priority together. Conversely, if odd-lot interest is included in the displayed quote, then odd-lot interest should be treated the same as other displayed round-lot interest at the same price.

The Exchange further believes that the current rule provides a potential incentive for market participants to game the Program. One of the goals of the Program is to incentivize the provision of price-improving liquidity to retail investors. Because the Exchange publicizes when there is RPI interest available in a symbol,[6] market participants are on notice when there is resting RPI interest for a symbol. A market participant could use that knowledge to enter odd-lot interest priced better than the PBBO in order to trade ahead of the previously-entered RPI interest. The Exchange believes that allowing odd-lot interest to have priority over such previously-entered RPI interest could create a disincentive for market participants to enter RPI interest, thereby frustrating one of the goals of the Program.

[3] *See* Securities Exchange Act Release No. 71176 (Dec. 23, 2013), 78 FR 79524 (Dec. 30, 2013) (SR–NYSEArca–2013–107).

[4] RPIs not designated as MPL Orders would alternatively need to be designated as a Passive Liquidity (''PL'') Order.

[5] *See* Rule 604(b)(3) of Regulation NMS (excepting odd-lot orders from the limit order display rule).

[6] The Exchange disseminates an identifier that reflects the symbol for a particular security and whether it is buy or sell RPI interest. *See* Rule 7.44(j).

To demonstrate the proposed rule change, consider the following example: [7]

PBBO for security ABC is $10.00–$10.05.

RLP 1 enters a Retail Price Improvement Order to buy ABC at $10.01 for 500.

RLP 2 then enters a Retail Price Improvement Order to buy ABC at $10.02 for 500.

RLP 3 then enters a Retail Price Improvement Order to buy ABC at $10.03 for 500.

LMT 1 then enters an odd lot limit order to buy ABC at $10.02 for 60.

As proposed, an incoming Type 1-designated Retail Order to sell for 1,000 will execute first against RLP 3's bid for 500 at $10.03, because it is the best priced bid, then against RLP 2's bid for 500 at $10.02, because it is the next best priced bid entered earliest in time, at which point the entire size of the Retail Order to sell 1,000 is depleted. As proposed, the odd lot interest entered by LMT 1 would not receive an execution because such odd lot interest is ranked in price-time priority with RPIs and all other non-displayed interest. Without the rule change, LMT 1 would be able to execute its 60 shares at $10.02 before RLP 2, even though RLP 2 arrived earlier in time.

Because of the ranking and allocation proposed herein, the Exchange is proposing to delete the provision in Rule 7.44(l) stating that executions within the Program will occur in accordance with NYSE Arca Equities Rule 7.36. Rule 7.36 provides that incoming orders will be executed first in the Display Order Process, and then in the Working Order Process. But within the Program, odd lot interest will now be ranked and allocated in price-time priority with other equally-priced non-displayed interest. As explained above, the Exchange believes this is appropriate since, for purposes of the operation of the Program, there is little difference between undisplayed odd lot interest and other non-displayed liquidity, including that neither are protected from being traded through pursuant to Regulation NMS.

Further, the Exchange is proposing to amend Rule 7.44(l) to provide that, within the Program, PL Orders will be ranked behind all other equally-priced non-displayed interest. Currently, Rule 7.31(h)(4) provides that PL Orders are executed in the Working Order Process after all other Working Orders except undisplayed discretionary orders. Therefore, under the current version of Rule 7.44(l), which provides that executions occur pursuant to Rule 7.36, PL Orders are executed behind all other non-displayed liquidity. Because the Exchange is removing the reference to Rule 7.36 from Rule 7.44(l), some Users might interpret Rule 7.44(l) as stating that it overrides all other provisions in NYSE Arca Equities Rules, and therefore, all non-displayed liquidity is ranked and allocated in price-time priority. However, the Exchange is maintaining the priority rule for PL Orders in the Program, and therefore, the Exchange is proposing to explicitly state in Rule 7.44(l) that PL Orders will be ranked behind all other equally-priced interest.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5),[9] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest.

The Exchange believes that ranking odd lot interest in price-time priority with other RPIs and non-displayed liquidity within the Program will both promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system. The proposed rule change will ensure that odd-lot interest priced better than the PBBO that is not displayed is not given priority over previously-entered non-displayed liquidity within the Program. The purpose of the Program is to incentivize the provision of price-improving liquidity to retail investors. However, the Exchange believes that this purpose could be frustrated by permitting later-arriving odd-lot interest to have priority over earlier-arriving RPIs and non-displayed liquidity. The Exchange therefore believes that ranking odd-lot interest in strict price-time priority with other undisplayed interest will remove impediments to a free and open market by eliminating the potential for market participants to use odd-lot interest to trade ahead of previously-entered RPI interest. The Exchange further believes that the proposed rule change is consistent with current Exchange rules because it would treat undisplayed odd lot interest in the same manner as undisplayed round lots.

The Exchange further believes that the proposed treatment of odd lot interest is consistent with the Act and will not create a disincentive to enter odd lot interest because market participants are already on notice that undisplayed odd lot interest priced better than the PBBO is not afforded the same protections as displayed interest.

The Exchange also believes the proposal will protect investors and the public interest because the proposed rule change will promote the incentives for liquidity providers to enter RPIs that improve upon the PBBO. As a result, the proposal will increase competition among execution venues, encourage additional liquidity, and offer the potential for price improvement to retail investors. Additionally, the Exchange believes it is appropriate to promote the incentive to bring more retail order flow to a public market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the Program is designed to increase competition among executive [sic] venues, encourage additional liquidity, and offer the potential for price improvement to retail investors. The Exchange notes that a significant percentage of the orders of individual investors are executed over-the-counter. The Exchanges believes that it is appropriate to create a financial incentive to bring more retail order flow to a public market.

Additionally, the Exchange believes the proposed rule change will have a positive effect on competition since it will ensure that the incentives of entering RPIs into the Program are not disrupted. Without the proposed rule change, odd lot interest would have priority over earlier-entered RPI and non-displayed liquidity at a particular price point. Such a priority rule could disrupt the incentives of ETP Holders to enter RPIs, and therefore, decrease the price improving opportunities for retail investors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

[7] The Exchange is proposing to amend one of the examples in Rule 7.44(l) to include the updated treatment of odd lot interest within the Program.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [12] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. Doing so, the Exchange contends, would correct an element of the Program that could otherwise undermine the Program's purpose. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because this waiver would allow the Exchange to implement the Program, which has already been subject to notice and comment, without further delay. Accordingly, the Commission hereby grants the Exchange's request and designates the proposal operative upon filing.[14]

At any time within 60 days of the filing of this proposed rule change, the Commission summarily may temporarily suspend this 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2014–21 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2014–21. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of this filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–NYSEArca–2014–21 and should be submitted on or before April 18, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

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BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71779; File No. SR–NYSEArca–2014–26]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Changes to the Means of Achieving the Investment Objective Applicable to the db-X Ultra-Short Duration Fund

March 24, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 18, 2014, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reflect changes to the means of achieving the investment objective applicable to the db-X Ultra-Short Duration Fund (the ''Fund''). The Commission has approved listing and trading of shares of the Fund on the Exchange under NYSE Arca Equities Rule 8.600.[4] The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 71617 (February 26, 2014), 79 FR 12257 (March 4, 2014) (SR–NYSEArca-2013–135) (order approving listing and trading on the Exchange of the db-X Ultra-Short Duration Fund and db-X Managed Municipal Bond Fund) (''Prior Order''). *See also* Securities Exchange Act Release No. 71269 (January 9, 2014), 79 FR 2725 (January 15, 2014) (SR–NYSEArca-2013–135) (''Prior Notice,'' and together with the Prior Order, the ''Prior Release'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission has approved listing and trading on the Exchange of shares (''Shares'') of the Fund, a series of the DBX ETF Trust (the ''Trust''),[5] under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares.

The Shares are offered by the 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.[6] The 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. The Fund will be managed by DBX Advisors LLC (the ''Adviser''). Deutsche Investment Management Americas Inc. will be the investment sub-adviser for the Fund (the ''Sub-Adviser'').

In this proposed rule change, the Exchange proposes to reflect changes to the description of the measures the Adviser and Sub-Adviser will utilize to implement the Fund's investment objective, as described below.[7]

As described in the Prior Release, the investment objective of the Fund will be to seek to provide current income consistent with total return. Under normal market conditions,[8] the Fund will seek to achieve its investment objective by investing at least 65% of its net assets in debt securities.[9] As stated in the Prior Release, the Fund may invest its remaining assets in other securities and financial instruments, as described in the Prior Release. The Prior Release states that the Fund generally intends to use interest rate swaps and/or small amounts of currency forwards for duration management.

The Exchange proposes to supplement the description in the Prior Release of other securities and financial instruments in which the Fund may invest for duration management to add interest rate futures and U.S. Treasury futures. Interest rate futures and U.S. Treasury futures will be included under the remaining assets in which the Fund may invest (*i.e.,* securities and financial instruments other than the at least 65% of net assets invested in debt securities under normal market conditions). All interest rate futures and U.S. Treasury futures in which the Fund invests will be traded on a U.S. futures exchange regulated by the Commodity Futures Trading Commission.

The Exchange notes that the Commission has approved similar representations relating to issues of Managed Fund Shares proposed to be listed and traded on the Exchange.[10]

In computing the Fund's net asset value per Share, U.S. Treasury futures and interest rate futures will be valued at the settlement price determined by the applicable exchange.

Price information regarding U.S. Treasury futures and interest rate futures will be available from the applicable exchange and from major market data vendors.

The Adviser represents that there is no change to the Fund's investment objective from that described in the Prior Release. The Fund will comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.600.

Except for the changes noted above, all other facts presented and representations made in the Prior Release remain unchanged.

All terms referenced but not defined herein are defined in the Prior Release.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[11] that an exchange have rules that are 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, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. With respect to the Fund investments in U.S. Treasury futures and interest rate futures, the Exchange notes that the Commission has approved similar representations relating to issues of Managed Fund Shares proposed to be listed and traded on the Exchange.[12] All interest rate futures and U.S. Treasury futures in which the Fund invests will be traded on a U.S. futures exchange. In computing the Fund's net asset value per Share, U.S. Treasury futures and interest rate futures will be valued at the settlement price determined by the applicable exchange. Price information regarding U.S. Treasury futures and interest rate futures will be available from the applicable exchange and from major market data vendors, and the availability of such information will

[5] *See* note 4, *supra.*

[6] The Trust is registered under the Investment Company Act of 1940 (''1940 Act'') (15 U.S.C. 80a–1). 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 (15 U.S.C. 77a) (''Securities Act'') and the 1940 Act relating to the Fund (File Nos. 333–170122 and 811–22487) (the ''Registration Statement''). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 30811 (November 26, 2013).

[7] The changes described herein will be effective upon filing with the Commission of another amendment to the Trust's Registration Statement. *See* note 6, *supra.* The Adviser represents that the Adviser and Sub-Adviser will manage the Fund in the manner described in the Prior Release, and will not implement the changes described herein until the instant proposed rule change is operative.

[8] 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.

[9] As described in the Prior Release, 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. The Fund normally will target an average portfolio duration (a measure of sensitivity to interest rate changes) of no longer than one year.

[10] *See, e.g.,* Prior Order (approving use of U.S. Treasury futures by the db-X Managed Municipal Bond Fund), and Securities Exchange Act Release No. 67001 (May 16, 2012), 77 FR 30341 (May 22, 2014) (SR–NYSEArca–2012–21) (order approving listing and trading on the Exchange of First Trust North American Infrastructure Fund under NYSE Arca Equities Rule 8.600).

[11] 15 U.S.C. 78f(b)(5).

[12] *See* note 10, *supra.*

help deter fraudulent and manipulative acts and practices.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Adviser represents that the proposed change will permit the Adviser to use additional means to achieve the Fund's investment objective through investments in interest rate futures and U.S. Treasury futures for duration management. The Fund will comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.600.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that the Fund will comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.600. The Adviser represents that the purpose of this change is to permit Fund investments in U.S. Treasury futures and interest rate futures for duration management. The Commission has previously approved investments in such futures contracts for other issues of Managed Fund Shares.[13] The Adviser represents that there is no change to the Fund's investment objective. Except for the change noted above, all other representations made in the Prior Release remain unchanged.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change to the Fund's means of achieving the investment objective will permit the Fund to adjust its portfolio to allow the Fund to meet its investment objectives by investing in U.S. Treasury futures and interest rate futures and will enhance competition among issues of Managed Fund Shares that invest in fixed income securities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[14] and Rule 19b–4(f)(6) thereunder.[15]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of this requirement will: (1) Facilitate duration management by the Fund; (2) provide additional means for the Adviser to meet the Fund's investment objective, which remains unchanged; and (3) allow the Fund to meet its investment objective in the most efficient manner possible. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission also notes that all the interest rate and U.S. Treasury futures in which the Fund will invest will be listed on U.S. futures exchanges regulated by the Commodity Futures Trading Commission. Therefore, the Commission designates the proposed rule change to be operative upon filing.[16]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–NYSEArca–2014–26 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSEArca-2014–26. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEArca–2014–26 and should be submitted on or before April 18, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

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[13] *See* note 10, *supra.*

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[16] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71775; File No. SR–CBOE–2014–021]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the CBSX BBO Data Feed and a New CBSX Book Depth Data Feed

March 24, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

notice is hereby given that on March 11, 2014, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') proposes to (i) update the description of the data included in the CBOE Stock Exchange (''CBSX'') BBO Data Feed and (ii) offer a book depth data feed for securities traded on the CBSX. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to (i) update the description of the data included in the CBSX BBO Data Feed, and (ii) offer a book depth data feed for securities traded on the CBSX. CBSX is CBOE's stock trading facility.

BBO Data Feed

The BBO Data Feed is a real-time, low latency data feed that includes CBSX ''BBO data'' and last sale data.[3] CBOE reports CBSX BBO data under the Consolidated Quotation Plan (''CQ Plan'') and CBSX last sale data under the Consolidated Tape Association Plan (''CTA Plan'') with respect to NYSE-listed securities and securities listed on exchanges other than NYSE and Nasdaq for inclusion in those Plans' consolidated data streams. CBOE reports CBSX BBO data and CBSX last sale data under the Nasdaq Unlisted Trading Privileges Plan (''Nasdaq/UTP Plan'') with respect to Nasdaq-listed securities for inclusion in that Plan's consolidated data stream. The BBO and last sale data contained in the CBSX BBO Data Feed is identical to the data that CBOE sends to the processors under the CQ, CTA and Nasdaq/UTP Plans for redistribution to the public.[4] The BBO Data Feed is made available by CBOE's affiliate Market Data Express, LLC (''MDX'').

The BBO Data Feed also includes certain data that is not included in the data sent to the processors under the CQ, CTA and Nasdaq/UTP Plans, namely, totals of customer versus non-customer contracts at the BBO, and All-or-None contingency orders priced better than or equal to the BBO.

The Exchange, through MDX, plans to make additional data available in the BBO Data Feed and therefore proposes to update the description of the data included in the feed. Specifically, the Exchange proposes to add end-of-day (''EOD'') summary messages and recap messages to the feed. EOD summary messages are messages that will be disseminated after the close of a trading session that will include summary information about CBSX traded securities. Such information includes product name, opening price, high and low price during the trading session and last sale price. Recap messages are messages that will be disseminated during a trading session any time there is a change in the open, high, low or last sale price of a CBSX traded security. In addition to open, high, low and last sale prices, such messages will also include product name and total volume traded in the product during the trading session.

At this time, the Exchange does not intend to amend the fees for the BBO Data Feed.

Book Depth Data Feed

The Exchange proposes to make available, through MDX, a real-time, low latency data feed that includes all outstanding quotes and standing orders up to the first five price levels on each side of the market, with aggregate size (''Book Depth Data Feed'').[5] The Book Depth Data Feed will also include all of the other data contained in the BBO Data Feed (as described above), including last sale data. The data in the Book Depth Data Feed would be refreshed periodically during the trading session.

The Exchange will file a separate proposed rule change to establish the fees to be charged by MDX for the Book Depth Data Feed.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers because the enhanced BBO Data Feed and the Book Depth Data Feed would be made available by MDX to any market

[3] The CBSX BBO Data Feed includes the ''best bid and offer,'' or ''BBO'', consisting of all outstanding quotes and standing orders at the best available price level on each side of the market, with aggregate size (''BBO data,'' sometimes referred to as ''top-of-book data''). Data with respect to executed trades is referred to as ''last sale'' data. *See* Securities Exchange Act Release No. 69399 (April 18, 2013), 78 FR 24258 (April 24, 2013).

[4] The Exchange notes that MDX makes available to Customers the BBO data and last sale data that is included in the CBSX BBO Data Feed no earlier than the time at which the Exchange sends that data to the processors under the CQ, CTA and Nasdaq/UTP Plans. A ''Customer'' is any entity that receives the BBO Data Feed directly from MDX's system or through a connection to MDX provided by an approved redistributor (i.e., a market data vendor or extranet service provider) and then redistributes it internally and/or externally.

[5] The Exchange notes that MDX will make available the BBO and last sale data that is included in the Book Depth Data Feed no earlier than the time at which the Exchange sends that data to the processors under the CQ, CTA and Nasdaq/UTP Plans.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *Id.*

participant that wishes to subscribe to either feed.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that this proposal is in keeping with those principles by promoting increased transparency through the dissemination of useful data and also by clarifying its availability to market participants. The Exchange believes that updating the description of the BBO Data Feed will benefit users by making clearer what data is included in the feed. The Exchange believes offering the Book Depth Data Feed will increase transparency, help attract order flow and provide investors with additional information that may help to inform their trading decisions.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal to update the description of the BBO Data Feed is intended not to address any competitive issue but rather to reflect the data that is included in the feed. The Exchange notes other exchanges offer depth of market products similar to the Book Depth Data Feed. For example, BATS offers Multicast PITCH, which is their depth of market and last sale feed similar to the Book Depth Data Feed. The NASDAQ Stock Market offers a product entitled ''NASDAQ TotalView ITCH'' that is similar to the Book Depth Data Feed. NYSE offers market data products entitled ''NYSE OpenBook'', NYSE ArcaBook'' and ''NYSE MKT OpenBook'' that include depth of market data for NYSE, NYSE Arca and NYSE MKT traded securities. In addition, the CQ, CTA and Nasdaq/UTP data feeds are significant competitive alternatives to the BBO Data Feed and the Book Depth Data Feed.

The Exchange believes the enhanced BBO Data Feed and the Book Depth Data Feed will help to attract new users and new order flow to the Exchange, thereby improving the Exchange's ability to compete in the market for options order flow and executions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. Impose any significant burden on competition; and

C. Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6) [10] thereunder.

The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange has stated that it does not intend to amend the fees for the BBO Data Feed, and that the proposed Book Depth Data Feed mostly includes data already made available by the Exchange through the BBO Data Feed. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, because such waiver will enable market participants to receive more market data via the Exchange's new and existing data feeds at no charge. For this reason, the Commission hereby waives the 30-day operative delay requirement and designates the proposed rule change to be operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2014–021 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2014–021. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2014–021, and should be submitted on or before April 18, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–06887 Filed 3–27–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71782; File No. SR–CHX–2014–04]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend a Pilot Program Related to Article 20, Rule 10 Concerning the Handling of Clearly Erroneous Transactions

March 24, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that, on March 19, 2014, the Chicago Stock Exchange, Inc. (''CHX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CHX proposes to extend a pilot program related to Article 20, Rule 10, entitled ''Handling of Clearly Erroneous Transactions.'' The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b–4(f)(6)(iii) under the Act.[3]

The text of this proposed rule change is available on the Exchange's Web site at (*www.chx.com*) and in the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the effectiveness of the Exchange's current rule applicable to Clearly Erroneous Executions. Portions of Article 20, Rule 10, explained in further detail below, are currently operating as a pilot program set to expire on April 8, 2014.[4] The Exchange proposes to extend the pilot program to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the ''Limit Up-Limit Down Plan'' or the ''Plan''), including any extensions to the pilot period for the Plan.[5]

On September 10, 2010, the Commission approved, on a pilot basis, changes to Article 20, Rule 10 to provide for uniform treatment: (1) Of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the Exchange.[6] The Exchange also adopted additional changes to Article 20, Rule 10 that reduced the ability of the Exchange to deviate from the objective standards set forth in Article 20, Rule 10,[7] and in 2013, adopted a provision designed to address the operation of the Plan.[8]

The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan. The Exchange believes that continuing the pilot will protect against any unanticipated consequences. Thus, the Exchange believes that the protections of the Clearly Erroneous Rule should continue while the industry gains further experience operating the Plan.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[9] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[10] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system. Although the Limit Up-Limit Down Plan is operational, the Exchange believes that maintaining the pilot will help to protect against unanticipated consequences. Thus, the Exchange believes that the protections of the Clearly Erroneous Rule should continue while the industry gains further experience operating the Plan. The Exchange also believes that the pilot program promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning review of transactions as clearly erroneous. Thus, the Exchange believes that the extension of the pilot would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed rule change would also help assure consistent results in handling erroneous trades across the U.S. markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change implicates any competitive issues. To the contrary, the Exchange believes that the Financial Industry Regulatory Authority (''FINRA'') and other national securities exchanges are also filing similar

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6)(iii).

[4] *See* Securities Exchange Act Release No. 70515 (Sept. 26, 2013), 78 FR 60945 (Oct. 2, 2013) (SR–CHX–2013–17).

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the ''Limit Up-Limit Down Release'').

[6] Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010) (SR–CHX–2010–13).

[7] *Id.*

[8] *See* Securities Exchange Act Release No. 68802 (February 1, 2013), 78 FR 9092 (February 7, 2013) (SR–CHX–2013–04); *see also* CHX Article 20, Rule 10(i).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

proposals, and thus, that the proposal will help to ensure consistency across market centers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6)(iii) thereunder.[12]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the clearly erroneous pilot program to continue uninterrupted while the industry gains further experience operating under the Limit Up-Limit Down Plan, and avoid any investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CHX–2014–04 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CHX–2014–04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CHX–2014–04 and should be submitted on or before April 18, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–06891 Filed 3–27–14; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6)(iii). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[13] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

China Shen Zhou Mining & Resources, Inc., Ideal Financial Solutions, Inc., Smooth Global (China) Holdings, Inc., Weikang Bio-Technology Group Co., Inc., and 1st Pacific Bancorp File No. 500–1

March 26, 2014.

Order of Suspension of Trading

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of China Shen Zhou Mining & Resources, Inc. because it has not filed any periodic reports since the period ended September 30, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Ideal Financial Solutions, Inc. because it has not filed any periodic reports since the period ended September 30, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Smooth Global (China) Holdings, Inc. because it has not filed any periodic reports since the period ended June 30, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Weikang Bio-Technology Group Co., Inc. because it has not filed any periodic reports since the period ended September 30, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of 1st Pacific Bancorp because it has not filed any periodic reports since the period ended September 30, 2009.

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 companies.

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 companies

is suspended for the period from 9:30 a.m. EDT on March 26, 2014, through 11:59 p.m. EDT on April 8, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–07055 Filed 3–26–14; 11:15 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law (Pub. L.) 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and an extension of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov*.

(SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov*.

I.

The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than May 27, 2014. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Representative Payee Report-Adult, Representative Payee Report-Child, Representative Payee Report-Organizational Representative Payees—20 CFR 404.635, 404.2035, 404.2065, and 416.665—0960–0068. When SSA determines it is not in an Old Age Survivors and Disability Insurance (OASDI) or Supplemental Security Income (SSI) recipient's best interest to receive Social Security payments directly, the agency will designate a representative payee for the recipient. The representative payee can be: (1) A family member; (2) a non-family member who is a private citizen and is acquainted with the beneficiary; (3) an organization; (4) a state or local government agency; or (5) a business. In the capacity of representative payee, the person or organization receives the SSA recipient's payments directly and manages these payments. As part of its stewardship mandate, SSA must ensure the representative payees are properly using the payments they receive for the recipients they represent. The agency annually collects the information necessary to make this assessment using the SSA–623, Representative Payee Report-Adult, SSA–6230, Representative Payee Report-Child, SSA–6234, Representative Payee Report-Organizational Representative Payees, and through the electronic Internet application Internet Representative Payee Accounting (iRPA). The respondents are representative payees of OASDI and SSI recipients.

Type of Request: Revision to an OMB-approved information collection.

Modality of collection	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–623	2,811,819	1	15	702,955
SSA–6230	2,968,096	1	15	742,024
SSA–6234	719,469	1	15	179,867
iRPA*	650,000	1	15	162,500
*Totals	7,149,384			1,787,346

*One Internet platform encompasses all three paper forms.

2. Statement of Income and Resources—20 CFR 416.207, 146.301–416.310, 416.704, and 416.708—0960–0124. SSA collects information about income and resources on the SSA–8010–BK for SSI claims and redeterminations. SSA uses the information to make initial or continuing eligibility determinations for SSI claimants or recipients who are subject to deeming. The respondents are persons whose income and resources SSA may deem (consider to be available) to SSI applicants or recipients.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–8010–BK	341,000	1	26	147,767

3. Authorization to Obtain Earnings Data From the Social Security Administration—0960–0602. On occasion, organizations and agencies, both public and private, need to obtain detailed earnings information about specific Social Security number (SSN) holding wage earners for business purposes (e.g. pension funds, State agencies, etc.). Respondents use Form SSA–581 to identify the SSN holder whose information they are requesting, and provide authorization from the SSN holder, when applicable. SSA uses the information provided on Form SSA–581

to: (1) Identify the wage earner; (2) establish the period of earnings information requested; (3) verify the wage earner authorized SSA to release this information to the requesting party; and (4) produce the Itemized Statement of Earnings (SSA–1826). The respondents are private businesses, state or local agencies, and other federal agencies.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–581	24,000	1	2	800

4. State Death Match Collections—20 CFR 404.301, 404.310–404.311, 404.316, 404.330–404–341, 404.350–404.352, 404.371; 416.912–0960–0700. SSA uses the State Death Match Collections to ensure the accuracy of payment files by detecting unreported or inaccurate deaths of beneficiaries. Under the Social Security Act (Act), entitlement to retirement, disability, wife's, husband's, or parent's benefits terminate when the beneficiary dies. The states furnish death certificate information to SSA via the manual registration process or the Electronic Death Registration Process (EDR). Both death match processes are automated electronic transfers between the states and SSA. The respondents are the states' bureaus of vital statistics.

Type of Request: Revision of an OMB-approved information collection.

Modality of collection	Number of respondents	Frequency of response (per state)	Average cost per record request	Estimated total cost burden
State Death Match—Manual Process	17	50,000	$.84	$714,000
State Death Match—EDR	36	50,000	3.01	5,418,000
Totals	53	.....	.....	*6,132,000

*Please note that both of these data matching processes are electronic and there is no hourly burden for the respondent to provide this information.

5. Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery—0960–0788. SSA, as part of our continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on the ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery '' for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et. seq.). This collection was developed as part of a Federal Government-wide effort to streamline the process for seeking feedback from the public on service delivery.

Under the auspices of Executive Order 12862, Setting Customer Service Standards, SSA conducts multiple satisfaction surveys each year. This proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with SSA's commitment to improving 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 SSA and our customers and stakeholders.

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 SSA's services will be unavailable.

We will only submit a collection for approval under this generic clearance if it meets the following conditions: (1) The collections are voluntary; (2) 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; (3) the collections are non-controversial and do not raise issues of concern to other Federal agencies; (4) any collection 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; (5) personally identifiable information (PII) is collected only to the extent necessary and is not retained; (6) information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency; (7) information gathered will not be used for the purpose of substantially informing influential policy decisions; and (8) 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 non-response 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.

The respondents are recipients of SSA services (including most members of the public), professionals, and individuals who work on behalf of SSA beneficiaries.

Type of Request: Extension of an OMB-approved information collection.

Affected Public: Individuals and households, businesses and organizations, State, Local or Tribal government.

Total Estimated Number of Respondents: 45,530.

Below we provide projected average estimates for the next three years:

Average Expected Annual Number of Activities: 125.

Annual Respondents: 15,177.

Annual Responses: 15,177.

Frequency of Response: Once per request.

Average Minutes per Response: 41.53 minutes.

Estimated Annual Burden: 10,505 hours.

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than April 28, 2014. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov*.

1. Student Reporting Form—20 CFR 404.352(b)(2); 404.367; 404.368; 404.415; 404.434; 422.135—0960–0088. To qualify for Social Security Title II student benefits, student beneficiaries must be in full-time attendance status at an educational institution. In addition, SSA requires these beneficiaries to report events that may cause a reduction, termination, or suspension of their benefits. SSA collects such information on Forms SSA–1383 and SSA–1383–FC to determine if the changes or events the student beneficiaries report will affect their continuing entitlement to SSA benefits. SSA also uses the SSA–1383 and SSA–1383–FC to calculate the correct benefit amounts for student beneficiaries. The respondents are Social Security Title II student beneficiaries.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–1383	74,887	1	6	7,489
SSA–1383–FC	113	1	6	11
Totals	75,000			7,500

2. Reporting Events—SSI—20 CFR 416.701–416.732—0960–0128. SSA mails the SSA–8150 to SSI recipients when they allege payment or eligibility-changing events. Either the SSI recipients fill out the paper version of the form, or they complete the form through an in-person or telephone interview with an SSA employee who records the information using the Modernized SSI Claims System. In addition to the SSA–8150, recipients may need to submit supplementary documentation showing the payment or eligibility-changing events (e.g., payment stubs, or rental agreements). SSA uses Form SSA–8150 and the supplementary documentation to determine changes in SSI eligibility and amounts. The respondents are current SSI recipients, or their representatives, who experience a payment or eligibility-changing event.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–8150	36,767	1	5	3,064

3. Government Pension Questionnaire—20 CFR 404.408a—0960–0160. The basic Social Security benefits application (OMB No. 0960–0618) contains a lead question asking if the applicants are qualified (or will qualify) to receive a government pension. If the respondent is qualified, or will qualify, to receive a government pension, the applicant completes Form SSA–3885 either on paper or through a personal interview with an SSA claims representative. If the applicants are not entitled to receive a government pension at the time they apply for Social Security benefits, SSA requires them to provide the government pension information as beneficiaries when they become eligible to receive their pensions. Regardless of the timing, at some point the applicants or beneficiaries must complete and sign Form SSA–3885 to report information about their government pensions before the pensions begin. SSA uses the information to: (1) Determine whether the Government Pension Offset provision applies; (2) identify exceptions as stated in 20 CFR 404.408a; and (3) determine the benefit reduction amount and effective date. If the applicants and beneficiaries do not respond using this questionnaire, SSA offsets their entire benefit amount. The respondents are applicants or recipients of spousal benefits who are eligible for or already receiving a Government pension.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–3885	76,000	1	13	16,467

4. Modified Benefit Formula Questionnaire—0960–0395. SSA collects information on Form SSA–150 to determine which formula to use in computing the Social Security benefit for someone who receives a pension from employment not covered by Social Security. The Windfall Elimination Provision (WEP) requires use of a benefit formula replacing a smaller percentage of a worker's pre-retirement earnings. However, the resulting amount cannot show a difference in the benefit computed using the modified and regular formulas greater than one-half the amount of the pension received in the first month an individual is entitled to both the pension and the Social Security benefit. The SSA–150 collects the information needed to make all the necessary benefit computations. SSA requires the respondents to furnish the information on Form SSA–150 so we can calculate their benefits using the data they supply. SSA calculates the benefits of applicants who do not respond to this questionnaire using the full WEP reduction. SSA employees collect this information once from the applicants at the time they file their claim. The respondents are applicants for old age and disability benefits.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–150	90,000	1	8	12,000

5. Employee Identification Statement—20 CFR 404.702—0960–0473. When two or more individuals report earnings under the same SSN, SSA collects information on Form SSA–4156 to credit the earnings to the correct individual and SSN. We send the SSA–4156 to the employer to: (1) Identify the employees involved; (2) resolve the discrepancy, and (3) credit the earnings to the correct SSN. The respondents are employers involved in erroneous wage reporting for an employee.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–4156	4,750	1	10	792

Dated: March 25, 2014.

Faye Lipsky,

Reports Clearance Director, Social Security Administration.

[FR Doc. 2014–06929 Filed 3–27–14; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 8675]

30-Day Notice of Proposed Information Collection: Online Application for Immigrant Visa and Alien Registration

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to April 28, 2014.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov*. You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Sydney Taylor at *PRA_BurdenComments@state.gov*.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Online Application for Immigrant Visa and Alien Registration.
- *OMB Control Number:* 1405–0185.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* CA/VO/L/R.
- *Form Number:* DS–260.
- *Respondents:* Immigrant Visa Applicants.
- *Estimated Number of Respondents:* 586,000 respondents.
- *Estimated Number of Responses:* 586,000 respondents.
- *Average Time per Response:* 2 hour.
- *Total Estimated Burden Time:* 1,172,000 hours.

- *Frequency:* Once per Respondent.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: Form DS–260 will be used to elicit information to determine the eligibility of aliens applying for immigrant visas.

Methodology: The DS–260 will be submitted electronically to the Department via the internet. The applicant will be instructed to print a confirmation page containing a 2–D bar code record locator, which will be scanned at the time of adjudication. Applicants who submit the electronic application will no longer submit paper-based applications to the Department.

Dated: March 20, 2014.

Edward Ramotowski,

Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 2014–06962 Filed 3–27–14; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 8674]

60-Day Notice of Proposed Information Collection: NEA/PI Online Performance Reporting System (PRS)

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to May 27, 2014.

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

- *Web:* Persons with access to the Internet may use the Federal Docket Management System (FDMS) to comment on this notice by going to *www.Regulations.gov*. You can search for the document by entering ''Public Notice ####'' in the Search bar. If necessary, use the Narrow by Agency filter option on the Results page.
- Email: *mepidatabasecomments@state.gov.*
- Mail (paper, disk, or CD–ROM submissions): Catherine Bourgeois, Deputy Director, U.S. Department of State, Office of the Middle East Partnership Initiative (NEA/PI), Bureau of Near Eastern Affairs, NEA Mail Room—Room 6258, 2201 C St. NW., Washington, DC 20520.
- Fax: 202–647–8445.
- Hand Delivery or Courier: 2430 E St. NW., (23rd and D St. NW.), Navy Hill—SA–4—Central, Second Floor, Washington, DC 20037.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Markita Cooke, U.S. Department of State, Office of the Middle East Partnership Initiative (NEA/PI), Bureau of Near Eastern Affairs, NEA Mail Room—Room 6258, 2201 C St. NW., Washington DC 20520, who may be reached on 202–776–8309 or at *CookeMA@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* NEA/PI Online Performance Reporting System (PRS).
- *OMB Control Number:* 1405–0183.
- *Type of Request:* Extension.
- *Originating Office:* NEA/PI.
- *Form Number:* DS–4127.
- *Respondents:* Recipients of NEA/PI grants.
- *Estimated Number of Respondents:* 75 respondents annually.
- *Estimated Number of Responses:* 300 per year.
- *Average Time per Response:* 20 hours.
- *Total Estimated Burden Time:* 6000 hours.
- *Frequency:* quarterly.
- *Obligation To Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

Since 2002, MEPI has obligated more than $800 million to over 725 organizations, which carry out more than 1,000 projects in support of political, economic, education and women's rights reform in 20 countries of the Middle East and North Africa. As a normal course of business and in compliance with 22 U.S.C. 2395(b) and OMB Guidelines contained in Circular A–110, recipient organizations are required to provide, and the U.S. State Department is required to collect, periodic program and financial performance reports. The responsibility of the State Department to track and monitor the programmatic and financial performance necessitates a database that can help facilitate this in a consistent and standardized manner. The MEPI Performance Reporting System (PRS) enables enhanced monitoring and evaluation of grants through standardized collection and storage of relevant award elements, such as quarterly progress reports, workplans, results monitoring plans, grant agreements, financial reports, and other business information related to MEPI implementers. The PRS streamlines communication with implementers and allows for rapid identification of information gaps for specific projects.

Methodology

Information will be entered into PRS electronically by respondents.

Additional Information:

Dated: March 21, 2014.

Catherine Bourgeois,

Deputy Director, Bureau of Near Eastern Affairs, NEA/PI, Department of State.

[FR Doc. 2014–06964 Filed 3–27–14; 8:45 am]

BILLING CODE 4710–31–P

DEPARTMENT OF STATE

[Public Notice 8676]

Culturally Significant Objects Imported for Exhibition Determinations: ''The World Is an Apple'': The Still Lifes of Paul Cézanne

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 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''The World Is an Apple'': The Still Lifes of Paul Cézanne, 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 Barnes Foundation, Philadelphia, Pennsylvania, from on or about June 22, 2014, until on or about September 22, 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 imported 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: March 24, 2014.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–06961 Filed 3–27–14; 8:45 am]

BILLING CODE 4710–05–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Comments on an Environmental Goods Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Request for comments and notice of public hearing.

SUMMARY: On March 21, 2014, the United States Trade Representative notified Congress of the Administration's intention to enter into negotiations for a World Trade Organization Environmental Goods Agreement. A copy of the notification is available at *www.ustr.gov/sites/default/files/03212014-Letter-to-Congress.pdf.* The Office of the U.S. Trade Representative, on behalf of the Trade Policy Staff Committee (TPSC), is seeking public comments regarding U.S. interests and priorities with respect to this initiative. Comments may be provided in writing and orally at a public hearing.

DATES: Written comments are due by midnight, May 5, 2014. Persons wishing to testify orally at the hearing must provide written notification of their intention, as well as a summary of their testimony, by midnight, May 5, 2014. The hearing will be held in Washington, DC, on June 5, 2014.

ADDRESSES: Comments from the public should be submitted electronically at *www.regulations.gov.* If you are unable to provide submissions at *www.regulations.gov,* please contact Yvonne Jamison, Trade Policy Staff Committee (TPSC), at (202) 395–3475, to arrange for an alternative method of transmission.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning written comments, please contact Yvonne Jamison, Trade Policy Coordination Assistant, at the above number. All other questions regarding this notice should be directed to Bill McElnea, Director for Environment and Natural Resources, at (202) 395–7320.

SUPPLEMENTARY INFORMATION:

Background

On January 24, a group of 14 WTO Members (Australia, Canada, China, Costa Rica, the European Union, Hong Kong, Japan, Korea, New Zealand, Norway, Singapore, Switzerland, Chinese Taipei, and the United States) accounting for 86 percent of global trade in environmental goods announced in a joint statement their interest in negotiating an agreement to eliminate tariffs on environmental goods that are needed to protect the environment and address climate change. Examples of such environmental goods include solar panels, wind turbines, and catalytic converters, among others. The joint statement is available at: *http://www.ustr.gov/about-us/press-office/press-releases/2014/January/USTR-Froman-remarks-on-new-talks-towards-increased-trade-environmental-goods.*

The negotiations for an environmental goods agreement (EGA) will be open to all WTO Members that are prepared to eliminate tariffs on a set of environmental goods, building on the list of 54 environmental goods endorsed by APEC Leaders in 2012. The list of 54 environmental goods endorsed by Asia-Pacific Leaders is available at *http://www.apec.org/Meeting-Papers/Leaders-Declarations/2012/2012_aelm/2012_aelm_annexC.aspx.* Some WTO Members charge tariffs as high as 35 percent on some of these products. This list of products is the starting point for establishing the scope of the proposed agreement and we seek comments on additional products that could be included in the negotiations.

USTR is observing the relevant procedures of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3804) with respect to notifying and consulting with Congress regarding such negotiations. The TPSC intends to hold a public hearing on specific issues pertaining to negotiations on an agreement to eliminate tariffs on environmental goods on June 5, 2014.

Comments From the Public and Hearing

The Chair of the TPSC invites interested persons to provide written comments and/or oral testimony at a public hearing that will assist USTR in assessing the proposed agreement. The TPSC Chair invites comments on all relevant matters, and, in particular, on the following: (1) Products that the United States should seek to include under the EGA, including a detailed description of the specific product, and as appropriate, the 6-digit (or 8-digit or 10-digit, where applicable) Harmonized System tariff classification number; (2) environmental uses and benefits of the products being proposed for inclusion; (3) U.S. trading partners that are significant producers or consumers of environmental goods; and (4) how best to ensure that such an agreement remains relevant into the future.

A hearing will be held on June 5, 2014, in Rooms 1 and 2, at 1724 F Street NW., Washington, DC. Persons wishing to testify at the hearing must provide written notification of their intention by May 5, 2014. The notification should include: (1) The name, address, and

telephone number of the person presenting the testimony; and (2) a short (one or two paragraph) summary of the presentation, including the subject matter and, as applicable, subjects to be discussed. A copy of the testimony must accompany the notification. Remarks at the hearing should be limited to no more than five minutes to allow for possible questions from the TPSC. Persons with mobility impairments who will need special assistance in gaining access to the hearing should contact Yvonne Jamison at (202) 395–3475.

Requirements for Submissions

Persons submitting comments must do so in English and must identify (on the first page of the submission) ''Environmental Goods Agreement''. In order to be assured of consideration, comments should be submitted by 11:59 p.m., May 5, 2014. In order to ensure the timely receipt and consideration of comments, USTR strongly encourages commenters to make on-line submissions using the *www.regulations.gov* Web site. To submit comments via *www.regulations.gov,* enter docket number USTR–2014–0004 on the home page and click ''search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice and click on the link entitled ''Comment Now!'' (For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on ''How to Use This Site'' on the left side of the home page).

The *www.regulations.gov* Web site allows users to provide comments by filling in a ''Type Comment'' field, or by attaching a document using an ''Upload File'' field. USTR prefers that comments be provided in an attached document. If a document is attached, it is sufficient to type ''See attached'' in the ''Type Comment'' field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the ''Type Comment'' field. For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page. Filers of submissions containing business confidential information must also submit a public version of their comments. The file name of the public version should begin with the character ''P''. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments or reply comments. Filers submitting comments containing no business confidential information should name their file using the name of the person or entity submitting the comments. Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

As noted, USTR strongly urges submitters to file comments through *www.regulations.gov,* if at all possible. Any alternative arrangements must be made with Ms. Jamison in advance of transmitting a comment. Ms. Jamison should be contacted at (202) 395–3475. General information concerning USTR is available at *www.ustr.gov.* Comments will be placed in the docket and open to public inspection, except business confidential information. Comments may be viewed on the *www.regulations.gov* Web site by entering the relevant docket number in the search field on the home page.

Douglas Bell,

Chair, Trade Policy Staff Committee.

[FR Doc. 2014–06831 Filed 3–27–14; 8:45 am]

BILLING CODE 3290–F4–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Safety Information Analysis and Sharing Project Demonstration for General Aviation (ASIAS for GA Project Demo)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: General statement of policy.

SUMMARY: This document announces a one-year program to demonstrate the capabilities of Aviation Safety Information Analysis and Sharing (ASIAS) for the general aviation community. The document also states the FAA's policy concerning enforcement during this demonstration program.

DATES: This Notice becomes effective on March 28, 2014. The ASIAS for GA Project Demo expires one year after the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Corey Stephens, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; Telephone: (202) 493–4258 and *corey.stephens@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

In recent years, the General Aviation (GA) community has experienced little to no decrease in the number of fatal accidents over the last five years. As a result, the Administrator has identified the implementation of initiatives aimed at reducing GA fatal accidents as a high priority. These initiatives include the work of the General Aviation Joint Steering Committee (GA JSC) and bringing GA operations into ASIAS.

Aviation Safety Information Analysis and Sharing (ASIAS)

To promote an open exchange of safety information for the continuous improvement of aviation safety, the FAA and the aviation industry working in partnership developed ASIAS. ASIAS is a collaborative information sharing program supported by the aviation community to facilitate the proactive analysis of data from broad and extensive sources for purposes of advancing safety initiatives and discovering vulnerabilities in the air transportation system. The sources of safety data range from public sector data that the FAA collects to proprietary data that ASIAS participants voluntarily submit. ASIAS enables the aviation community and the FAA to jointly view different data sources and analyze the aggregate data. This allows ASIAS participants to further analyze their own data and make comparisons to industry norms. ASIAS benefits the FAA and the aviation industry by enabling them to analyze and track accident precursors and known safety hazards and to identify and track newly identified operational risks.

The ASIAS community consists of the FAA and private sector organizations such as corporate operators, airlines, manufacturers and pilot associations. ASIAS participants currently provide de-identified digital flight data and/or de-identified safety reports to ASIAS under various agreements.

ASIAS is managed by a group of government and aviation industry representatives through the ASIAS Executive Board (AEB). The AEB oversees the ASIAS program, including policy and process development, and approves all studies undertaken by ASIAS. The AEB established and tasked a subcommittee known as the Issue Analysis Team (IAT) to perform detailed analyses and effectiveness monitoring of specific safety issues using aggregated

ASIAS data. The IAT submits de-identified study results to the AEB, and the AEB determines how best to disseminate the results to the appropriate stakeholders, including the GA JSC.

ASIAS for General Aviation

The GA JSC is reaching out to the GA community directly and through several GA associations to educate pilots and other stakeholders on the benefits of sharing collected safety data with ASIAS in a protected non-punitive manner, in a manner similar to programs for commercial aviation. In addition, the GA JSC continues its work to maximize safety in GA operations. For example, to date, it has proposed 26 safety interventions to address loss of control. However, analysis shows that more comprehensive data sources from the GA community resulting from a GA ASIAS data sharing program would improve understanding of contributing factors to safety risks in the system.

Early in 2014, the steering committee will embark on a demonstration to evaluate the value and benefits of ASIAS for the broader GA community. One of the purposes of the demonstration will be to allow the GA JSC to gain a better understanding of safety risks and emerging threats for the GA community. The project will explore potential new information sources such as General Aviation flight data (recorded through avionics suites, data recorders and new common technologies such as iOS and Android devices), voluntary safety reports, and manufacturer reports.

ASIAS for GA Demonstration Project

The Administrator announced the GA ASIAS Demonstration Project at the General Aviation Summit at FAA Headquarters on January 27, 2014. The purpose of this demonstration project is to test the technical ability to bring GA data into ASIAS. This project will also demonstrate the value of ASIAS to the GA pilot community and industry (associations, manufacturers, instructors, type clubs, etc.).

To fully demonstrate the ASIAS capabilities for GA, ASIAS needs to collect safety information from voluntary safety reporting systems (digital flight data from Flight Operations Quality Assurance (FOQA)/ Flight Data Monitoring (FDM) programs, pilot and other safety reports, etc.).

As part of the GA ASIAS Demonstration Project, pilots who voluntarily submit their flight data will do so through the National General Aviation Flight Information Database (NGAFID) which is maintained by the University of North Dakota. Pilots who submit their data will be able to review information for their own flights through the NGAFID; however, a pilot may not access another pilot's data. Additionally, the FAA will not have access to this data while it contains information identifying a pilot.

De-identified data will be regularly transferred to ASIAS. In this de-identified state, the data cannot be linked to the specific pilot, aircraft, or flight. This de-identified data is then aggregated and used by the ASIAS community for safety purposes only.

For the period of this project, data will be collected voluntarily from the GA community in the area surrounding Phoenix, Arizona. Volunteers who are based within a 40 nautical mile ring surrounding KPHX will be sought to participate in the demonstration project. Additional information can also be found at *www.GAJSC.org*.

Enforcement Policy

The ASIAS for GA Demonstration Project is an important safety initiative and the FAA supports and encourages wide participation. This document is issued in order to alleviate any concerns that any voluntarily submitted data may be used for enforcement purposes. The FAA recognizes that it is important to promote the voluntary submittal of data during the demonstration project. Therefore, none of the data that is being collected during this demonstration project will be accessed or otherwise used for any enforcement activities.

Should an accident or incident occur involving a participant or non-participant in the demonstration project, standard FAA policy for accident or incident investigation will apply. Any data collected will derive solely from routine investigation procedures. No data that is voluntarily submitted in connection with the demonstration project will be accessed for an accident or incident investigation.

The ASIAS for GA Demonstration Project will be in effect for one year beginning on the date of publication of this notice.

Dated: Issued in Washington, DC on March 21, 2014.

Michael G. Whitaker,

Deputy Administrator.

[FR Doc. 2014–06960 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highways in Texas

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA and other Federal agencies.

SUMMARY: This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, State Highway (SH) 360 from East Sublett Road/West Camp Wisdom Road to U.S. Highway 287 in the counties of Tarrant, Ellis, and Johnson in the State of Texas. Those actions grant licenses, permits, and approvals for the projects.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before August 25, 2014. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Salvador Deocampo, District Engineer, Texas Division, Federal Highway Administration, 300 E. 8th Street, Federal Building Room 826, Austin, Texas 78701, 8:00 a.m. to 5:00 p.m. Monday through Friday, 512–536–5950, *salvador.deocampo@dot.gov.* Mr. Carlos Swonke, Director Environmental Affairs Division, Texas Department of Transportation, 118 E. Riverside, Austin, Texas 78704; 512–416–2734; email: *carlos.swonke@txdot.gov.* Texas Department of Transportation normal business hours are 8:00 a.m. to 5:00 p.m. (central time) Monday through Friday.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA and other Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the highway project in the State of Texas: State Highway (SH) 360 from East Sublett Road/West Camp Wisdom Road to U.S. Highway 287 in Tarrant, Ellis, and Johnson Counties. Project Reference Number: TxDOT CSJ: 2266–02–136. Project Type: The project will transition from the existing 4-lane (two mainlanes in each direction) roadway to an 8-lane (four mainlanes in each direction) divided tollway from 1,310 feet north of E. Sublett Road/W.

Camp Wisdom Road to Debbie Lane/Ragland Road and then to a 6-lane (three mainlanes in each direction) divided tollway from Debbie Lane/Ragland Road to US 287. The project would also include improvements at the SH 360/US 287 interchange. Although the proposed project would be constructed primarily within the existing right of way (ROW), a total of approximately 6.0 acres of proposed ROW are needed to transition cross streets from the existing roadway width to the ultimate width at the SH 360 frontage roads. Project Length: Approximately nine and two tenth (9.2) miles. General Purpose: The purpose of the proposed project is to add mainlanes to the existing frontage road system in order to provide effective transportation while enhancing mobility within the rapidly developing SH 360 corridor for the growing population in southern Tarrant, northwest Ellis, and northeast Johnson counties. The actions by the Federal agencies on the project, and the laws under which such actions were taken, are described in the documented environmental assessment (EAs), issued in connection with the project and Finding Of No Significant Impact (FONSI) document obtained on January 16, 2014; and in other documents in the FHWA project record for the project. The EA, FONSI and other documents from the FHWA project record files for the listed project is available by contacting the FHWA or TxDOT at the addresses provided above and can be viewed and downloaded from the following Web site: *http://www.txdot.gov/inside-txdot/projects/studies/fort-worth/sh-360.html.*

This notice applies to all Federal agency decisions on the listed projects as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

I. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act (FAHA) [23 U.S.C. 109].

II. Air: Clean Air Act (CAA), 42 U.S.C. 7401–7671(q).

III. Land: Section 4(f) of the Department of Transportation Act of 1966 (4f) [49 U.S.C. 303]. Landscaping and Scenic Enhancement (Wildflowers), 23 U.S.C. 319.

IV. Wildlife: Endangered Species Act (ESA) [16 U.S.C. 1531–1544 and Section 1536], Migratory Bird Treaty Act (MBTA) [16 U.S.C. 703–712]. Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)].

V. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) et seq.]; Archeological Resources Protection Act of 1977 (ARPA) [16 U.S.C. 470(aa)–IIJ; Archeological and Historic Preservation Act (AHPA) [16 U.S.C. 469–469(c)].

VI. Social and Economic: Civil Rights Act of 1964 (Civil Rights) [42 U.S.C. 2000(d)–2000(d)(1)].

VII. Wetlands and Water Resources: Clean Water Act, 33 U.S.C. 1251–1377 (Section 404, Section 401; Section 402, Section 319); Land and Water Conservation Fund (LWCF), 16 U.S.C. 4601–4604; Safe Drinking Water Act (SDWA), 42 U.S.C. 300(f)–300(j)(6); Rivers and Harbors Act of 1899 (RHA), 33 U.S.C. 401–406; Wild and Scenic Rivers Act, 16 U.S.C. 1271–1287; Emergency Wetlands Resources Act, 16 U.S.C. 3921, 3931; TEA–21 Wetlands Mitigation, 23 U.S.C. 103(b)(6)(m), 133(b)(11); Flood Disaster Protection Act, 42 U.S.C. 4001–4128.

VIII. Hazardous Materials: Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601–9675; Superfund Amendments and Reauthorization Act of 1986 (SARA); Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901–6992(k).

IX. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 11514 Protection and Enhancement of Environmental Quality; 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: March 21, 2014.

Salvador Deocampo,

District Engineer.

[FR Doc. 2014–06798 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1999–6480; FMCSA–2001–11426; FMCSA–2003–16241; FMCSA–2003–16564; FMCSA–2005–22194; FMCSA–2007–0017; FMCSA–2007–0071; FMCSA–2007–28695; FMCSA–2009–0291; FMCSA–2009–0321; FMCSA–2011–0189; FMCSA–2011–0324]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 19 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective April 23, 2014. Comments must be received on or before March 28, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–1999–6480; FMCSA–2001–11426; FMCSA–2003–16241; FMCSA–2003–16564; FMCSA–2005–22194; FMCSA–2007–0017; FMCSA–2007–0071; FMCSA–2007–28695; FMCSA–2009–0291; FMCSA–2009–0321; FMCSA–2011–0189; FMCSA–2011–0324], using any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want

acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 19 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 19 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Lyle H. Banser (WI)
Eric D. Bennett (NH)
Lloyd J. Botsford (MO)
Cary Carn (NJ)
Charley J. Davis (OK)
Derek T. Ford (MD)
Taras G. Hamilton (TX)
Thomas R. Hedden (IL)
Laurent G. Jacques (MA)
Lucio Leal (NE)
Earl R. Mark (IL)
Richard K. Mell (VA)
Douglas A. Mendoza (MD)
Michael R. Moore (MD)
Russell L. Moyers, Sr. (WV)
Danny Rolfe (ME)
Donald Schaeffer (MO)
Michael Watters, Sr. (PA)
Jeffrey T. Zuniga (CT)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 19 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (64 FR 68195; 65 FR 20251; 67 FR 10471; 67 FR 17102; 67 FR 19798; 68 FR 61857; 68 FR 74699; 68 FR 75715; 69 FR 10503; 69 FR 17267; 69 FR 19611; 70 FR 57353; 70 FR 72689; 71 FR 6825; 71 FR 6829; 71 FR 16410; 71 FR 19604; 72 FR 46261; 72 FR 54972; 72 FR 67340; 72 FR 71993; 73 FR 1395; 73 FR 6242; 73 FR 8392; 73 FR 15254; 73 FR 16950; 74 FR 57553; 74 FR 65842; 75 FR 1835; 75 FR 9478; 75 FR 9482; 75 FR 13653; 75 FR 20881; 76 FR 55465; 76 FR 67246; 77 FR 7234; 77 FR 7657; 77 FR 10604; 77 FR 13689; 77 FR 17115; 77 FR 22059). Each of these 19 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by April 28, 2014.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 19 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket numbers FMCSA–1999–6480; FMCSA–2001–11426; FMCSA–2003–16241; FMCSA–2003–16564; FMCSA–2005–22194; FMCSA–2007–0017; FMCSA–2007–0071; FMCSA–2007–28695; FMCSA–2009–0291; FMCSA–2009–0321; FMCSA–2011–0189; FMCSA–2011–0324 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–1999–6480; FMCSA–2001–11426; FMCSA–2003–16241; FMCSA–2003–16564; FMCSA–2005–22194; FMCSA–2007–0017; FMCSA–2007–0071; FMCSA–2007–28695; FMCSA–2009–0291; FMCSA–2009–0321; FMCSA–2011–0189; FMCSA–2011–0324 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Dated: March 14, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–06924 Filed 3–27–14; 8:45 a.m.]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2003–16241; FMCSA–2007–29019; FMCSA–2009–0011; FMCSA–2011–0365]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 12 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective April 27, 2014. Comments must be received on or before April 28, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2003–16241; FMCSA–2007–29019; FMCSA–2009–0011; FMCSA–2011–0365], using any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to http://www.regulations.gov, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 12 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 12 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Eric D. Bennett (NH)
Chad L. Burnham (ME)
Loren D. Chapman (MN)
David A. Christenson (NV)

John T. Edmondson (AL)
Nigel L. Farmer (CT)
Paul K. Leger (NH)
Martin L. Reyes (IL)
Gerald L. Rush, Jr. (NJ)
Alan T. Watterson (MA)
David E. Williford (NC)
Larry Winkler (MO)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 12 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (68 FR 61857; 68 FR 75715; 71 FR 6825; 72 FR 58362; 72 FR 67344; 73 FR 8392; 74 FR 65845; 75 FR 9480; 75 FR 13653; 75 FR 22176; 77 FR 3552; 77 FR 10604; 77 FR 13691; 77 FR 17107; 77 FR 17108). Each of these 12 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by April 28, 2014.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 12 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket numbers FMCSA–2003–16241; FMCSA–2007–29019; FMCSA–2009–0011; FMCSA–2011–0365 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2003–16241; FMCSA–2007–29019; FMCSA–2009–0011; FMCSA–2011–0365 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: March 14, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–06933 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2003–15638]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated August 1, 2013, the Long Island Rail Road (LIRR) has petitioned the Federal

Railroad Administration (FRA) for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 238.303(15)(1). FRA assigned the petition Docket Number FRA–2003–15638.

LIRR has requested the Federal Railroad Administration (FRA) requests an extension of its existing waiver of compliance from 49 CFR 238.303(e)(l5)(i)(c) for its fleet of M7 multiple unit (MU) locomotives. The provision requires that MU locomotives, equipped with dynamic brakes that become defective, ''shall be repaired or removed from service by or at the locomotive's next exterior calendar day mechanical inspection.''

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- Fax: 202–493–2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by May 12, 2014 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2014–06845 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2014–0002]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated December 30, 2013, the Union Pacific Railroad (UP) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 240, Qualification and Certification of Locomotive Engineers, and 49 CFR Part 242, Qualification and Certification of Conductors. FRA assigned the petition Docket Number FRA–2014–0002.

UP seeks relief from 49 CFR 240.104(b) pertaining to the criteria for determining whether movement of roadway maintenance equipment or a dual purpose vehicle requires a certified locomotive engineer. At UP's Roseville, CA, facility, qualified mechanical department employees operate car movers to switch and pull cars from designated bad order bowl tracks and then move the defective rolling stock to a mechanical car shop for repair. The railroad asserts that the car mover should not be considered a locomotive and should be classified as a specialized roadway maintenance vehicle that would not require a qualified and certified locomotive engineer to operate it.

The railroad's petition states that a car mover has been used for years for the switching of rolling stock for repair. UP further indicates that it ''locks out'' the yard bowl tracks, thus providing the mechanical employees exclusive temporary control of specific tracks during movements outside the confines of the mechanical repair facility. Additionally, the vehicle operator is trained on physical operation, applicable railroad operating rules and instructions, and applicable Federal regulations. Finally, the qualified mechanical department personnel are tested under the provisions of 49 CFR 217.9, *Program of operational tests and inspections; recordkeeping,* and 49 CFR Part 218, Railroad Operating Practices, Subpart F.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- Fax: 202–493–2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received within May 12, 2014 of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the

Federal Register published on April 11, 2000 (65 FR 19477).

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2014–06846 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2014–0014]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated January 23, 2014, the Texas State Railroad (TSRR) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at Title 49 CFR part 232, Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices. FRA assigned the petition Docket Number FRA–2014–0014.

TSRR is a tourist railroad that operates between Rusk and Palestine, Texas, for 25 miles and at a track speed of 20 mph. TSRR owns and operates passenger equipment that is equipped with the UC and L types of brake valves. Specifically, TSRR requests relief from 49 CFR 232.17(b)(2) to extend the time interval from 1 year to 2 years to perform the clean, oil, test, and stencil inspection for the passenger equipment operated and equipped with UC and L types of brake valves.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: *http://www.regulations.gov/*. Follow the online instructions for submitting comments.
- Fax: 202–493–2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by May 12, 2014 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2014–06847 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. DOT–MARAD 2014—0049]

Request for Comments of a Previously Approved Information Collection

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on January 7, 2014 (**Federal Register** 892, Vol. 79, No. 4).

DATES: Comments must be submitted on or before April 28, 2014.

FOR FURTHER INFORMATION CONTACT: Jerome Davis, Maritime Administration Office of Sealift Support, 1200 New Jersey Avenue SE., Room W25–310, MAR–630, Washington, DC 20590. Telephone: 202–366–6088; or E–MAIL: *jerome.davis@dot.gov.* Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title: Voluntary Intermodal Sealift Agreement (VISA).

OMB Control Number: 2133–0532.

Type of Request: Renewal of a Previously Approved Information Collection.

Abstract: This information collection is in accordance with Section 708, Defense Production Act, 1950, as amended, under which participants agree to provide commercial sealift capacity and intermodal shipping services and systems necessary to meet national defense requirements. Officials at the Maritime Administration and the Department of Defense use this information to assess the applicants' eligibility for participation in the VISA program.

Affected Public: Operators of dry cargo vessels.

Estimated Number of Respondents: 40.

Estimated Number of Responses: 40.

Annual Estimated Total Annual Burden Hours: 200.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW., Washington, DC 20503. Comments are invited on: whether the proposed collection of information is 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 estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:93.

Dated: March 20, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–06970 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0050]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel AHELANI; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 28, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0050. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov*.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel AHELANI is:

Intended Commercial Use Of Vessel: ''Sailing Charters and Lessons.''

Geographic Region: ''California, Oregon, Washington State, Hawaii, Puerto Rico, Texas, Louisiana, Florida.''

The complete application is given in DOT docket MARAD–2014–0050 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: March 25, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–06973 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0046]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel MONTEGO; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 28, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0046. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov*.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel MONTEGO is:

Intended Commercial Use Of Vessel: ''Private Vessel Charters, Passengers Only''

Geographic Region: ''Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, California, Oregon, Washington and Alaska (excluding waters in Southeastern Alaska and waters north of a line between Gore Point to Cape Suckling [including the North Gulf Coast and Prince William Sound]).''

The complete application is given in DOT docket MARAD–2014–0046 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: March 20, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–06972 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0047]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel IMPOSSIBLE DREAM; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 28, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0047. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel IMPOSSIBLE DREAM is:

Intended Commercial Use Of Vessel: ''Day, Multiple Day, Week, Multiple week charters''

Geographic Region: ''Texas, Louisiana, Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, Washington DC, Delaware, New Jersey, New York, Rhode Island, Connecticut, Massachusetts, New Hampshire, Maine''

The complete application is given in DOT docket MARAD–2014–0047 at *http://www.regulations.gov* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: March 20, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–06969 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014–0048]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel GONE WITH THE WIND; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 28, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0048. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel GONE WITH THE WIND is:

Intended Commercial Use Of Vessel: ''Captained Charter.''

Geographic Region: ''Florida, Maryland, Puerto Rico.''

The complete application is given in DOT docket MARAD–2014–0048 at *http://www.regulations.gov.* Interested parties may comment on the effect this

action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: March 20, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–06971 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2013–0065; Notice 2]

PACCAR Incorporated, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of Petition.

SUMMARY: PACCAR Incorporated (PACCAR) has determined that certain model year (MY) 2013 Kenworth and Peterbilt brand chassis cab incomplete vehicles do not fully comply with paragraph S3.1.3 of Federal Motor Vehicle Safety Standard (FMVSS) No. 102, *Transmission Shift Position Sequence, Starter Interlock, and Transmission Braking Effect.* PACCAR has filed an appropriate revised report dated March 1, 2013, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

ADDRESSES: For further information on this decision contact Vince Williams, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–2319, facsimile (202) 366–5930.

SUPPLEMENTARY INFORMATION:

I. *PACCAR's Petition:* Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, PACCAR has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on September 26, 2013 in the **Federal Register** (78 FR 59419). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2013–0065.''

II. *Chassis Cabs Involved:* Affected are approximately 452 Kenworth MY 2013 model K270 and model K370 chassis cabs that were manufactured between March 29, 2012 and November 2, 2012, and MY 2013 Peterbilt model 210 and model 220 chassis cabs that were manufactured between March 21, 2012 and November 6, 2012. Hereafter these vehicles are referred to as trucks.

III. *Noncompliance:* PACCAR explains that the noncompliance is that the starter interlock in the affected automatic transmission trucks does not conform to paragraph S3.1.3 of FMVSS No. 102 because the starter interlock is based on a system that differs from the system specified in the standard. Although the starter interlock on these trucks prevents the transmission from propelling the vehicle and, therefore, is effective in preventing truck ''roll away,'' the engineering of the starter interlock is not consistent with the specification prescribed in paragraph S3.1.3 of FMVSS No. 102.

IV. *Summary of PACCAR'S Analyses:* PACCAR stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

S3.1.3 of FMVSS No. 102 provides, in pertinent part: ''. . . the engine starter shall be inoperative when the transmission shift position is in a forward or reverse drive position.'' Assuming that the term ''transmission shift position'' refers to the position of the gear selector (as opposed to the position of the transmission itself), the subject trucks do not comply with this provision as written. That is because the starter interlock system in these vehicles, which is an electronic system that was originally used in PACCAR's European trucks, differs from the system specified in S3.1.3. PACCAR's starter interlock system effectively achieves the objectives of S3.1.3 by precluding the possibility of a powered rollaway or lurching when the vehicle is started. However, the manner in which the system functions is not consistent with the design that is prescribed in the standard.

The engine in the subject trucks can be started with the gear selector in any position, thus creating what appears to be a technical noncompliance with S3.1.3. However, even if the engine is started when the gear selector indicates a forward or reverse gear, the transmission itself will remain in neutral, and the message ''Gearshift Inhibited'' will be prominently displayed to the driver. The transmission can be shifted into a forward or reverse gear only after the gear selector is first moved into the neutral position and then moved back into gear while the service brake is applied. At that point, the ''Gearshift Inhibited'' message will be replaced by a ''Transmission Warning'' message, which will remain illuminated until the engine is turned off and then restarted.

As NHTSA explained in a 2005 Final Rule that amended FMVSS No. 102 to allow idle stop technology, ''The purpose of [S3.1.3] is to prevent injuries and death from the unexpected motion of a vehicle when the driver starts the vehicle with the transmission inadvertently in a forward or reverse gear.'' 70 FR 38040 (July 1, 2005). The agency also referred to ''S3.1.3's underlying purpose of ensuring that the vehicle will not lurch forward or backward during driver activation of the engine starter. . . .'' *Id.* at 38041. As described above, the starter interlock system in the subject vehicles completely prevents any possibility of ''unexpected motion'' or vehicle ''lurching'' because the transmission remains neutralized, even if the engine is started with the gear selector indicating a forward or reverse gear. Thus, the PACCAR system, which has been used successfully for more than three years in PACCAR's European vehicles, fully satisfies the purposes of S3.1.3 and achieves the same level of safety as that provision. Moreover, PACCAR is unaware of any consumer complaints, accidents, or injuries related to this design.

PACCAR has additionally informed NHTSA that it has corrected the noncompliance so that all future production vehicles will comply with FMVSS No. 102.

In summation, PACCAR believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

V. *NHTSA Decision:* The affected incomplete vehicles were manufactured as chassis cabs by PACCAR under the Kenworth and Peterbilt makes. Based on the brochures on the Kenworth and Peterbilt make Web sites, the subject chassis cabs are typically completed by final stage manufacturers as class 6 and 7 cargo-carrying medium/heavy trucks. The brochures also show the transmission gear selector adjacent to the driver's seated position, easily visible to the driver. These vehicles will most likely be operated by professional drivers who would be less likely to forget to place the transmission control in ''neutral'' when stopping the engine. In addition, even if the driver starts the vehicle with the gear selector in drive or reverse, PACCAR reported that the transmission will remain in neutral until the driver applies the service brake, shifts the gear selector to neutral and then selects the desired gear.

Subsequent to filing the subject petition PACCAR notified NHTSA that it has initiated a field repair campaign under which owners of the affected vehicles could have a starter interlock jumper harness installed free of charge to remedy the subject noncompliance. On 6/11/13, a Field Repair Notice was sent to notify dealerships of the repair and of the vehicles within the affected population. PACCAR also stated that it was unaware of any instance in which a customer eligible for the field repair has experienced unintended movement.

In consideration of the foregoing, NHTSA has decided that PACCAR has met its burden of persuasion that the FMVSS No. 102 noncompliance is inconsequential to motor vehicle safety. Accordingly, PACCAR's petition is hereby granted and PACCAR is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the chassis cabs that PACCAR no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant trucks under their control after PACCAR notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey Giuseppe,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 2014–06922 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2013–0123; Notice 1]

Thor Industries, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of Petition.

SUMMARY: Livin' Lite RV, Inc. (Livin' Lite), a wholly owned subsidiary of Thor Industries, Inc. (Thor), has determined that certain model year Livin' Lite RV trailers manufactured between November 7, 2008 and September 10, 2013, do not fully comply with paragraph S9 of Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or less* and paragraph S10 of FMVSS No. 120, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds).* Thor has filed an appropriate report dated November 7, 2013, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

DATES: The closing date for comments on the petition is April 28, 2014.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and must be submitted by any of the following methods:

- Mail: Send comments by mail addressed to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- Hand Deliver: Deliver comments by hand to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.
- Electronically: Submit comments electronically by: Logging onto the Federal Docket Management System (FDMS) Web site at *http://www.regulations.gov/*. Follow the online instructions for submitting comments. Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at *http://www.regulations.gov* by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000, (65 FR 19477–78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

SUPPLEMENTARY INFORMATION:

I. Thor's Petition: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Thor submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of Thor's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. RV Trailers Involved: Affected are approximately 3,465 RV trailers manufactured between November 7, 2008 and September 10, 2013. The trailer models affected are Livin' Lite model year (MY) 2008–2014 Quicksilver, MY 2009–2014 Camplite, MY 2009–2014 VRV, MY 2009–2014 Bearcat, and MY 2013–2014 Axxess.

III. Noncompliance: Thor explains that the noncompliance is that of the absence of the Cargo Carrying Capacity (CCC) label that is required by paragraph S9 of FMVSS No. 110 and paragraph S10 of FMVSS No. 120 for all motor homes and RV Trailers.

IV. Rule Text: Paragraph S9 of FMVSS No. 110 requires in pertinent part:

. . . S9.3 Each motor home and RV Trailer single stage or final stage manufacturer must affix either a motor home occupant and cargo carrying capacity (OCCC) label (Figure 3) or a RV trailer cargo carrying capacity (CCC) label (Figure 4) to its vehicles that meets the following criteria . . .

Paragraph S10 of FMVSS No. 120 requires in pertinent part:

. . . S10.4 Each motor home and RV Trailer single stage or final stage manufacturer must affix either a motor home occupant and cargo carrying capacity (OCCC) label (Figure 1) or a RV trailer cargo carrying capacity (CCC) label (Figure 2) to its vehicles that meets the following criteria . . .

V. Summary of Thor's Analyses: Thor stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. The cargo carrying capacity information displayed on the CCC label is redundant since it is also displayed on the Tire Placard Label as required by paragraph S4.3 of FMVSS No. 110.

2. Although the Tire Placard Label is not required on trailers over 10,000 lbs GVWR, Thor placed the Tire Placard Label on all trailers it produced and is located on the trailer tongue next to the Federal Certification Label.

3. The Livin' Lite Owner's manuals (which can be found on *www.livinlite.com*) instruct owners on the loading of their vehicle and where to find the required ratings that are displayed on the Federal Certification Label.

4. The Manufacturer's Certificate of Origin (MSO) also contains both the Gross Vehicle Weight Rating (GVWR) and the unloaded vehicle weight (UVW). The difference of these two numbers would also give the owner the available CCC of the trailer.

5. Thor had received no complaints or inquiries regarding cargo carrying capacity from any of its owners or dealers.

6. Thor also stated its belief that NHTSA has previously stated (72 FR 68442–68466, December 4, 2007) that the most important time for RV purchasers to receive the CCC information is at the point-of-sale.

Thor has additionally informed NHTSA that it has corrected the noncompliance so that all future production of these trailers will fully comply with FMVSS Nos. 110 and 120.

In summation, Thor believes that the described noncompliance of the subject trailers is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject noncompliant trailers that Thor no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve trailer distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant trailers under their control after Thor notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: Delegations of authority at 49 CFR 1.95 and 501.8).

Jeffrey Giuseppe,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 2014–06923 Filed 3–27–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 1115X]

Nebraska Central Railroad Company—Abandonment Exemption—in Merrick County, Neb.

Nebraska Central Railroad Company (NCRC) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon the 1.81-mile rail line located between milepost 17.5, near Central City, and milepost 19.31, in Central City, Merrick County, Neb. The line traverses United States Postal Service Zip Code 68826.

NCRC has certified that: (1) No local traffic has been handled to or from any customer over the line for at least two years; (2) no overhead traffic has been handled on the line for at least two years; (3) no formal complaint filed by a user of rail service on the line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending before the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of the complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on April 29, 2014, unless stayed pending reconsideration. Petitions to stay that do

not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by April 7, 2014. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 17, 2014, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to NCRC's representative: Karl Morell, Ball Janik LLP, 655 Fifteenth Street NW., Suite 225, Washington, DC 20005.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

NCRC has filed environmental and historic reports that address the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by April 4, 2014. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NCRC shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NCRC's filing of a notice of consummation by March 28, 2015, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Decided: March 24, 2014.

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2014–06919 Filed 3–27–14; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 25, 2014.

The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before April 28, 2014 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestion for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.GOV* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov,* or the entire information collection request may be found at *www.reginfo.gov.*

Community Development Financial Institutions (CDFI) Fund

OMB Number: 1559–0016.

Type of Review: Revision of a currently approved collection.

Title: New Markets Tax Credit (NMTC) Program Allocation Application.

Abstract: The New Markets Tax Credit (NMTC) Program will provide an incentive to investors in the form of a tax credit, which is expected to stimulate investment in private capital that, and in turn, will facilitate economic and community development in low-income communities. In order to qualify for an allocation of tax credits under the NMTC Program an entity must be certified as a qualified community development entity and submit an allocation application to the CDFI Fund. Upon receipt of such applications, the CDFI Fund will conduct a competitive review process to evaluate applications for the receipt of NMTC allocations.

Affected Public: Private Sector: Businesses or other for-profits, Not-for-profit institutions; State, Local, and Tribal Governments.

Estimated Annual Burden Hours: 81,722.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2014–06899 Filed 3–27–14; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 25, 2014.

The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before April 28, 2014 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8141–D, Washington, DC 20220, or email at *PRA@treasury.gov*.

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 622–1295, email at *PRA@treasury.gov,* or the entire information collection request may be found at *www.reginfo.gov.*

Alcohol and Tobacco Tax and Trade Bureau (TTB)

OMB Number: 1513–0001.

Type of Review: Extension without change of a currently approved collection.

Title: Tax Information Authorization.

Form: TTB F 5000.19.

Abstract: TTB F 5000.19 is required by TTB to be filed when a respondent's representative, not having a power of attorney, wishes to obtain confidential information regarding the respondent.

After proper completion of the form, information can be released to the representative. TTB uses this form to properly identify the representative and his/her authority to obtain confidential information.

Affected Public: Private Sector: Businesses or other for-profits; Individuals or Households.

Estimated Annual Burden Hours: 50.

OMB Number: 1513–0003.

Type of Review: Extension without change of a currently approved collection.

Title: Referral of Information.

Form: TTB F 5000.21.

Abstract: When we discover potential violations of Federal, State, or local law, we use TTB F 5000.21 to make referrals to Federal, State, or local agencies to determine if they plan to take action, and to internally refer potential violations of TTB administered statutes. We also use TTB F 5000.21 to evaluate the effectiveness of these referrals.

Affected Public: State, Local, and Tribal Governments; Federal Government.

Estimated Annual Burden Hours: 500.

OMB Number: 1513–0015.

Type of Review: Revision of a currently approved collection.

Title: Brewer's Bond and Brewer's Bond Continuation Certificate/Brewer's Collateral Bond and Brewer's Collateral Bond Continuation Certificate.

Form: TTB F 5130.22; 5130.23, 5130.25, and 5130.27.

Abstract: The Internal Revenue Code requires brewers to give a bond to protect the revenue and to ensure compliance with the requirements of law and regulations, and the Continuation Certificate is used to renew the bond every 4 years after the initial bond is obtained. Bonds and continuation certificate are required by law and are necessary to protect government interests in the excise tax revenues that brewers pay.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 970.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2014–06901 Filed 3–27–14; 8:45 am]

BILLING CODE 4810–31–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—April 03, 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 April 03, 2014, ''China's Healthcare Sector, Drug Safety, and the U.S.-China Trade in Medical Products.''

Background: This is the fourth 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 address China's recent healthcare reforms, market access for U.S. medical goods and services in China, and the safety of medical products imported from China into the United States. China is growing more affluent and urbanized, and is also facing new healthcare challenges. The Chinese government has launched ambitious reforms to expand coverage and improve care. The hearing will consider whether U.S. drug and medical device makers are able to compete fairly in China's market. It will also assess the U.S. Food and Drug Administration's ongoing efforts to regulate the drugs and drug ingredients imported from China into the United States. The hearing will be co-chaired by Chairman Dennis C. Shea and Vice Chairman William A. Reinsch. Any interested party may file a written statement by April 03, 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, April 03, 2014, 8:30a.m.–3:30p.m. 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: March 25, 2014.

Michael Danis,

Executive Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2014–06980 Filed 3–27–14; 8:45 am]

BILLING CODE 1137–00–P

DEPARTMENT OF VETERANS AFFAIRS

Voluntary Service National Advisory Committee; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App.2, that the annual meeting of the Department of Veterans Affairs Voluntary Service (VAVS) National Advisory Committee (NAC) will be held April 23–25, 2014, at the Embassy Suites, Raleigh-Durham Research Triangle Park, 201 Harrison Oaks Boulevard, Cary, North Carolina. On April 23, the meeting will begin at 8:00 a.m. and end at 11:30 a.m. On April 24–25, 2014, the meetings will begin at 8:30 a.m. and end at 4:30 p.m. on April 24, and at 3:45 p.m. on April 25. The meeting is open to the public.

The Committee, comprised of fifty-three national voluntary organizations, advises the Secretary, through the Under Secretary for Health, on the coordination and promotion of volunteer activities within VA facilities. The purposes of this meeting are: To provide for Committee review of volunteer policies and procedures; to accommodate full and open communications between organization representatives and the Voluntary Service Office and field staff; to provide educational opportunities geared towards improving volunteer programs with special emphasis on methods to recruit, retain, place, motivate, and recognize volunteers; and to provide Committee recommendations. The April 23 session will include a National Executive Committee Meeting, Health and Information Fair, and VAVS Representative and Deputy Representative training session. The April 24 business session will include remarks from local officials, the Voluntary Service Report, Veterans Health Administration Update, and

remarks by VA officials on new and ongoing VA initiatives. The recipients of the American Spirit Recruitment Awards, VAVS Award for Excellence, and the NAC male and female Volunteer of the Year awards will be recognized. Educational workshops will be held in the afternoon and will focus on innovative volunteer assignments, leadership, and community engagement. On April 25, the morning business session will include subcommittee reports and presentations on key issues. The educational workshops will be repeated in the afternoon. No time will be allocated at this meeting for receiving oral presentations from the public. However, the public may submit written statements for the Committee's review to Ms. Sabrina C. Clark, Designated Federal Officer, Voluntary Service Office (10B2A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, or email at *Sabrina.Clark@va.gov*. Because the meeting will be in a Government building, anyone attending must be prepared to show a valid photo ID for checking in. Please allow 15 minutes before the meeting begins for this process. Any member of the public wishing to attend the meeting or seeking additional information should contact Ms. Clark at (202) 461–7300.

Dated: March 25, 2014.

Jelessa M. Burney,

Advisory Committee Management Officer.

[FR Doc. 2014–06902 Filed 3–27–14; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 79 Friday,
No. 60 March 28, 2014

Part II

Department of Transportation

Federal Motor Carrier Safety Administration

49 CFR Parts 385, 386, 390, et al.
Electronic Logging Devices and Hours of Service Supporting Documents; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 385, 386, 390, and 395

[Docket No. FMCSA–2010–0167]

RIN 2126–AB20

Electronic Logging Devices and Hours of Service Supporting Documents

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Supplemental notice of proposed rulemaking; request for comments.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) proposes amendments to the Federal Motor Carrier Safety Regulations (FMCSRs) to establish: Minimum performance and design standards for hours-of-service (HOS) electronic logging devices (ELDs); requirements for the mandatory use of these devices by drivers currently required to prepare HOS records of duty status (RODS); requirements concerning HOS supporting documents; and measures to address concerns about harassment resulting from the mandatory use of ELDs. This rulemaking supplements the Agency's February 1, 2011, Notice of Proposed Rulemaking (NPRM) and addresses issues raised by the U.S. Court of Appeals for the Seventh Circuit in its 2011 decision vacating the Agency's April 5, 2010, final rule concerning ELDs as well as subsequent statutory developments. The proposed requirements for ELDs would improve compliance with the HOS rules.

DATES: Comments must be received on or before May 27, 2014. Comments sent to the Office of Management and Budget (OMB) on the collection of information must be received by OMB on or before May 27, 2014. Before publishing a final rule, FMCSA will submit to the Office of the Federal Register publications listed in the rule for approval of the publications' incorporation by reference.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2010–0167 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments, including collection of information comments for the Office of Information and Regulatory Affairs, OMB.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah M. Freund, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001 or by telephone at 202–366–5370.

SUPPLEMENTARY INFORMATION: This supplemental notice of proposed rulemaking (SNPRM) is organized as follows:

I. Executive Summary

This SNPRM would improve commercial motor vehicle (CMV) safety and reduce the overall paperwork burden for both motor carriers and drivers by increasing the use of ELDs within the motor carrier industry, which would in turn improve compliance with the applicable HOS rules. Specifically, this SNPRM proposes: (1) Requiring new technical specifications for ELDs that address statutory requirements; (2) mandating ELDs for drivers currently using RODS; (3) clarifying supporting document requirements so that motor carriers and drivers can comply efficiently with HOS regulations, and so that motor carriers can make the best use of ELDs and related support systems as their primary means of recording HOS information and ensuring HOS

compliance; and (4) proposing both procedural and technical provisions aimed at ensuring that ELDs are not used to harass vehicle operators.

In August 2011, however, the United States Court of Appeals for the Seventh Circuit vacated the April 2010 final rule, including the device performance standards. See *Owner-Operator Indep. Drivers Ass'n* v. *Fed. Motor Carrier Safety Admin.,* 656 F.3d 580 (7th Cir. 2011) available in the docket for this rulemaking. Thus, FMCSA expands the 2011 NPRM significantly. The regulatory text proposed in today's SNPRM supersedes that published in the February 2011 NPRM.

All of the previous rulemaking notices, as well as notices announcing certain Motor Carrier Safety Advisory Committee (MCSAC) meetings and public listening sessions, referred to the devices and support systems used to record electronically HOS RODS as ''electronic on-board recorders (EOBRs).'' Beginning with this SNPRM, the term ''electronic logging device (ELD)'' is substituted for the term ''EOBR'' in order to be consistent with the term used in MAP–21. To the extent applicable, a reference to an ELD includes a related motor carrier or vendor central support system—if one is used—to manage or store ELD data.

This rulemaking is based on authority in a number of statutes, including the Motor Carrier Act of 1935, the Motor Carrier Safety Act of 1984, the Truck and Bus Safety and Regulatory Reform Act of 1988, the Hazardous Materials Transportation Authorization Act of 1994 (HMTAA), and MAP–21.

This SNPRM follows the NPRM published February 1, 2011 (76 FR 5537). The original NPRM had three components that: (1) Required ELDs to be used by motor carriers and drivers required to prepare handwritten RODS; (2) required motor carriers to develop and maintain systematic HOS oversight of their drivers; and (3) simplified supporting document requirements so motor carriers could achieve paperwork efficiencies from ELDs and their support systems as their primary means of recording HOS information and ensuring HOS compliance. This SNPRM modifies that earlier proposal based on docket comments and other new information received by the Agency. Because the Agency's 2010 final rule providing technical specifications for ELDs was vacated, this SNPRM also proposes new technical specifications for ELDs and addresses the issue of ELDs being used by motor carriers to harass drivers. The SNPRM supersedes the February 1, 2011, NPRM.

This rulemaking examines four options:

- Option 1: ELDs are mandated for all CMV operations subject to 49 CFR part 395.
- Option 2: ELDs are mandated for all CMV operations where the driver is required to complete RODS under 49 CFR 395.8.
- Option 3: ELDs are mandated for all CMV operations subject to 49 CFR part 395, and the ELD is required to include or be able to be connected to a printer and print RODS.
- Option 4: ELDs are mandated for all CMV operations where the driver is required to complete RODS under 49 CFR 395.8, and the ELD is required to include or be able to be connected to a printer and print RODS.

The following table lists the breakdown of regulated entities under FMCSA's regulations:

TABLE 1—REGULATED ENTITIES

	For-hire general freight	For-hire specialized freight	For-hire passenger [1]	Private property	Private passenger	Total
Carriers	176,000	139,000	8,000	203,000	6,000	532,000
Percent of Carriers	33%	26%	2%	38%	1%	100%
Drivers	1,727,000	891,000	216,000	1,442,000	40,000	4,316,000
Percent of Drivers	40%	21%	5%	33%	1%	100%
Total CMVs	1,717,000	1,003,000	183,000	1,433,000	24,000	4,360,000
Percent of CMVs	39%	23%	4%	33%	1%	100%
Herfindahl-Hirschman Index	53	5	406	6	15	10
10-Firm Concentration	18.0%	.....	38.0%			
Single-Truck For-Hire Carriers	93,000	65,000				

Source: FMCSA, Motor Carrier Management Information System (MCMIS) registration data as of December 14, 2012.

FMCSA evaluated [1] another option for the NPRM prepared in 2011, which would have required ELD use by hazardous materials and passenger carriers that did not use RODS, in addition to all RODS users. This was not the preferred option then and it was not part of this evaluation. The marginal net benefits of including those groups in the rule were negative. When these carrier populations were added to RODS users, estimated net benefits, although they were positive, were 8.5 percent lower than the net benefits calculated using the RODS-only population. Hazardous material carriers and passenger carriers tend to have above average safety records. This may be because they are subject to many other safety regulations, and are overseen by FMCSA and other Federal agencies. However, neither group will gain paperwork savings from eliminating paper RODS, as costs exceeded benefits for these two groups.

FMCSA gathered cost information from publicly available marketing material and through communication with fleet management systems (FMS) vendors. Although the prices of some models have not significantly declined in recent years, manufacturers have been introducing less expensive FMS in-cab units and support systems with fewer features (for example, they do not include real time tracking and routing), as well as in-cab units that resemble a stand-alone ELD. The Agency bases its calculations in this RIA on the Mobile Computing Platform (MCP) 50 produced by Qualcomm, which is the largest manufacturer (by market share) of FMS in North America.[2] While this analysis is not an endorsement of Qualcomm's products, the Agency believes that its

[1] Includes 2,000 carriers with only taxi/limousine services operating in interstate commerce.

[2] Qualcomm Incorporated 2012 Annual Report, Securities and Exchange Commission Form 10K, (*investor.qualcomm.com/annuals.cfm.*) The Qualcomm Enterprise Services (QES, recently renamed Omnitracs) reported revenues of $371 million in fiscal year 2012. Omnitracs currently estimates its active installed base of FMS, which include those with an ELD function, to be 350,000 in North America, most of which are operated in the US (*http://www.qualcomm.com/solutions/transportation-logistics*). FMCSA estimates that about 955,000 CMVs currently use FMS in the US, including those with an ELD function, which indicates that Qualcomm's US market share is as high as 37 percent.

large market share makes the MCP 50 FMS an appropriate example of current state-of-the-art, widely available devices with ELD functionality. FMCSA also examined cost information from several other vendors, and found that the MCP 50, when all installation, service, and hardware costs are considered, falls roughly into the middle of the price range of FMSs with ELD capabilities: $495 per CMV on an annualized basis where the range is from $165 to $832 per CMV on an annualized basis. The Agency also carefully considered the VDO RoadLog ELD produced by the Continental Corporation, which, through its VDO subsidiary, has a 90 percent share of the electronic tachograph market in the European Union (EU) and more than 5 million electronic tachographs or ELD devices in use worldwide.[3] Continental has recently begun offering the RoadLog ELD in the North American market, and the Agency believes that the overall capacity and market share of this corporation may allow it to influence the U.S. ELD market. As discussed below, the Agency has found that basing costs on the MCP 50, the VDO RoadLog, or several other devices, all lead to positive net benefits of this rulemaking. Although carrier preferences and device availability prevent FMCSA from more precisely estimating costs, it is confident that they will be lower than the rule's benefits.

The Agency requests comments on its analysis of the ELD and FMS markets, and, in particular, how prices and availability of units affect motor carriers differently with respect to fleet size. This analysis also evaluates the costs and benefits of improvements in motor carrier compliance with the underlying HOS rules through the use of ELDs. To evaluate compliance costs, the Agency has updated its assessment of the baseline level of non-compliance with the HOS rules to account for changes in factors such as inflation, changes in the HOS violation rate that preceded the mandate for ELD use, and the vehicle miles traveled by CMVs. To evaluate safety benefits, the Agency examined several types of analysis and has used its judgment to select a conservative result for the number of crashes and fatalities avoided by ELD use. The costs and benefits are detailed in the RIA associated with this rulemaking and the methods by which they were derived are also discussed. The major elements that contribute to the overall net benefits are shown below in Table 1. This table summarizes the figures for the Agency's preferred option, Option 2, which also has the highest net benefits.

TABLE 2—COST AND BENEFIT SUMMARY

Cost element	Annualized total value ($2011 millions)	Notes
New ELDs	955.7	For all long haul (LH) and short haul (SH) drivers that use RODS, to pay for new devices and FMS upgrades.
Automatic On-Board Recording Device (AOBRD) Replacement Costs.	8.7	Carriers that purchased AOBRDs for their CMVs and can be predicted to still have them in 2018 would have to replace them with ELDs.
Equipment for Inspectors	2.0	Quick Response Code (QR) scanners to read ELD output. These would be heavily used, and we assume they will be replaced three times during the 10 year period for which we are estimating costs.
Inspector Training	1.7	Costs include travel to training sites, as well as training time, for all inspectors in the first year and for the new officers every year after.
CMV Driver Training	6.7	Costs of training new drivers in 2016, and new drivers each year thereafter.
Compliance	604.0	Extra drivers and CMVs needed to ensure that no driver exceeds HOS limits.
Benefit element	**Annualized total value ($2011 millions)**	**Notes**
Paperwork Savings (Total of three parts below).	1,637.7	
(1) Driver Time	1,261.4	Reflects time saved as drivers no longer have to fill out and submit paper RODS.
(2) Clerical Time	278.8	Reflects time saved as office staff no longer have to process paper RODS.
(3) Paper Costs	97.6	Purchases of paper logbooks are no longer necessary.
Safety (Crash Reductions)	394.8	Although the predicted number of crash reductions is lower for SH than LH drivers, both should exhibit less fatigued driving if HOS compliance increases. Complete HOS compliance is not assumed.

This SNPRM also proposes changes to the HOS supporting document requirements. The Agency has attempted to clarify its supporting document requirements, recognizing that ELD records serve as the most robust form of documentation for on-duty driving periods. FMCSA neither increases nor decreases the burden associated with supporting documents. These proposed changes are expected to improve the quality and usefulness of the supporting documents retained, and would consequently increase the effectiveness and efficiency of the Agency's review of motor carriers' HOS records during on-site compliance reviews, thereby increasing its ability to detect HOS rules violations. The Agency is currently unable to evaluate the impact the proposed changes to supporting documents requirements would have on crash reductions. Tables 3 and 4 summarize the analysis. The figures presented are annualized using 7 percent and 3 percent discount rates.

[3] *http://www.RoadLog.vdo.com/generator/www/us/en/vdo/RoadLog/about_vdo/about_vdo_en.html.* May 9, 2012.

TABLE 3—ANNUALIZED COSTS AND BENEFITS

[$2011 millions, 7 percent discount rate]

	Option 1	Option 2	Option 3	Option 4
New ELD Costs	$1,270.0	$955.7	$1,722.6	$1,311.1
AOBRD Replacement Costs	8.7	8.7	8.7	8.7
HOS Compliance Costs	726.6	604.0	726.6	604.0
Enforcement Training Costs	1.7	1.7	1.7	1.7
Enforcement Equipment Costs	2.0	2.0	0.0	0.0
Driver Training	8.5	6.7	8.5	6.7
Total Costs	2,017.4	1,578.7	2,468.0	1,932.1
Paperwork Savings	1,637.7	1,637.7	1,637.7	1,637.7
Safety Benefits	474.8	394.8	474.8	394.8
Total Benefits	2,112.5	2,032.5	2,112.5	2,032.5
Net Benefits	95.1	453.8	−355.5	100.4

TABLE 4—ANNUALIZED COSTS AND BENEFITS

[$2011 Millions, 3 percent discount rate]

	Option 1	Option 2	Option 3	Option 4
ELD Costs	$1,260.7	$949.5	$1,707.4	$1,300.3
AOBRD Replacement Costs	8.0	8.0	8.0	8.0
HOS Compliance Costs	726.6	604.1	726.6	604.1
Enforcement Training Costs	1.6	1.6	1.6	1.6
Enforcement Equipment Costs	2.0	2.0	0.0	0.0
Driver Training	7.5	5.9	7.5	5.9
Total Costs	2,006.4	1,571.1	2,451.1	1,919.9
Paperwork Savings	1,670.2	1,670.2	1,670.2	1,670.2
Safety Benefits	474.8	394.8	474.8	394.8
Total Benefits	2,145.0	2,065.0	2,145.0	2,065.0
Net Benefits	138.6	493.9	−306.1	145.1

The estimated benefits of ELDs do not differ greatly among the options, and the paperwork savings are identical for all four options. The Agency estimates zero paperwork burden from operations exempt from RODS, so ELDs can only reduce the paperwork burden of RODs users, which are included in all four options. Safety benefits are higher when all regulated CMV operations are included in the ELD mandate (Options 1 and 3), but the marginal costs (ELD costs plus compliance costs) of including these operations are about 5½ times higher than the marginal benefits. These options would add short-haul drivers who do not use RODS, have better HOS compliance, and much lower crash risk from HOS non-compliance. For the short-haul non-RODS subgroup, FMCSA's analysis indicates that ELDs are not a cost-effective solution to their HOS non-compliance problem. This result is consistent with that of past ELD analyses. The requirement for printers with each ELD would increase ELD costs by about 40 percent. This is the first time that FMCSA has explored requiring a printer, and it seeks comment on the feasibility and accuracy of the benefit and cost estimates associated with this requirement. Only Option 2, which would require ELDs similar to those currently being manufactured for paper RODS users, provides positive net benefits. Net benefits for Options 1, 2, and 4 are positive with a 3 percent discount rate, but the net benefits for Option 2 are still much higher than those of other options—about 11 times higher than the net benefits of the next best alternative, Option 4. Non-monetized benefits of the various options are also substantial. The number of crashes avoided ranges from 1,425 to 1,714, and this rule could save between 20 and 24 lives per year. Review of Trucks Involved in Fatal Accidents (TIFA) data from 2005–2009 supports this analysis: Variables indicating that the driver of the CMV was drowsy, sleepy, asleep, or fatigued are coded for crashes that caused an average of 85 deaths per year in that period (*http://www.umtri.umich.edu/our-results/publications/trucks-involved-fatal-accidents-factbook-2008-linda-jarossi-anne-matteson*). An average of nine crashes per year in TIFA was associated with fatigued drivers exceeding drive time limits. Additional factors were at play in most of these events, but the removal of some substantial fraction of fatigued driving should provide some benefit. Estimated crash reductions due to the proposed rule are summarized in Table 5.

TABLE 5—ESTIMATED REDUCTIONS IN CRASHES

	Option 1	Option 2	Option 3	Option 4
Crashes Avoided	1,714	1,425	1,714	1,425
Injuries Avoided	522	434	522	434

TABLE 5—ESTIMATED REDUCTIONS IN CRASHES—Continued

	Option 1	Option 2	Option 3	Option 4
Lives Saved	24	20	24	20

II. Public Participation and Request for Comments

After the publication of the 2011 NPRM, Congress enacted MAP–21; the Act that mandated that the Agency require the use of ELDs by interstate CMV drivers required to keep RODS. In addition, the Agency gained information as part of its outreach efforts. Because the proposed regulatory text in today's SNPRM supersedes that proposed in the 2011 NPRM, and because of the significance of the changes, FMCSA encourages stakeholders and members of the public—including those who submitted comments previously—to participate in this rulemaking by submitting comments and related materials on the complete proposal. FMCSA will address comments submitted in response to the February 2011 NPRM (76 FR 5537) as part of a final rule, to the extent such comments are relevant given the intervening events since publication of that document and today's SNPRM.

A. Submitting Comments

If you submit a comment, please include the docket number for this SNPRM (Docket No. FMCSA–2010–0167), indicate the specific section of this document to which each section applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, put the docket number, FMCSA–2010–0167, in the keyword box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

B. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*. Insert the docket number, FMCSA–2010–1067, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

C. Privacy Act

All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you provide. Anyone may search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** (FR) notice published on January 17, 2008 (73 FR 3316) or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf*.

D. Comments on the Collection of Information

If you have comments on the collection of information discussed in this SNPRM, you must also send those comments to the Office of Information and Regulatory Affairs at OMB. To ensure that your comments are received on time, the preferred methods of submission are by email to *oira_submissions@omb.eop.gov* (include docket number ''FMCSA–2010–0167'' and ''Attention: Desk Officer for FMCSA, DOT'' in the subject line of the email) or fax at 202–395–6566. An alternative, though slower, method is by U.S. Mail to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, FMCSA, DOT.

III. Abbreviations and Acronyms

Automatic On-Board Recording Device.	AOBRD.
Behavior Analysis Safety Improvement Categories.	BASICs.
Commercial Driver's License	CDL.
Commercial Motor Vehicle	CMV.
Compliance, Safety, Accountability.	CSA.
Department of Transportation ..	DOT.
Electronic Control Module	ECM.
Electronic Logging Device	ELD.
Electronic On-Board Recorder ..	EOBR.
Extensible Markup Language	XML.
Federal Motor Carrier Safety Administration.	FMCSA.
Federal Motor Carrier Safety Regulations.	FMCSRs.
Fleet Management System	FMS.
Geographic Names Information System.	GNIS.
Global Positioning System	GPS.
Hazardous Materials	HM.
Hours of Service	HOS.
Mobile Computing Platform 50	MCP50.
Motor Carrier Management Information System.	MCMIS.
Motor Carrier Safety Advisory Committee.	MCSAC.
Motor Carrier Safety Assistance Program.	MCSAP.
National Highway Traffic Safety Administration.	NHTSA.
National Transportation Safety Board.	NTSB.
North American Free Trade Agreement.	NAFTA.
North American Industrial Classification System.	NAICS.
Notice of Proposed Rulemaking	NPRM.
Office of Management and Budget.	OMB.
On-Duty Not Driving	ODND.
Personally Identifiable Information.	PII.
Quick Response	QR.
Record of Duty Status	RODS.
Regulatory Impact Analysis	RIA.
Supplemental Notice of Proposed Rulemaking.	SNPRM.
Universal Serial Bus	USB.
Vehicle Identification Number	VIN.

IV. Legal Basis for the Rulemaking

FMCSA's authority for this rulemaking is derived from several statutes.

A. Motor Carrier Act of 1935

The Motor Carrier Act of 1935 (Pub. L. 74–255, 49 Stat. 543, August 9, 1935), as amended, (the 1935 Act) provides that, ''[t]he Secretary of Transportation may prescribe requirements for—(1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and (2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation'' (49 U.S.C. 31502(b)). Among other things, by requiring the use of ELDs, this SNPRM would require safety equipment that would increase compliance with the HOS regulations and address the ''safety of operation'' of motor carriers subject to this statute. The SNPRM would do this by ensuring an automatic recording of driving time and a more accurate record of a driver's work hours.

B. Motor Carrier Safety Act of 1984

The Motor Carrier Safety Act of 1984 (Pub. L. 98–554, Title II, 98 Stat. 2832, October 30, 1984), as amended, (the 1984 Act) provides authority to the Secretary of Transportation (Secretary) to regulate drivers, motor carriers, and vehicle equipment. It requires the Secretary to prescribe minimum safety standards for CMVs to ensure that—(1) CMVs are maintained, equipped, loaded, and operated safely; (2) responsibilities imposed on CMV drivers do not impair their ability to operate the vehicles safely; (3) drivers' physical condition is adequate to operate the vehicles safely; (4) the operation of CMVs does not have a deleterious effect on drivers' physical condition; and (5) CMV drivers are not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a CMV in violation of regulations promulgated under 49 U.S.C. 31136 or under chapter 51 or chapter 313 of 49 U.S.C. (49 U.S.C. 31136(a). The 1984 Act also grants the Secretary broad power in carrying out motor carrier safety statutes and regulations to ''prescribe recordkeeping and reporting requirements'' and to ''perform other acts the Secretary considers appropriate'' (49 U.S.C. 31133(a)(8) and (10)).

The HOS regulations are designed to ensure that driving time—one of the principal ''responsibilities imposed on the operators of commercial motor vehicles''—does ''not impair their ability to operate the vehicles safely'' (49 U.S.C. 31136(a)(2)). ELDs that are properly designed, used, and maintained would enable drivers, motor carriers, and authorized safety officials to more effectively and accurately track on-duty driving hours, thus preventing both inadvertent and deliberate HOS violations. Driver compliance with the HOS rules helps ensure that drivers are provided time to obtain restorative rest and thus that ''the physical condition of [CMV drivers] is adequate to enable them to operate the vehicles safely'' (49 U.S.C. 31136(a)(3)). Indeed, the Agency considered whether this proposal would impact driver health under 49 U.S.C. 31136(a)(3) and (a)(4), asdiscussed in the Draft Environmental Assessment, available in the docket for this rulemaking.

By ensuring an electronic RODS is tamper-resistant, this rulemaking would protect against coercion of drivers, (49 U.S.C. 31136(a)(5)). The ELD would decrease the likelihood that driving time, which would be captured automatically by the device, could be concealed and that other duty status information entered by the driver could be inappropriately changed after it is entered. Thus, motor carriers would have limited opportunity to force drivers to violate the HOS rules without leaving an electronic trail that would point to the original and revised records. This SNPRM also expressly proposes to prohibit motor carriers from coercing drivers to falsely certify their ELD records. FMCSA intends to further address the issue of driver coercion in a separate rulemaking.

Because the proposal would increase compliance with the HOS regulations, it would have a positive effect on the physical condition of drivers and help to ensure that CMVs are operated safely (49 U.S.C. 31136(a)(1)). Other requirements in 49 U.S.C. 31136(a)(1) concerning safe motor vehicle maintenance, equipment, and loading are not germane to this SNPRM because ELDs and the SNPRM's related provisions influence driver operational safety rather than vehicular and mechanical safety.

C. Truck and Bus Safety and Regulatory Reform Act

Section 9104 of the Truck and Bus Safety and Regulatory Reform Act (Pub. L. 100–690, 102 Stat. 4181, 4529, November 18, 1988) anticipated the Secretary's promulgating a regulation about the use of monitoring devices on CMVs to increase compliance with HOS regulations. The statute, as amended, requires the Agency to ensure that any such device is not used to ''harass a vehicle operator'' (49 U.S.C. 31137(a)(2)). This SNPRM would protect drivers from being harassed by motor carriers to violate safety regulations and would limit a motor carriers' ability to interrupt a driver's sleeper berth period. In so doing, the SNPRM also furthers the provisions of 49 U.S.C. 31136(a), protecting driver's health. The provisions addressing harassment proposed in this SNPRM are discussed in more detail under Part X.

D. Hazardous Materials Transportation Authorization Act of 1994

Section 113 of the Hazardous Materials Transportation Authorization Act of 1994, Public Law 103–311, 108 Stat. 1673, 16776–1677, August 26, 1994, (HMTAA) requires the Secretary to prescribe regulations to improve compliance by CMV drivers and motor carriers with HOS requirements and the effectiveness and efficiency of Federal and State enforcement officers reviewing such compliance. Specifically, the Act addresses requirements for supporting documents. The cost of such regulations must be reasonable to drivers and motor carriers. Section 113 of HMTAA describes what elements must be covered in regulation, including a requirement that the regulations specify the ''number, type, and frequency of supporting documents that must be retained by the motor carrier'' and a minimum retention period of at least 6 months.

Section 113 also requires that regulations ''authorize, on a case-by-case basis, self-compliance systems'' whereby a motor carrier or a group of motor carriers could propose an alternative system that would ensure compliance with the HOS regulations.

The statute defines ''supporting document,'' in part, as ''any document . . . generated or received by a motor carrier or commercial motor vehicle driver in the normal course of business. . . .'' This SNPRM does not propose to require generation of new supporting documents outside the normal course of the motor carrier's business. The SNPRM addresses supporting documents that a motor carrier would need to maintain consistent with the statutory requirements. The provisions addressing supporting documents are discussed in more detail under Part IX.

E. MAP–21

Section 32301(b) of the Commercial Motor Vehicle Safety Enhancement Act, enacted as part of MAP–21 (Pub. L. 112–141, 126 Stat. 405, 786–788 (July 6, 2012)), mandated that the Secretary adopt regulations requiring that CMVs involved in interstate commerce, operated by drivers who are required to

keep RODS, be equipped with ELDs.[4] The statute sets out provisions that the regulations must address, including device performance and design standards and certification requirements. In adopting regulations, the Agency must consider how the need for supporting documents might be reduced, to the extent data is captured on an ELD, without diminishing HOS enforcement. The statute also addresses privacy protection and use of data. Like the Truck and Bus Safety and Regulatory Reform Act, the amendments in MAP–21 section 32301(b) require the regulations to ''ensur[e] that an electronic logging device is not used to harass a vehicle operator.'' Finally, as noted above, MAP–21 amended the 1984 Act to add new 49 U.S.C. 31136(a)(5), requiring that FMCSA regulations address coercion of drivers as discussed above.

V. Background

A. ELDs: Discussion of the 2010 Final Rule and the 2011 NPRM

1. April 2010 Rule

On April 5, 2010, the Agency issued a final rule (April 2010 rule) that addressed the limited, remedial use of electronic on-board recorders or EOBRs—now termed ''ELDs''—for motor carriers with significant HOS violations (75 FR 17208).[5] The rule also contained new performance standards for all ELDs installed in CMVs manufactured on or after June 4, 2012. These standards reflected the significant advances in recording and communications technologies that had occurred since the introduction of the first AOBRDs under a waiver program in 1985 and the publication of 49 CFR 395.15 in 1988 (53 FR 38666). FMCSA would have required ELDs:

- To be integrally synchronized to the engine.
- To provide the same basic information as is required on an AOBRD, including the identity of the driver, the USDOT number, and the CMV's identification.
- To record the distance traveled and the driver's duty status.
- To automatically record the date, time, and location of the CMV at each change of duty status and at intervals of no greater than 60 minutes while the CMV was in motion.
- To ensure the security and integrity of the recorded data by conforming to specific information processing standards.
- To meet certain communications interface requirements for hardwired and wireless transfer of information.
- To allow drivers to annotate the ELD record while requiring the ELD or its support system to maintain the original recorded information and track the annotations.
- To be resistant to tampering by protecting both input and output. It would have identified any amendments or annotations of the record, including who made them and when.
- To provide a digital file in a specified format for use by enforcement officials that could be read using non-proprietary software. This would have included the ability to generate a graph-grid on an enforcement official's computer, rather than on the ELD itself.
- To provide certain self-tests and self-monitoring. It would have identified sensor failures and edited or annotated data. The ELD would also have provided a notification 30 minutes before the driver reached the daily on duty and driving limits.

Remedial directive. If a motor carrier were found, during a single compliance review, to have a 10-percent violation rate for any HOS regulation listed in rescinded appendix C of 49 CFR part 385, the 2010 rule would have required motor carriers to install, use, and maintain ELDs on all of the motor carrier's CMVs for a period of 2 years. By focusing on the most severe violations and the most chronic violators, the Agency sought to achieve the greatest safety benefit by adopting a mandatory installation trigger designed to single out motor carriers that demonstrated poor compliance with the HOS regulations.

Incentives to promote the voluntary use of ELDs. In order to increase the number of motor carriers using ELDs in place of paper RODS, the April 2010 rule would have provided incentives for voluntary adoption. The incentives would have included eliminating the requirement to maintain supporting documents related to driving time. Instead, the ELD would record and make available that information. Additionally, if a compliance review of a motor carrier who voluntarily used ELDs showed a 10 percent or higher violation rate based on the initial focused sample, the 2010 rule would have provided that FMCSA assess a random sample of the motor carrier's overall HOS records. The HOS part of the safety rating would have been based on this random review. Given that the use of ELDs would be required for most drivers currently required to prepare RODS, today's SNPRM does not propose any incentives for ELD use.

2. February 2011 NPRM

On February 1, 2011, FMCSA proposed to expand the electronic logging requirements to a much broader population of motor carriers (76 FR 5537). Subject to a limited exception for drivers who would need to keep RODS on an infrequent basis, all motor carriers currently required to document their drivers' HOS with RODS would have been required to use ELDs meeting the requirements of the April 2010 rule on CMVs manufactured on or after June 1, 2012. Furthermore, within 3 years of the rule's effective date, motor carriers would have been required to install and use ELDs meeting these technical requirements on CMVs operated by drivers required to keep RODS, subject to a limited exception, regardless of the date of the CMV's manufacture.

The 2011 NPRM did not alter the ELD technical specifications contained in the April 2010 rule. FMCSA also proposed to address in regulation the requirement that motor carriers—both RODS and timecard users—systematically monitor their drivers' compliance with the HOS requirements. While this requirement is not novel (see *In the Matter of Stricklin Trucking Co., Inc., Order on Reconsideration* (March 20, 2012) [6]), the proposed rule would have added a specific requirement to part 395 that motor carriers have in place an HOS management system. The Agency proposed to clarify the supporting documents requirements for motor carriers using ELDs by requiring retention of categories of documents and eliminating the need to maintain supporting documents to verify driving time.

3. March 2011 Extension of Comment Period

FMCSA received two requests for extensions of the comment period. The Agency granted these requests and extended the comment period in a notice published on March 10, 2011 (76 FR 13121).

[4] In today's SNPRM, the term ''electronic logging device (ELD)'' is substituted for the term ''electronic on-board recorder (EOBR),'' which was used in the April 2010 final rule and February 2011 NPRM, in order to be consistent with the term used in MAP–21. In this SNPRM, we use the term ELD both generically and specifically. Generically, we use it to describe what has in the past been called an ELD, an EOBR, or a fleet management system (FMS). In referring to the proposed regulation, we use the term specifically to mean a device or technology that complies with proposed subpart B of part 395.

[5] All the documents related to the April 2010 rule can be found in docket FMCSA–2004–18940.

[6] Available in Docket FMCSA–2011–0127, *http://www.regulations.gov* (Document No. FMCSA–2011–0127–0013).

4. April 2011 Notice Requesting Additional Comment on Harassment

In June 2010, the Owner-Operator Independent Drivers Association (OOIDA) filed a petition in the United States Court of Appeals for the Seventh Circuit seeking review of the April 2010 rule (*Owner-Operator Indep. Drivers Ass'n* v. *Fed. Motor Carrier Safety Admin.,* 656 F.3d 580 (7th Cir. 2011)), in the docket for this rulemaking. OOIDA raised several concerns, including the potential use of ELDs by motor carriers to harass drivers. Oral arguments were held on February 7, 2011, shortly after publication of the February 2011 NPRM. Due to the concurrent litigation on the 2010 final rule, FMCSA supplemented the request for public comments on the 2011 NPRM by publishing a notice on April 13, 2011, seeking comments on the topic of harassment (76 FR 20611).

5. August 2011 Seventh Circuit Decision

On August 26, 2011, the Seventh Circuit vacated the entire April 2010 rule. The court held that, contrary to a statutory requirement, the Agency failed to address the issue of driver harassment.[7]

6. February 2012 Notice of Intent To Publish an SNPRM

On February 13, 2012, FMCSA announced its intent to move forward with an SNPRM on ELDs to propose technical standards, address driver harassment issues, and propose revised requirements on HOS supporting documents (77 FR 7562). Additionally, the Agency stated it would hold public listening sessions and task the MCSAC to make recommendations related to the proposed rulemaking. FMCSA has initiated a survey of drivers, as well as motor carriers, concerning the potential for the use of electronic logging to result in harassment (Notice published May 28, 2013, (78 FR 32001).

7. May 2012 Withdrawal of the April 2010 Rule

On May 14, 2012, FMCSA published a final rule (77 FR 28448) to rescind both the April 5, 2010, final rule (75 FR 17208) and subsequent corrections and modifications to the technical specifications (September 13, 2010, 75 FR 55488), in response to the Seventh Circuit's decision.

8. Results of the Vacatur; Subsequent Developments

As a result of the Seventh Circuit's vacatur, the technical specifications that were one of the bases of the 2011 NPRM were rescinded. Because the requirements for AOBRDs were not affected by the Seventh Circuit's decision, motor carriers relying on electronic devices to monitor HOS compliance are currently governed by the Agency's rules regarding the use of AOBRDs in 49 CFR 395.15, originally published in 1988. There are no new standards currently in effect to replace these dated technical specifications. Furthermore, because the entire rule was vacated, FMCSA was unable to grant relief from supporting document requirements to motor carriers voluntarily using ELDs.[8]

In response to the vacatur of the 2010 final rule, recommendations from the MCSAC, and the enactment of MAP–21, FMCSA now proposes new technical standards for ELDs. The Agency also proposes new requirements for supporting documents and ways to ensure that ELDs are not used to harass vehicle operators.

9. MCSAC Meetings

Technical specifications. In response to industry and enforcement concern over the technical implementation of the April 2010 final rule, FMCSA held a public meeting on May 31, 2011, and later engaged the MCSAC to assist in developing technical specifications for ELDs. The scope of this task was limited because of the planned June 2012 implementation date for the April 2010 final rule.

At the June 20–22, 2011, MCSAC meeting, FMCSA announced task 11–04, titled ''Electronic On-Board Recorders Communications Protocols, Security, Interfaces, and Display of Hours-of-Service Data During Driver/Vehicle Inspections and Safety Investigations.'' FMCSA tasked the MCSAC to clarify ''the functionality of Part 395 communications standards relating to [ELD] data files.'' The MCSAC was asked to make recommendations to FMCSA concerning data communication and display technologies with input from stakeholders, including law enforcement, the motor carrier industry, FMCSA information technology/security experts, and technical product manufacturers. A MCSAC Technical Subcommittee was formed to advise the committee at large. The subcommittee met numerous times in late 2011. The MCSAC also held public meetings on August 30–31 and December 5–6, 2011, to discuss the subcommittee's recommendations (76 FR 62496, Oct. 7, 2011).

The Seventh Circuit's August 2011 decision to vacate the April 2010 final rule changed the nature of the MCSAC's report. Instead of presenting comments and recommended changes to the April 2010 final rule regulatory text, the report proposed a new regulation using vacated § 395.16 as the template. The report was delivered to the FMCSA Administrator on December 16, 2011.

Harassment. On February 7–8, 2012, the MCSAC considered task 12–01, ''Measures To Ensure Electronic On-Board Recorders Are Not Used To Harass Commercial Motor Vehicle Operators.'' FMCSA tasked the MCSAC to consider a long list of questions concerning the topic of potential harassment as it could stem from the use of ELDs.

Among other issues, the committee asked what constitutes driver harassment and whether electronic HOS recording would change the nature of driver harassment. The MCSAC considered whether ELDs would make drivers vulnerable to harassment or if they might make drivers less susceptible to harassment. The MCSAC asked what types of harassment drivers experience currently, how frequently, and to what extent this harassment happens. The MCSAC also considered the experience motor carriers and drivers have had with carriers currently using ELDs in terms of their effect on driver harassment. The report on harassment was delivered to the FMCSA Administrator on February 8, 2012. The harassment provisions in today's SNPRM respond to many of the MCSAC recommendations in that report.

These meetings, like all MCSAC meetings, were open to the public, and had a public comment component at the end of every day's session. Additional information about both of these tasks and the MCSAC recommendations can

[7] 656 F.3d 580, 589. At the time of the court's decision, 49 U.S.C. 31137(a) read as follows: ''Use of Monitoring Devices.—If the Secretary of Transportation prescribes a regulation about the use of monitoring devices on commercial motor vehicles to increase compliance by operators of the vehicles with hours of service regulations of the Secretary, the regulation shall ensure that the devices are not used to harass vehicle operators. However, the devices may be used to monitor productivity of the operators.'' MAP–21 revised section 31137 and no longer expressly refers to ''productivity.'' However, FMCSA believes that, as long as an action by a motor carrier does not constitute harassment that would be prohibited under this rulemaking, a carrier may legitimately use the devices to improve productivity or for other appropriate business practices.

[8] The Agency's June 2010 guidance, ''Policy on the Retention of Supporting Documents and the Use of Electronic Mobile Communication/Tracking Technology,'' which granted certain motor carriers limited relief from the requirement to maintain certain supporting documents, was not affected by the Seventh Circuit decision.

be found at *http://mcsac.fmcsa.dot.gov/meeting.htm*.

10. Public Listening Sessions on Harassment

FMCSA held two public listening sessions focusing on the issue of harassment, subsequent to the Seventh Circuit decision. The first session was in Louisville, Kentucky, on March 23, 2012, at the Mid-America Truck Show; and the second session was in Bellevue, Washington, on April 26, 2012, at the Commercial Vehicle Safety Alliance (CVSA) Workshop. Transcripts of both sessions are available in the docket for this rulemaking, and the Web casts are archived and available at *http://www.tvworldwide.com/events/dot/120323/* and *http://www.tvworldwide.com/events/dot/120426/*, respectively (last accessed May 30, 2013).

11. Regulation Room

DOT enhanced effective public involvement regarding the NPRM by using the Cornell eRulemaking Initiative called ''Regulation Room.'' Regulation Room is not an official DOT Web site; therefore, a summary of discussions introduced in Regulation Room was prepared collaboratively on the site and submitted to DOT as a public comment to the docket. Regulation Room commenters were informed that they could also submit individual comments to the rulemaking docket.[9] Although the comment period has closed, the comments submitted to Regulation Room, as well as the discussion summary, are publicly available through the Regulation Room Web site, *http://regulationroom.org/eobr* (last accessed March 6, 2013).

12. Comments to the 2011 NPRM

FMSCA will address comments submitted in response to the February 2011 NPRM (76 FR 5537) as part of a final rule to the extent such comments are relevant, given the significant intervening events that have occurred since publication of that document and today's SNPRM. Because the proposed regulatory text in today's SNPRM supersedes that in the 2011 NPRM and because of the significance of the changes, FMCSA invites comments on the complete proposal.

B. History of the Supporting Documents Rule

A supporting document is a paper or electronic document that a motor carrier generates or receives in the normal course of business that motor carriers or enforcement officials can use in verifying drivers' HOS compliance.[10]

A fundamental principle of the FMCSRs, stated in 49 CFR 390.11, is that a motor carrier has the duty to require its drivers to comply with the FMCSRs, including the HOS requirements. Current Federal HOS regulations (49 CFR Part 395) limit the number of hours a CMV driver may drive and work. With certain exceptions,[11] motor carriers and drivers are required by 49 CFR 395.8 to use RODS to track driving, on-duty not driving (ODND), sleeper berth, and off duty time. FMCSA and State enforcement personnel use these RODS, in combination with supporting documents and other information, to ensure compliance with the HOS rules. Motor carriers have historically required their drivers—as a condition of employment, for reimbursement, and other business purposes—to provide to the motor carriers supporting documents, such as fuel receipts, toll receipts, bills of lading, and repair invoices. Motor carriers can compare these documents to drivers' entries on the paper RODS to verify the accuracy of the RODS. The FMCSRs require motor carriers to retain all supporting documents, generated in the ordinary course of business, as well as the paper and electronic RODS, for a period of 6 months from the date of receipt (49 CFR 395.8(k)(1)).

Although the FMCSRs have always required a ''remarks'' section to augment the duty status information contained in the RODS document, it was not until January 1983 that the use of supporting documents was explicitly required (47 FR 53383, Nov. 26, 1982). The rule did not define the term ''supporting documents,'' and questions arose concerning what motor carriers were expected to retain. To resolve several questions, regulatory guidance was published in 1993 and 1997 (November 17, 1993, 58 FR 60734; April 4, 1997, 62 FR 16370, 16425).

In 1994, Congress directed that 49 CFR Part 395 be amended to improve driver and motor carrier compliance with the HOS regulations (section 113 of the HMTAA, Pub. Law 103–311, sec. 113, 108 Stat. 1673, 1676–1677 (August 26, 1994)). Congress defined supporting documents in a manner nearly identical to the Agency's regulatory guidance: ''For purposes of this section, a supporting document is any document that is generated or received by a motor carrier or commercial motor vehicle driver in the normal course of business that could be used, as produced or with additional identifying information, to verify the accuracy of a driver's record of duty status.'' (Id.)

In response to section 113(a) of HMTAA, the Federal Highway Administration (FHWA), FMCSA's predecessor agency, published an NPRM on supporting documents on April 20, 1998 (63 FR 19457). The FMCSA included further proposals on supporting documents in its proposed rule on HOS published May 2, 2000 (65 FR 25540). On November 3, 2004, FMCSA published an SNPRM proposing language to clarify the duties of motor carriers and drivers with respect to supporting documents and requesting further comments on the issue (69 FR 63997). However, the Agency discovered a long-standing error that had caused it to significantly underestimate the information collection burden attributable to the 2004 SNPRM, and FMCSA therefore withdrew the SNPRM on October 25, 2007 (72 FR 60614).

On January 15, 2010, the American Trucking Associations (ATA) filed a petition for a writ of mandamus in the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. No. 10–1009). ATA petitioned the court to direct FMCSA to issue an NPRM on supporting documents in conformance with section 113 of HMTAA within 60 days after the issuance of the writ and a final rule within 6 months after the issuance of the NPRM. The court granted the petition for writ of mandamus on September 30, 2010, ordering FMCSA to issue an NPRM on the supporting document regulations by December 30, 2010.

FMCSA issued guidance on HOS supporting documents and use of electronic mobile communications/tracking technology on June 10, 2010 (75 FR 32984). In addition to removing certain documents from the list of supporting documents a motor carrier must maintain, that guidance confirmed the Agency's interpretation that motor carriers are liable for the actions of their employees if they have, or should have, the means by which to detect HOS violations.

The April 2010 final rule had provided relief to motor carriers using ELDs on a voluntary basis from the requirement to maintain supporting documents to verify driving time. Those motor carriers would have needed to maintain only those additional

[9] Because FMCSA has completed this effort, comments to this SNPRM will not be sought to Regulation Room.

[10] This section briefly summarizes the history of supporting document requirements. For an extensive discussion of the history of the supporting documents requirements, please refer to the February 1, 2011, NPRM (76 FR 5541).

[11] These exceptions are set forth in 49 CFR 390.3(f) and 395.1.

supporting documents necessary to verify ODND activities and off duty status (75 FR 17208, at 17212, 17233, and 17234, April 5, 2010). However, as discussed above, the April 2010 rule is no longer in effect.

C. Concurrent Activities

1. Safety Study

FMCSA is engaging in another action, ''Evaluating the Potential Safety Benefits of Electronic Onboard Recorders.'' The study is an effort to further quantify the safety benefits of ELDs.

2. Coordination With the U.S. Department of Labor

FMCSA has worked with the U.S. Department of Labor to clarify and reinforce the procedures of both agencies, specifically concerning harassment. The Department of Labor administers the whistleblower law enacted as part of the Surface Transportation Assistance Act (49 U.S.C. 31105). Although FMCSA and the U.S. Department of Labor have previously consulted on particular cases or referred drivers to the appropriate agency based on the nature of the concern, the agencies have been in communication concerning their respective authorities and complaint procedures. Several elements in this SNPRM, including the proposed requirement that all drivers have improved access to their HOS compliance records, should provide drivers with better documentation of situations that they believe constitute harassment and would help their case in the event they file complaints with either Department of Labor or FMCSA.

D. Table Summary

TIMELINE OF REGULATORY AND JUDICIAL ACTIONS RELATED TO THIS SNPRM

Title	Type of action, RIN	Citation, date	Synopsis
Electronic On-Board Recorders for Hours-of-Service Compliance.	Final rule, 2126–AA89	75 FR 17208, Apr. 5, 2010	Established new performance standards for EOBRs, required EOBRs to be installed in CMVs for motor carriers that have demonstrated serious noncompliance; set incentives for voluntary usage of EOBRs.
Policy on the Retention of Supporting Documents and the Use of Electronic Mobile Communication/Tracking Technology in Assessing Motor Carriers' and Commercial Motor Vehicle Drivers' Compliance With the Hours of Service Regulations.	Notice of Regulatory Guidance and Policy Change..	75 FR 32984, June 10, 2010.	Provided notice to the motor carrier industry and the public of regulatory guidance and policy changes regarding the retention of supporting documents and the use of electronic mobile communication/tracking technology in assessing motor carriers' and commercial motor vehicle drivers' compliance with the hours of service regulations.
Electronic On-Board Recorders for Hours-of-Service Compliance.	Final rule; Technical amendments, response to petitions for reconsideration, 2126–AA89.	75 FR 55488, Sept. 13, 2010.	Amended requirements for the temperature range in which EOBRs must be able to operate, and the connector type specified for the Universal Serial Bus (USB) interface.
Electronic On-Board Recorders and Hours-of-Service Supporting Documents.	NPRM, 2126–AB20	76 FR 5537, Feb. 1, 2011	Required all motor carriers currently required to maintain RODS for HOS recordkeeping to use EOBRs instead; relied on the technical specifications from the April 2010 final rule, and reduced requirements to retain supporting documents.
Electronic On-Board Recorders and Hours-of-Service Supporting Documents.	NPRM; extension of comment period, 2126–AB20.	76 FR 13121, Mar. 10, 2011.	Extended the public comment period for the NPRM from April 4, 2011, to May 23, 2011.
Electronic On-Board Recorders and Hours-of-Service Supporting Documents.	Notice; request for additional public comment, 2126–AB20.	76 FR 20611, Apr. 13, 2011.	Expanded the opportunity for the public to comment on the issue of ensuring that EOBRs are not used to harass CMV drivers.
Motor Carrier Safety Advisory Committee (MCSAC) Series of Public Subcommittee Meetings.	Notice of meeting, related to 2126–AA89.	76 FR 38268, June 29, 2011.	Announced series of subcommittee meetings on task 11–04, concerning technical specifications for an EOBR as related to the April 2010 final rule.
Owner-Operator Indep. Drivers Ass'n v. Fed. Motor Carrier Safety Admin..	Judicial Decision, United States Court of Appeals, Seventh Circuit, related to 2126–AA89.	*Owner-Operator Indep. Drivers Ass'n* v. *Fed. Motor Carrier Safety Admin.,* 656 F.3d. 580 (7th Cir. 2011), Aug. 26, 2011.	Vacated the April 2010 final rule.
MCSAC: Public Meeting Medical Review Board: Joint Public Meeting With MCSAC.	Notice of meeting, related to 2126–AB20.	77 FR 3546, Jan. 24, 2012	Announced meeting on task 12–01, concerning issues relating to the prevention of harassment of truck and bus drivers through EOBRs.
Electronic On-Board Recorders and Hours-of-Service Supporting Documents.	Notice of intent, 2126–AB20.	77 FR 7562, Feb. 13, 2012	Announced FMCSA's intent to go forward with an SNPRM; two public listening sessions; an initial engagement of the MCSAC in this subject matter; a survey of drivers concerning potential for harassment; and a survey for motor carriers and vendors concerning potential for harassment.

TIMELINE OF REGULATORY AND JUDICIAL ACTIONS RELATED TO THIS SNPRM—Continued

Title	Type of action, RIN	Citation, date	Synopsis
Electronic On-Board Recorders and Hours-of-Service Supporting Documents.	Notice of public listening session, 2126–AB20.	77 FR 12231, Feb. 29, 2012.	Announced public listening session held in Louisville, Kentucky on March 23, 2012.
Electronic On-Board Recorders and Hours-of-Service Supporting Documents.	Notice of public listening session, 2126–AB20.	77 FR 19589, Apr. 2, 2012	Announced public listening session held in Bellevue, Washington on April 26, 2012.
Electronic On-Board Recorders for Hours-of-Service Compliance; Removal of Final Rule Vacated by Court.	Final rule, 2126–AB45	77 FR 28448, May 14, 2012.	Responded to a decision of the Court of Appeals for the Seventh Circuit that vacated the April 2010 final rule.

VI. ELD Performance and Design Specifications

Today's SNPRM proposes new technical standards, replacing those in the vacated April 2010 final rule. It also responds to the specific ELD technical requirements in MAP–21; *see* 49 U.S.C. 31137. Although MAP–21 requires that an ELD ''accurately record commercial driver [HOS],'' there is no current technology that can automatically differentiate between a driver's ODND status versus off duty or sleeper berth status. An ELD, however, would reduce HOS record falsification, especially for driving time, which would be recorded automatically. ELDs facilitate considerably more accurate recording of non-driving activities through the requirement to provide time, location, engine hours, and odometer reading ''snapshots'' at each change of duty status.

The ELD record, in combination with a driver's supporting documents, is expected to provide a far more accurate record than paper RODS. The detailed performance and design requirements for ELDs proposed in this SNPRM would ensure that providers would be able to develop compliant devices and systems and that motor carriers could better understand which products are compliant and make informed decisions before acquiring them. The requirements would also provide drivers with effective recordkeeping systems, which would provide them control over and access to their records. The technical specifications would also address statutory requirements pertaining to prevention of harassment, protection of driver privacy, compliance certification procedures, and resistance to tampering. Furthermore, they would establish methods for providing authorized safety officials with drivers' ELD data when required. *See* 49 U.S.C. 31137(a)–(f).

For a 2-year period after the compliance date (4 years after the publication of a final rule) for these technical specifications, AOBRDs as described in current § 395.15, installed before that date, could continue to be used in lieu of ELDs to comply with HOS regulations. At that point, all AOBRD-users would be required to update or replace their devices and systems to bring them into conformance with the new 49 CFR Part 395, subpart B requirements. For more about the transition period proposed for this SNPRM, see Part VIII.

A. Terminology

For the reader's convenience, this section describes terms that are used in today's SNPRM.

1. AOBRD

An AOBRD is a device that meets the requirements of 49 CFR 395.15. As described below, a minimally compliant device would need to be replaced. However, many technologies exist today that currently meet or exceed parts of the standards of this proposed regulation, and could be easily and cheaply made to fit the requirements for an ELD. The Agency refers to these as ELD-like devices. The definition of AOBRDs is set out in 49 CFR 395.2; and Table 6, below, shows a comparison of the different kinds of logging devices.

2. ELD

An ELD is a recording-only technology, used to track the time a CMV is operating. An ELD is integrally connected to the CMV's engine, uses location information, and is tamper-resistant. An ELD automatically tracks CMV movement, but allows for annotations by both the driver and the motor carrier's agent to explain or correct records. An ELD is not necessarily a physical device; it is a technology platform, and may be portable or implemented within a device not permanently installed on a CMV. The definition of ELD is in a proposed amendment to 49 CFR 395.2; and Table 6, below, shows a comparison of the different kinds of logging devices.

3. ELD Data

FMCSA uses the term ''ELD data'' to mean each data element captured by an ELD that is compliant with the requirements contained in proposed subpart B of part 395. These data would be available to authorized safety officials during roadside inspections and as part of on-site or other reviews.

4. eRODS Software System

eRODS is the software system that FMCSA is currently developing in conjunction with its State partners. During an inspection, the eRODS software system would receive, analyze, and display ELD data in a way that can be efficiently used by authorized safety officials.

5. FMS

A Fleet Management System (FMS) is an asset tracking and business optimization solution which may also accomplish the ELD functionality. Some of these technologies may have functions such as real-time asset monitoring for fleet efficiency, but these capabilities would not be required by this regulation. FMCSA emphasizes that it does not prohibit the integration of ELD functions into other electronic platforms, such as an FMS, already used on CMVs. FMCSA requires only the use of ELDs.

6. Comparison of AOBRD, EOBR, and ELD Specifications

Table 6, below, shows how AOBRDs, as regulated in 49 CFR 395.15, compare to the specifications for EOBRs, published in the 2010 Final Rule, and the ELDs proposed *in this SNPRM.*

TABLE 6—COMPARISON OF SPECIFICATIONS

Feature/function	1988 AOBRD rule	2010 EOBR final rule	2013 ELD SNPRM
Integral Synchronization	Integral synchronization required, but term not defined in the FMCSRs.	Integral synchronization required, defined to specify signal source internal to the CMV.	Integral synchronization with the CMV engine,* to automatically capture engine power status, vehicle motion status, miles driven, engine hours. * For MY 2000 and later, interfacing with engine ECM.
Recording Location Information.	Required at each change of duty status. Manual or automated.	Require automated entry at each change of duty status and at 60-minute intervals while CMV in motion.	Require automated entry at each change of duty status, at 60-minute intervals while CMV is in motion, at engine-on and engine-off instances, and at beginning and end of personal use and yard moves.
Graph Grid Display	Not required—"time and sequence of duty status changes".	Not required on EOBR, digital file to generate graph grid on enforcement official's portable computer.	An ELD must be able to present a graph grid of driver's daily duty status changes either on a display unit or on a printout.
HOS Driver Advisory Messages.	Not addressed	Requires notification at least 30 minutes before driver reaches 24-hour and 7/8 day driving and on-duty limits.	HOS limits notification *not* required. "Unassigned driving time/miles" warning provided upon login.
Device "Default" Duty Status.	Not addressed	On-duty not driving when the vehicle is stationary (not moving and the engine is off) 5 minutes or more.	On-duty driving, when CMV has not been in-motion for 5 consecutive minutes, and driver has not responded to an ELD prompt within 1 minute. *No other non-driver-initiated status change is allowed.*
Clock Time Drift	Not addressed	Absolute deviation from the time base coordinated to UTC shall not exceed 10 minutes at any time.	ELD time must be synchronized to UTC, absolute deviation must not exceed 10 minutes at any point in time.
Communications Methods.	Not addressed—focused on interface between AOBRD support systems and printers.	*Wired:* USB 2.0 implementing Mass Storage Class 08H for driverless operation. *Wireless:* IEEE 802.11g, CMRS	*Primary:* Wireless Webservices or Bluetooth 2.1 or Email (SMTP) or Compliant Printout. *Backup Wired/Proximity:* USB 2.0* and (Scannable QR codes, or TransferJet*) * Except for "printout alternative."
Resistance to Tampering	AOBRD and support systems, must be, to the maximum extent practical, tamperproof.	Must not permit alteration or erasure of the original information collected concerning the driver's hours of service, or alteration of the source data streams used to provide that information.	An ELD must not permit alteration or erasure of the original information collected concerning the driver's ELD records or alteration of the source data streams used to provide that information. An ELD must support data integrity check functions.
Identification of Sensor Failures and Edited Data.	Must identify sensor failures and edited data.	The device/system must identify sensor failures and edited and annotated data when downloaded or reproduced in printed form.	An ELD must have the capability to monitor its compliance (engine connectivity, timing, positioning, etc.) for detectable malfunctions and data inconsistencies. The ELD must record these occurrences.

B. ELD Function

1. Performance and Design Standards

FMCSA created these proposed technical specifications to be performance-based, so as to accommodate evolving technology and standards, allow for more cost-effective adoption of the technical specifications, and afford ELD providers flexibility to offer compliant products that are innovative and meet the needs of drivers and motor carriers. However, FMCSA does propose specific standard data formats and outputs that ELD providers would need to use to transfer, initialize, or upload data between systems or to authorized safety officials.

FMCSA has placed these performance and design standards into the appendix to proposed subpart B of part 395. This SNPRM also would incorporate by reference a number of established technical standards for sub-functions of an ELD, all of which are readily available at little to no cost. The use of these industry standards would reduce the cost of producing ELDs that meet the technical standards of a final rule. However, FMCSA emphasizes that there are no industry standards for ELDs.

Functional requirements regarding the communications between a vehicle's engine electronic control module (ECM) and the ELD are included in today's SNPRM. The technical requirements proposed in today's SNPRM would be considerably expanded from those in the vacated April 2010 final rule, and provide detail on processes, including security and tamper resistance.

2. Recording

In order to minimize compliance costs, today's SNPRM positions the ELD as a recording-only technology with the ability to transfer data to authorized safety officials. This rulemaking would not require the ELD to analyze or review driver's RODS data for any purpose, including compliance. It would not require the ELD to provide a warning for a driver who may be reaching HOS violation limits or to address other compliance concerns, although motor carriers and ELD providers are not prohibited from using or building an ELD that does so.

The following data elements would be automatically recorded within the ELD dataset and transferred to authorized safety officials when requested: date, time, CMV location, engine hours, vehicle miles, driver or authenticated user identification data, vehicle identification data, and motor carrier identification data.

CMV location information. For an ELD, location measurement would be used primarily to automatically populate CMV position at duty status changes and at intervening intervals.

FMCSA proposes that location information remain a part of the technical specifications for an ELD. Without accurate and verifiable CMV location information, a driver's RODS would not be complete. Furthermore, some of the tamper-resistance measures proposed in the SNPRM would use location information in consistency-check algorithms. FMCSA also believes that intermediate location recordings while the CMV is in motion are important to include in the dataset for verification purposes. With this SNPRM, FMCSA also proposes the precision and availability requirements associated with the automatic positioning services to be used as part of an ELD.

FMCSA no longer proposes requiring the ELDs' dataset exchanged with authorized safety officials to include ''place name.'' Instead, latitude and longitude coordinates would be recorded and transmitted to those officials' portable computers. There the eRODS software would resolve the coordinates into a named place and, as necessary, the distance and direction offset from the named place. An ELD would still need to be able to present location information in understandable terms to the driver and motor carriers to allow them to review and certify records. ELDs that print a graph-grid for authorized safety officials would also require understandable location information. Because latitude and longitude information would not be adequately descriptive for them, FMCSA retains the requirement for ELDs to report geo-location information. The Agency also proposes the incorporation by reference of the American National Standards Institute (ANSI) INCITS 446–2008 document, which includes the ''USGS GNIS, where Feature Class = Populated Place'' list.

Relying on a performance and design standard, FMCSA would not require the use of the satellite-based global positioning system (GPS) for positioning services. Location codes may be obtained from satellite or land-based sources, or a combination of sources. This SNPRM would require the monitoring of engine hours and odometer readings in addition to automatic recording of location information. Interruptions to GPS or other location services would not prevent CMV movement from being detected by the ELD.

Today's SNPRM proposes revised, more detailed technical specifications for standard location information presentation, using geo-location combined with a nearby reference point, distance, and direction from that reference.

Driver or authenticated user identification data. HOS regulations require unique identification of the driver on the ELD, which implies the inclusion of personally identifiable information (PII). The Agency determined that name and use of a partial driver's license number does not lower the security requirements the Agency must establish for handling of the data. However, use of a partial driver's license number complicates the process due to the States' varying methods for assigning drivers' license numbers. Therefore, the Agency determined that including the entire driver's license number and driver's license issuing State would be necessary to ensure a unique identification of each driver and to attain a sufficient level of tamper resistance for the ELDs by preventing the potential creation of multiple aliases for a single driver within a motor carrier.

When the ELD records the required dataset. Today's SNPRM proposes to require the ELD to record the dataset, including geographic information as described above, at 60-minute intervals when the vehicle is in motion, at the time of any duty status change the driver inputs, and when a CMV's engine is powered up or shut down. Further, if a motor carrier has allowed drivers to use a CMV for personal conveyance or yard moves, a driver's indication of the start and end of such occurrences will also record a dataset; these are not indicated as separate duty statuses.

The ELD would record the account logged into the ELD at the time of the recording, including a standard identifier when a driver may not be authenticated.

Because FMCSA will continue to allow use of paper RODS in certain operations and temporarily during ELD malfunctions, retaining the same four duty status categories used for paper RODS is necessary: driving, ODND, off duty, and sleeper berth. However, there are situations where it is necessary to annotate or otherwise flag periods where the CMV is moving as a status other than ''on-duty driving,'' including various covered exceptions under 49 CFR 395.1. FMCSA proposes to add a requirement for the ELD to provide the capability for a driver to indicate the beginning and end of two specific categories, namely, personal use of a CMV and yard moves, as allowed by the motor carrier, where the CMV may be in motion but a driver is not necessarily in a ''driving'' duty status. This would record the necessary information in a consistent manner for the use of drivers, motor carriers, and authorized safety officials.

Personal conveyance. If a CMV is used for personal conveyance, and the driver uses the ELD to electronically indicate the beginning of the event, the ELD would not record that time as on-duty driving. Today's SNPRM provides for selection of a special driving category when a CMV is being driven but the time is not recorded as on-duty driving. FMCSA does not define a specific threshold of distance or time traveled for a driver to be able to use the personal use provision. FMCSA emphasizes that ELDs are HOS-recording technologies. Authorized motor carrier safety personnel and authorized safety officials would use the ELD data to further explore and determine whether the indicated special category was appropriately used by the driver.

Integral synchronization. FMCSA would require integral synchronization for engine information to be shared with the ELD. For example, FMCSA proposes that distance traveled be measured by the odometer indication electronically available on the vehicle databus, the engine control module, or other electronic device, when allowed, which would indicate the total distance traveled from a source internal to the CMV. Today's SNPRM describes the underlying requirements associated with engine synchronization in recording the HOS logs of a driver. The proposal provides sufficient flexibility to accommodate engines on older CMVs. However, FMCSA would like to hear more details from the public on the complexity of compliance with a CMV manufactured on or before 2000.

3. Resistance to Tampering

MAP–21 defines ''tamper resistant'' as ''resistant to allowing any individual to cause an [ELD] to record the incorrect date, time, and location for changes to on-duty driving status . . . or to subsequently alter the record created by that device'' (49 U.S.C. 31137(f)(2)). FMCSA interprets ''tamper'' in this context as a deliberate action that results in erroneous data or unauthorized changes to ELD data. Tampering could result in the alteration of hardware, software, or stored data. Because of the variety of potential hardware and software solutions and the lack of any published standards that are followed by ELD-like system providers, FMCSA has chosen to focus on establishing requirements that would address many of the known types of tampering. FMCSA would also require additional data elements that would be

used to identify attempts to falsify or tamper with ELD data.

FMCSA acknowledges that there is a possibility that someone might tamper with ELD systems out of curiosity or to avoid or subvert operational or safety oversight. Like the NPRM, this SNPRM would explicitly prohibit motor carriers and drivers from disabling, deactivating, damaging, jamming, or otherwise blocking or degrading a signal transmission or reception, or otherwise tampering with an AOBRD or ELD so that the device would not accurately record the duty status of a driver (§ 395.8(e)(2)).

FMCSA has increased its tamper resistance performance and design specifications in this SNPRM and would require that all ELDs have standard security features, which include recording data that would help indicate tampering. Motor carrier safety oversight personnel and authorized safety officials would be able to use these indicators to review potential inconsistencies, assess their sources, and estimate their effects. However, complete tamper-proofing is neither possible nor practical. The SNPRM would balance tamper-resistance with the cost-effectiveness of available solutions. If ELDs were required to implement military-level security standards, such requirements would likely increase their complexity and cost, and adversely impact their ease of use.

Each captured record would include a code derived from the data itself at the time of recording that eRODS software would use to determine the authenticity of the information. Additionally, the combination of the vehicle mileage, time record, and location coordinates would increase the difficulty of fabricating data and make it more likely to produce inconsistent data that would be evident to authorized safety officials reviewing the ELD records. In addition to instituting strict account management requirements to ensure every driver has only one ELD profile within a motor carrier, FMCSA would also require the capture of data during CMV movement when no driver has logged into an ELD, to provide authorized safety officials with a complete picture of vehicle movement. Finally, the increased number of data elements from the engine would make creating false data a difficult and time-consuming process, even if someone could find a way to introduce such data into an ELD. None of these controls should dissuade ELD providers from adding additional, appropriate hardware and software controls against tampering.

4. Damaged, Outdated, or Malfunctioning ELDs

FMCSA understands that any devices, systems, or enabling technologies might occasionally fail. This SNPRM contains provisions that would allow drivers to continue to operate a CMV in the event of an ELD failure. Drivers would be required to use paper RODS temporarily while the ELD is inoperative. The driver would be required to give the motor carrier written notice of the failure either electronically, for example, by email, or by some other written means, within 24 hours. Owner-operators who lease on with a motor carrier are generally considered employees under the FMCSRs; thus, they would be required to notify that motor carrier. However, owner-operators who operated independently would need to satisfy requirements applicable to both a motor carrier and driver. One option for these owner-operators would be to record a malfunction by documenting it on a paper log used during the period that their ELD was not functioning. Unless the records were already available, the driver would have to reconstruct the RODS for the current 24-hour period and the previous 7 days. Until the ELD was brought back into compliance, the driver would have to continue to manually prepare RODS.

FMCSA has added more details on failure detection to this SNPRM. In a new table of ELD compliance malfunctions and data diagnostic event codes, FMCSA outlines the proposed listing of malfunction types (Table 4 in the appendix to subpart B of part 395). Proposed new table 4 would require data diagnostics self-testing by ELDs. Table 4 expands the categories of data diagnostic consistency checks and establishes consistency with the compliance malfunction detection strategy outlined in this rule. These malfunctions cover many of the detectable and actionable error types. However, the table is structured in terms of ''compliance malfunctions,'' which refer to more generalized performance compliance elements of this rule across different types of ELD implementation possibilities.

The SNPRM would require the motor carrier to repair the ELD within 8 days of discovering its condition. However, the SNPRM provides a procedure whereby a motor carrier may request an extension of time from FMCSA to repair, replace, or service an ELD. Unless an extension is granted, if a driver is inspected for HOS compliance during a malfunction, the driver would receive a citation for the malfunctioning ELD, and the driver would have to provide the authorized safety official with manually prepared RODS for further assessment with respect to HOS regulations.

C. ELD Regulatory Compliance

1. Certification Process

Compliance test procedures. The SNPRM would still propose to require ELDs to be certified by the provider, but FMCSA will develop a standard set of compliance test procedures that providers may use in their certification processes. FMCSA anticipates that industry standards for testing and certification of ELDs may emerge and evolve after the publication of the SNPRM, and such standards may use or build upon the compliance test procedures FMCSA establishes.

ELD providers would not be required to follow FMCSA's compliance test procedures to certify compliance of their product. Their ELDs, however, would need to meet or exceed the performance requirements proposed in the appendix to subpart B of part 395. FMCSA may subject registered ELDs to FMCSA's compliance test procedures to independently verify their compliance.

FMCSA stresses that it does not have regulatory authority over system providers. FMCSA is not proposing mandating blanket testing and certification criteria, because allowing ELD providers flexibility to meet or exceed the performance requirements of these criteria is consistent with other DOT regulations and would be as effective as existing DOT regulations. FMCSA will continue to monitor the testing and certification activities and may issue guidance on test standards at a future date.

Registration and Web site. This SNPRM would require certified ELDs to be registered with FMCSA, and would require motor carriers to use only those ELDs listed on FMCSA's Web site. FMCSA expects this process to inform motor carriers of all available options through a single resource. FMCSA anticipates ELD providers will be able to meet industry demands in advance of the rule's compliance date. However, FMCSA seeks comment and information about providers' ability to meet industry demand.

Third-party certification. This SNPRM is not proposing that certification be completed by a third party. While the certification process would not prohibit the use of a third-party testing service, the ELD provider would be the responsible certifying entity. Although not proposed in this SNPRM, FMCSA is seeking information on, and may consider using, a third-party

certification process whereby all ELDs would have to be independently tested, validated, certified, and stamped for listing by, for example, a nationally recognized testing laboratory. The Agency believes that such a requirement would increase costs to the motor carrier industry, but in the absence of robust standards for testing and validation for ELD-like systems in the marketplace today, the Agency was unable to clearly quantify such costs and project their potential impact on the rule's implementation. FMCSA believes that such a process may emerge by market demand even in the absence of a regulation, and this SNPRM does not prohibit such third-party certification. FMCSA requests public comment on industry's preference on a potential third-party certification requirement.

Original equipment manufacturers. FMCSA recognizes that, in some cases, ELDs will be made available by the original equipment manufacturers on new CMVs. Many original equipment manufacturers have announced that they are installing, or have plans to install, multifunctional terminals in the instrument panel of some models of CMVs. This would offer a more ''application ready'' interface for motor carriers, allowing them to use a variety of productivity, safety, and telematics applications. However, the fact that original equipment manufacturers offer those terminals—and the ability of CMV operators to take delivery of CMVs with those terminals installed—does not imply that original equipment manufacturers are subject to ELD regulations, nor that the terminals, by themselves, comply with the definition of ELDs.

This SNPRM would not regulate original equipment manufacturers; that responsibility has been delegated to NHTSA (49 U.S.C. 30111; 49 CFR 1.95(a)). FMCSA may not regulate ''the manufacture of commercial motor vehicles for any purpose'' under the safety regulation provisions of 49 U.S.C. chapter 311 (49 U.S.C. 31147(b)). The proposed regulations do not distinguish between original equipment manufacturers that install in-cab computer terminals that have ELD capacity and aftermarket providers of ELDs. ELDs installed at the time of vehicle manufacture are currently supplied by ELD providers. Regardless of the manufacturer or integrator of an ELD, a motor carrier may only use an ELD that has been certified and registered with FMCSA.

2. User Requirements

Data entry when the CMV is moving. The current AOBRD regulation allows minimal keystroke sequences to be used while the CMV is in motion. This was done to allow drivers to note State-line crossings because AOBRD data is used for fuel tax reporting purposes. Improved geographic-location technology renders this unnecessary. Today's SNPRM would eliminate the ability of a driver to enter information into an ELD while the vehicle is in motion. An ELD must not allow a driver to access it unless the CMV is stopped.

Editing and annotating RODS. FMCSA would take the ''ship's log'' approach to records. Once a record has been created using the ELD, it must not be erased and driving-time records must not be changed. However, editing a record does not erase the original data captured by the ELD, and records may be edited or annotated to correct inaccuracies or errors. Driving time may not be changed.

As proposed by this SNPRM, both the driver and the motor carrier would need to ensure that the ELD records are accurate. A driver may edit, enter missing information, or annotate the record. The motor carrier may propose changes to the driver. The driver would need to confirm or reject any change, edit the record, then re-certify the record, in order for the motor carrier's proposed change to take effect. This would preserve the driver's responsibility for the driver's records.

Entering false information. The 2011 NPRM prohibited entering false information in the ELD, subject to the same penalties as the current regulations apply to instances of falsifying RODS. This SNPRM proposes to retain and expand upon this prohibition.

Although some individuals will attempt to enter false or inaccurate information on ODND time, the possibility of some cheating does not negate the anticipated overall effectiveness of this SNPRM. The Agency is not aware of any reliable sensing technologies that can automatically differentiate between the various non-driving statuses without an unacceptable loss of privacy. ELDs, however, would dramatically reduce HOS record falsification for driving time, which would be recorded automatically, and thus would decrease the level of falsification among HOS records as a whole.

3. Enforcement Procedure and Transmitting Data

ELD data would need to be transferred to authorized safety officials at a motor carrier's facility or as part of a roadside inspection or review. Today's SNPRM would provide flexibility by allowing various options for the transfer of data, while ensuring a driver's privacy would be protected. Based on States' capabilities, FMCSA proposes alternatives for compliance with the use of primary and backup transfer mechanisms.

ELDs would need to incorporate a standardized, single-step, driver interface for the transfer of data to an authorized safety official at roadside. Under this proposal, the enforcement officer would be able to read the ELD data without entering the CMV. The uniform process for the transfer of data would allow standardized review of ELD data by authorized safety officials using eRODS software.

FMCSA currently requires AOBRDs to display the time and sequence of duty status entries, and today's SNPRM proposes the same requirement for ELDs. This SNPRM would require an ELD to provide graph-grids for the current 24-hour period and the previous 7 days, either on a display or on a printout.

FMCSA considered the option to require all ELDs to produce printouts and includes the cost-benefit analysis for this option in the RIA that supports this SNPRM. Such a broad mandate would be comparatively costly to the industry. FMCSA is, therefore, proposing to allow printing as an acceptable form of compliance for ELDs during roadside inspections, but would not require all ELDs to provide printouts. FMCSA also considered regulating details of a compliant ELD screen specification, but decided that this approach would both increase the cost of ELDs and limit innovative solutions, without markedly increasing benefits. In this SNPRM, FMCSA more generally refers to the functional information presentation requirements instead of listing specific screen requirements.

4. ELD Specifications To Protect Privacy

The primary Federal statute addressing protection of an individual's PII is the Privacy Act of 1974, as amended (5 U.S.C. 552a). This Act applies to information maintained in a ''system of records''—a group of any records under control of the Agency from which information may be retrieved by an individual's name or by some identifying number, symbol, or other identifying particular assigned to an individual. MAP–21 requires that FMCSA ''include such measures as [FMCSA] determines are necessary to protect the privacy of each individual whose personal data is contained in an [ELD].'' See 49 U.S.C. 31137(d)(2). FMCSA would limit the collection of PII to the driver's name, driver's license

number, location, the co-driver's name, and names of other users of the ELD. Additionally, information provided in driver annotations may contain PII.

To protect the privacy of drivers using ELDs, FMCSA would require a variety of controls. Both drivers and motor carrier support personnel would have to possess proper user authentication credentials (e.g., username and password) to access ELD data. For location information, FMCSA would also limit the detail of captured coordinates to two decimal places and require accuracy only to a radius of approximately 1 mile. Furthermore, when a driver indicates personal use of a CMV on the ELD, recording accuracy for position information would be further reduced to a single decimal place, resulting in an accuracy equivalent to a radius of approximately 10 miles. Finally, as explained in the data transfer section, FMCSA would require data transferred to authorized safety officials to be encrypted or, in the case of a display or print-out, physically protected, reducing the likelihood of the unauthorized capture of ELD data. This requirement addresses the protection of personal data consistent with requirements of MAP–21, 49 U.S.C. 31137(e)(2).

In support of its safety mission, FMCSA has been delegated broad authority to prescribe recordkeeping and reporting requirements (49 U.S.C. 31133(a)(8); 49 CFR 1.87(f)). However, in MAP–21, Congress restricted the way ELD data might be used. Specifically, the statute provides that the Agency ''may utilize information contained in an electronic logging device only to enforce. . . motor carrier safety and related regulations, including record-of-duty status regulations'' (49 U.S.C. 31137(e)(1)). Furthermore, appropriate measures must be instituted ''to ensure any information collected by electronic logging devices is used by enforcement personnel only for the purpose of determining compliance with hours of service requirements'' (49 U.S.C. 31137(e)(3)). As explained in the accompanying conference committee report, Congress intended that such data ''be used only to enforce federal regulations'' (H. Rep. No. 112–557, at 607 (2012)).

FMCSA reads these ELD data-use restrictions in the context of the regulatory structure and longstanding HOS enforcement practices in existence at the time MAP–21 was adopted, and the Agency does not infer from the provisions any congressional intent to diminish the Agency's previous enforcement capabilities. MAP–21 effectively directs the Agency to substitute the paper RODS requirement with a requirement that the same motor carriers use ELDs. While the primary purpose of drivers' RODS has always been the enforcement of the HOS rules, authorized safety officials use drivers' logs also for additional evidentiary purposes. However, the Agency's HOS regulations apply only to drivers operating in interstate commerce, and the Agency has often relied on drivers' logs to demonstrate interstate commerce as an element of FMCSA jurisdiction. Logs are also used to identify the driver, a function specifically required by 49 U.S.C. 31137(b)(2)(D) and inherent in enforcement of HOS requirements. Once established for purposes of determining compliance with the HOS requirements, such a legally essential predicate fact becomes the law in the case. The established fact may then supply an element of proof of non-HOS violations. FMCSA believes this is a reasonable interpretation of sec. 31137(e), given the Agency's historical multipurpose use of the logbook, which Congress intends to displace through mandatory ELD use, and in light of the reference to the enforcement of ''related regulations'' in sec. 31137(e)(1).

Although MAP–21 restricts the manner in which FMCSA may use ELD data, the Agency also believes that such data could be employed in future research efforts relating to HOS compliance and highway safety, as this research may ultimately improve compliance with HOS requirements. Although this option is available to the Agency, consistent with current practice, such data would not be retained absent a violation. For more information concerning how FMCSA would use ELD data, please see the Privacy Impact Assessment associated with this rulemaking. In the event that FMCSA elects to retain such data in connection with a future research effort, the Agency would give the public advance notice of its decision.

5. ELD Specifications To Protect Against Harassment

In prescribing regulations on the use of ELDs, the Agency is required by statute to ensure that ELDs are ''not used to harass a vehicle operator'' (49 U.S.C. 31137(a)(2)). The Agency proposes both procedural and technical provisions to protect drivers of CMVs from harassment resulting from information generated by ELDs. As voiced during public listening sessions and stated in previous comment submissions, drivers' primary harassment-related complaints focused on pressures from motor carriers to break the HOS rules. Not every type of complaint suggested a technical solution. However, 49 CFR 392.3 prohibits a motor carrier from requiring the driver to drive while ill or fatigued. Proposed § 390.36 prohibits harassment of drivers through the use of data available through an ELD or related technology. Furthermore, in the technical specifications in this SNPRM, the Agency proposes to include several technical requirements aimed, among other things, at protecting the driver from harassment.

The Agency anticipates that some motor carriers would use technology or devices that include both an ELD function and communications function. To protect a driver using such a device from unwelcome communications during rest periods, the proposed rule would require that, if a driver indicates sleeper berth status, the device must either allow the driver to mute or turn down the volume on the communication feature or turn off this feature, or that the device do one of these things automatically.

To protect the driver's data, the rule proposes to require that any changes made by a motor carrier would require the driver's approval. Furthermore, the rule proposes to ensure that a driver has a right to access the driver's ELD data during the period a carrier must keep such records without requesting the data from the motor carrier if those records are on the ELD or can be retrieved through the ELD.[12]

In developing these proposed technical performance requirements, the Agency has taken into account drivers' privacy interests. As explained above, FMCSA would not require vehicle location information to be recorded at the level of precision that could identify street addresses. Further, detailed location information would be required to be recorded only at discrete instances, such as when a driver changes duty status or at 60-minute intervals when the vehicle is in motion. FMCSA believes these privacy protection features also would help ensure that driver harassment does not arise from the use of ELDs.

6. Interoperability

Interoperability refers to the ability of an ELD to share data with ELDs from other systems and providers. FMCSA clarifies that it is proposing technical requirements to facilitate interoperability, principally through the requirement for standardized data

[12] If a driver's records were not available through the ELD, a motor carrier would need to provide the driver with access to and copies of the driver's records, on request.

output formats. FMCSA offers alternative communication interfaces to provide for the transfer of standardized ELD output data to authorized safety officials. This would allow different hardware implementations of ELDs in the market place, so long as the software produces the required data in a specific and consistent format. FMCSA understands that some carriers use more than one provider for HOS and FMS applications, and flexibility provided in the SNPRM would allow ELD providers to use standardized data formats and outputs as necessary to accommodate specific motor carrier needs.

It is FMCSA's belief that output standardization would facilitate voluntary solutions for interoperability for those motor carriers who would need such functions. FMCSA considered requiring full interoperability, but does not propose it in this SNPRM, instead focusing on a minimal compliance standard that includes standardized outputs. FMCSA does not propose full interoperability in this SNPRM because FMCSA believes that there could be additional cost to some vendors by having the government mandate a universal input standard which might create some unevenness among vendors by selecting a certain data format. Additionally, the benefits of such a standard would only be realized by carriers who utilize multiple devices from different vendors.

Though FMCSA is not proposing it, FMCSA would like to know more about the cost and benefits of full interoperability, and request information from the public concerning this topic:

1. Should FMCSA require that every ELD have the capability to import data produced by other makes and brands of ELDs?

2. To what extent would these additional required capabilities for full interoperability increase the cost of the ELDs and the support systems?

3. While full interoperability could lower the cost of switching between ELDs for some motor carriers, are there a large number of motor carriers who operate or plan to operate with ELDs from more than one vendor? How would full interoperability compare to the proposed level of standardized output? If carriers wanted to operate ELDs from more than one vendor, would this be a barrier? Would this issue be impacted by the market-share of the ELD manufacturer?

4. Would motor carriers and individual drivers have broad-based use or need for such capability? Is there a better way to structure standardized output to lower cost or encourage flexibility without requiring full interoperability?

VII. Proposed ELD Mandate

Consistent with the requirements of MAP–21, 49 U.S.C. 31137, FMCSA proposes that interstate motor carriers install ELDs in all CMVs operated by drivers who are now required to prepare paper RODS, subject to a limited exception for drivers who are rarely required to keep RODS. If a driver is required to use an ELD, the motor carrier must not require or allow the driver to operate a CMV in interstate commerce without using the device. Drivers engaged in operations that do not require the preparation of RODS may use ELDs to document their compliance with the HOS rules, but are not required to do so. Furthermore, under today's proposal, drivers currently allowed to use timecards could continue to do so under the provisions of 49 CFR 395.1(e).

Drivers who need to use RODS infrequently or intermittently would be allowed to continue using paper RODS, provided they are not required to use RODS more than 8 days in any 30-day period. This proposed provision would accommodate drivers working for motor carriers that keep timecards under 49 CFR 395.1(e)(1) and (2) and who may occasionally operate beyond the parameters of those provisions (for example, by operating outside the specified 100- or 150-air-mile radius). The new threshold of not more than 8 days in any 30-day period would replace the threshold of 2 days out of any 7-day period that was proposed in the February 2011 NPRM in order to provide additional flexibility for this population. The Agency seeks comment on the proposed 8 out of 30-day threshold, how it would impact various segments of the industry, the potential cost savings resulting from this limited exception, and whether a shorter or longer duration would result in a more appropriate balance between the needs of enforcement and carrier flexibility. An eight-day period is the time-frame for current hours-of-service record-keeping requirements. Currently drivers are required to keep the previous seven days' records and the present day's records. Using eight days as the threshold for RODS usage to switch into ELD use keeps this time-frame consistent.

FMCSA evaluated whether ELD usage required by this threshold could reasonably achieve positive net benefits, and concluded that some ELDs fulfill this condition. In addition, vendors have indicated that may produce additional low-cost ELDs that are closer to the minimally compliant device specifications. See section 6.5 (page 72) of the accompanying RIA for a more detailed discussion.

As with the HOS record-retention provision of § 395.8(k), the period would move with the calendar. For example, a driver who operates beyond the short-haul radius for 8 days in the previous 30-day period would need to use an ELD on the sixth day and any subsequent day when the driver exceeded the short-haul exemption. The 30-day period restarts each day, looking back at the previous 30 days. This is a similar concept to the requirements of 60 hours in 7-day or 70 hours in 8-day limits for on duty time under the HOS regulations.

It is estimated that this proposal would generate benefits that exceed the costs of installing ELDs and the costs associated with increased levels of compliance with the HOS rules. The proposal addresses the segment of the motor carrier industry with the highest safety and HOS compliance gaps. It also acknowledges the operational distinctions between drivers allowed to use timecards under 49 CFR 395.1(e)(1) and (2) exclusively, and the other drivers who would be required to use ELDs. More information concerning the estimated costs and benefits is available in the RIA associated with this rulemaking.

In the 2011 NPRM, the Agency raised a number of issues concerning the scope of the ELD mandate, and today's SNPRM modifies that proposed mandate in some respects. Given the distinction between short-haul and long-haul operations, and the proposed exception for drivers infrequently required to keep RODS, FMCSA is not proposing any additional exceptions addressing specific sectors of the industry, size of operations, or specific types of CMVs at this time. Nor is the Agency any longer proposing to require ELD use by passenger carriers whose drivers are not required to keep RODS, e.g., local operations permitted to rely on timecards under existing 49 CFR 395.1(e)(1). The Agency is also not proposing to include all motor carriers transporting bulk quantities of HM or all carriers subject to part 395 (the ''true universal'' approach). The estimated compliance costs of the ''true universal'' approach recommended by NTSB [13] exceed the estimated safety benefits for most short-haul motor carriers; the comprehensive estimated net benefits are negative. The mandated use of ELDs as part of a remedial directive, as in the

[13] NTSB Safety Recommendation H–07–041 issued on December 17, 2007.

vacated April 2010 rule, also is not proposed today. Finally, the Agency is not proposing an exception based on HOS compliance history in today's SNPRM because: (1) It could provide an unfair advantage to motor carriers for whom FMCSA has insufficient data to assess their HOS-related safety status; and (2) the dynamic nature of safety status measurements would present significant challenges to communicating changes in carriers' safety status levels.

VIII. Proposed Compliance Dates

A. Effective and Compliance Dates for a Final Rule

1. Technical Specifications

An ELD provider could begin manufacturing ELDs according to the technical specifications of this rulemaking on the effective date of a final rule (30 days after the publication of a final rule in the **Federal Register**). This means that ELDs meeting the requirements of this rulemaking could be both manufactured and used to comply voluntarily with this rule soon after the date of the final rule's publication and establishment of FMCSA's public Web site.

2. ELD Mandate

A driver or motor carrier subject to this proposed regulation would not be required to install or use an ELD until the compliance date (2 years after the effective date of the final rule). However, a motor carrier that required its drivers to use AOBRDs that met the requirements of § 395.15 before the compliance date for the ELD final rule could continue using such devices for 2 years after the rule's compliance date. At that point, a driver subject to the rule would need to use an ELD that met the new specifications. Today's SNPRM would not preclude a driver or motor carrier who chose to voluntarily adopt ELDs in advance of the compliance date from doing so.

3. Supporting Documents

The proposed supporting document requirements in this rulemaking would take effect on the compliance date for the final rule (2 years after the effective date). On that date, the regulatory provisions would supersede the policy on retention of supporting documents and the use of electronic mobile communications/tracking technology issued June 10, 2010 (75 FR 32984).

4. Harassment

Because the harassment provisions are tied to the presence of part 395, subpart B compliant ELDs, there is no specific compliance date. If a driver worked for a motor carrier that implemented ELDs voluntarily (before the 2-year compliance date), that driver could make a complaint before the ELD compliance date, as noted in Section X, below. However, a driver working for a motor carrier using AOBRDs before the compliance date would be unable to use the complaint process proposed in today's SNPRM until a compliant ELD device was in place. In other words, the harassment language would take effect on the rule's effective date, but, as a practical matter, the provision would be unavailable until an ELD was in use.

The existing avenues to submit complaints remain available to drivers, including the FMCSA complaint process for substantial violations (49 CFR 386.12), the FMCSA National Consumer Complaint Helpdesk, and the complaint process at the U.S. Department of Labor under 49 U.S.C. 31105(b). FMCSA also cooperates with the U.S. Department of Justice in appropriate enforcement cases.

B. 2-Year Transition Period

The 2011 NPRM proposed a compliance date 3 years after the effective date of the anticipated final rule. Furthermore, motor carriers would have been required to install compliant devices in CMVs manufactured on or after June 4, 2012.

MAP–21, however, requires a compliance date 2 years after publication of a final rule (49 U.S.C. 31137(b)(1)(C)). In implementing the statute, the Agency seeks to balance effective roadside enforcement against the transition costs to motor carriers that installed AOBRDs before the compliance date of the ELD final rule. Thus, the Agency proposes to allow continued use of § 395.15 devices, installed before the compliance date, for 2 years beyond the compliance date. To enhance enforcement, all motor carriers that use RODS—including those who used AOBRDs before the compliance date—would be required to use compliant ELDs by 2 years after the compliance date. The Agency does not propose to require use of ELDs based on a vehicle's manufacture date.

C. Cost Associated With Replacing AOBRDs

In setting the proposed compliance date, FMCSA considered the costs of replacing voluntarily adopted AOBRDs and addressed those costs in the RIA prepared for this SNPRM. Although the proposed performance specifications for ELDs differ from those published in the April 2010 rule, FMCSA believes that most HOS recording devices and systems manufactured on or after 2010 will be able to comply with this rule with relatively inexpensive software upgrades. To avoid understating costs, FMCSA assumed, however, that all devices and systems manufactured before 2010 would have to be replaced. The compliance date for a final rule that would follow this SNPRM is anticipated to be at the end of the useful life of these devices. FMCSA estimates that annualized costs to all voluntary adopters would be less than $5 million. The RIA contains more details on how these estimates were derived. FMCSA seeks comments on the assumptions and methodology used.

IX. Proposed Supporting Document Provisions

Today's SNPRM defines ''supporting document'' in a manner that generally tracks the definition found in section 113(c) of the HMTAA, i.e., ''any document . . . generated or received by a motor carrier . . . in the normal course of business that could be used, as produced or with additional identifying information, to verify the accuracy of a driver's record of duty status.'' In accordance with HMTAA, sec. 113(b)(2), this SNPRM would limit the supporting documents that a motor carrier must maintain by specifying the number, category, and required elements for a supporting document and, subject to a limited exception, would not require supporting documents that reflect driving time. The reference in the statute to a ''commercial motor vehicle driver'' is not repeated in today's proposed definition because the specific obligations of the driver are addressed in proposed § 395.11. The supporting document requirements would supersede the June 2010 policy on the retention of supporting documents (75 FR 32984) and would take effect the same date as the ELD compliance date (2 years after the effective date of a final rule).

FMCSA acknowledges that some stakeholders have claimed that the use of ELDs eliminates the need to retain supporting documents. While properly functioning ELDs eliminate the need for supporting documents demonstrating driving time, some supporting documents are still necessary to ensure HOS compliance. In today's SNPRM, FMCSA clearly delineates between the information and data produced by the ELD and what FMCSA considers a supporting document.

FMCSA believes that today's proposal is consistent with both the HMTAA and MAP–21. It balances the need for effective HOS enforcement and the burden on motor carriers to meet their obligation to ensure compliance in a

cost effective manner. It is also consistent with motor carriers' current obligations related to the retention and monitoring of supporting documents.

Among the major changes from the February 2011 NPRM, today's SNPRM would eliminate the former proposals that each motor carrier maintain an HOS Management System and that a motor carrier certify as to the lack of supporting documents showing required elements. Further, today's SNPRM would eliminate the proposal in the 2011 NPRM that a single document, showing the start and end of any ODND period, could satisfy the supporting documents requirement.

A. Applicability

The motor carrier would need to maintain supporting documents, which are generated or received in the normal course of business, to verify a driver's HOS compliance. The Agency defines ''supporting document'' to clarify that a document can be ''in any medium,'' that is, either a paper or an electronic document.

The Agency would not require motor carriers to retain supporting documents to verify driving time, because the ELD would capture this information. The Agency's position is that ELDs record driving time more accurately than drivers using paper RODS and supplant the need for paper logs and any supporting documents that would have been generated or received concerning driving time. FMCSA, however, proposes to require motor carriers to retain, for each driver, supporting documents to verify each driver's ODND periods.

The Agency proposes generally to require a single supporting document standard. For drivers who continue to use paper RODS, however, toll receipts would also need to be maintained. An otherwise uniform supporting document requirement will benefit both motor carriers and enforcement personnel by promoting standardized document retention and enforcement practices.

FMCSA's proposal would require motor carriers and CMV drivers to share responsibility for complying with the proposed supporting document requirements. A driver would be required to submit his or her supporting documents to the employing carrier within 8 days. While a driver would not be required to keep all supporting documents in the CMV, a driver would, nonetheless, need to make supporting documents that are in the driver's possession available, on request, during a roadside inspection.

B. Categories

In today's SNPRM, FMCSA would modify the categories of supporting documents that were proposed in the 2011 NPRM to better accommodate the broad diversity of the motor carrier industry. Specifically, the Agency proposes to alter the number of categories to provide clarification and more detailed descriptions of the supporting documents within each category. For every 24-hour period a driver is on duty, the motor carrier would be required to maintain not more than 10 supporting documents from the following 5 categories:

- Bills of lading, itineraries, schedules, or equivalent documents that indicate the origin and destination of each trip;
- Dispatch records, trip records, or equivalent documents;
- Expense receipts;
- Electronic mobile communication records, reflecting communications transmitted through an FMS for the driver's 24-hour duty day; and
- Payroll records for the driver's 24-hour duty day, settlement sheets, or equivalent documents that indicate what and how a driver was paid.

These categories would provide the Agency and motor carriers with the supporting documents necessary to perform their safety oversight functions.

FMCSA acknowledges the view of some stakeholders that supporting documents ought to be limited to a specific, finite list of documents to ease compliance. Given the wide diversity of operations in the CMV industry, however, this approach would not be feasible from an HOS enforcement perspective. The proposed categories are intended to accommodate various sectors of the industry.

C. Data Elements

In today's SNPRM, FMCSA proposes to clarify the data elements that would need to be included on a document for it to qualify as a supporting document and be counted toward the proposed 10-document retention cap. These proposed elements are: (1) Driver name or carrier-assigned identification number, either on the document or on another document enabling the carrier to link the document to the driver, or the vehicle unit number if that number can be linked to the driver; (2) date; (3) location (including name of nearest city, town, or village); and (4) time. If sufficient documents containing these four data elements were not available, a motor carrier would be required to maintain supporting documents that contain the driver name or motor carrier-assigned identification number, date, and location.

D. Number

FMCSA proposes a cap of 10 supporting documents that would need to be maintained for each day a driver is on duty. While a motor carrier may not have 10 supporting documents for a driver's duty day, in establishing a cap, the Agency has attempted to balance the need for adequate enforcement of the HOS regulations against any burden on carrier operations, while applying the requirements of the HMTAA.

To arrive at a total of 10, all electronic mobile communication records involving a driver over the course of the driver's 24-hour period would count as a single document, regardless of the number of individual communications involved. All other types of supporting documents that are relevant to distinct activities—such as a payroll document covering one or several drivers, a bill of lading for a particular delivery, and an expense receipt—would count as individual documents. In instances where there are more than 10 supporting documents available, a motor carrier would need to retain the first and last supporting documents containing an indication of time for each end of a driver's duty day.

The Agency recognizes that, in many cases, fewer than 10 supporting documents would be accumulated for a driver's duty day. If the supporting document cap were not reached, the motor carrier would be required to keep all of the supporting documents for that period. There would be no obligation on a motor carrier to create or annotate documents that it did not otherwise generate or receive in its normal course of business.

E. Submission to Motor Carrier

In today's SNPRM, FMCSA proposes that a driver who is required to maintain RODS or use an ELD submit supporting documents (and the RODS or the ELD record) to the driver's motor carrier within 8 days of either the 24-hour period to which the documents pertain or the day the document comes into the driver's possession, whichever is later. The SNPRM would extend the time for a driver to submit supporting documents to the motor carrier beyond the 3-day and 1-day periods proposed in the February 2011 NPRM. In addition, unlike the 2011 NPRM, the SNPRM proposes the same submission period for both electronic and paper records: 8 days.

F. HOS Enforcement Proceedings

Today's SNPRM does not contain the HOS management system requirement proposed in the 2011 NPRM. Instead, to further HOS enforcement, FMCSA proposes to add procedural provisions that would apply during any proceeding under 49 CFR part 395. Consistent with a motor carrier's existing obligation to require that its drivers comply with the FMCSRs, today's SNPRM would provide that a motor carrier is liable for an employee's act, or failure to act, that violates 49 CFR part 395, provided that the act or omission is within the course of the motor carrier's operations. The burden of proving that the employee was acting outside the scope of the motor carrier's operation would be on the motor carrier. Finally, knowledge of any document, either in a motor carrier's possession or available to the motor carrier, that could be used to ensure compliance with 49 CFR part 395 would be imputed to the motor carrier.

G. Carriers Using Paper Logs

Under today's SNPRM, certain drivers who would infrequently need to keep RODS could continue to use paper logs. Any carriers that would be required to maintain supporting documents when their drivers keep paper logs would be required to maintain the same number and types of supporting documents that are required for ELD users. Motor carriers whose drivers use paper logs would also need to maintain toll receipts.

H. Self-Compliance Systems

Section 113(b)(4) of the HMTAA requires FMCSA to provide exemptions for qualifying ''self-compliance systems,'' in place of supporting documents retention. In satisfaction of section 113(b)(4), today's SNPRM would add a provision to authorize, on a case-by-case basis, motor carrier self-compliance systems (49 CFR 395.11(h)). Consistent with our 2011 NPRM, under today's SNPRM, a motor carrier could apply for an exemption under existing 49 CFR part 381 provisions for relief from the requirements for retaining supporting documents for RODS. While the authority to exempt self-compliance systems is derived from HMTAA, the Agency relies on existing 49 CFR part 381 provisions to govern exemption requests.

X. Ensuring Against Driver Harassment

In accordance with 49 U.S.C. 31137(a)(2), FMCSA proposes both procedural and technical provisions aimed at protecting CMV operators from harassment involving ELDs or connected technology. The primary focus of the Agency's proposal addresses the problems of: (1) Drivers being pressured to exceed HOS limitations; and (2) inappropriate communications that affect drivers' rest periods. The Agency addresses the related but distinct issue of driver coercion in Part XI, below.

Although the statute provides that regulations relating to ELDs shall ''ensur[e] that an electronic logging device is not used to harass a vehicle operator,'' the Agency notes that it cannot adopt a regulation guaranteeing that every instance and form of harassment, whether real or perceived, is eliminated. Nor does the Agency believe that Congress intended that the Agency interfere with labor/management agreements or disputes not directly related to the required use of ELDs, or duplicate the role Congress has assigned to the U.S. Department of Labor under 49 U.S.C. 31105.

As explained in Part VI of this SNPRM, FMCSA would refine the requirements of an ELD to include only recording functions; anything beyond basic recording of the required data elements would not be required by an ELD. However, the SNPRM would not prohibit motor carriers from employing communication, FMS, and other functions beyond mere recording. Many current systems, which have been on the market for years, go beyond the recording abilities proposed in this SNPRM; and the Agency does not infer from the anti-harassment provision in section 31137(a)(2) a congressional intent that FMCSA ban or impose significant new restrictions on those functionalities in this rulemaking. Therefore, to the extent necessary to address harassment, FMCSA would address use of technology beyond the minimally compliant ELD only if that technology encompassed an ELD function.

A. Drivers' Access to Own Records

ELDs meeting the proposed technical requirements in today's SNPRM would help protect drivers from pressures to violate the HOS rules. However, to ensure adequate protection, it is critical that drivers have access to their ELD records. FMCSA proposes to require that drivers be able to obtain copies of their own ELD records available on or through an ELD. On request, a motor carrier must provide its drivers with access to and copies of their ELD records for the 6 months that the motor carrier is required to maintain the records.

B. Explicit Prohibition on Harassment

FMCSA proposes to add a new § 390.36 to prohibit a motor carrier from engaging in harassment of a driver. As defined, ''harass or harassment'' would mean ''an action by a motor carrier towards a driver employed by the motor carrier (including an independent contractor while in the course of operating a CMV on behalf of the motor carrier) involving the use of information available through an ELD . . . or through other technology used in combination with and not separate from the ELD, that the motor carrier knew, or should have known, would result in the driver violating § 392.3 or part 395 [of 49 CFR].'' This definition recognizes the dire safety consequences that can result when the pressure a motor carrier imposes on a driver results in an HOS violation or in a driver operating when the driver's alertness is impaired through fatigue or illness.

Under today's proposal, however, a driver who believed that a motor carrier required him or her to violate § 392.3 or part 395 in a manner described in the proposed definition could file a complaint alleging harassment with FMCSA.[14]

Although FMCSA's definition of harassment would not require adverse action by the carrier against the driver, it would require an actual violation of § 392.3 or part 395 of the FMCSRs. MAP–21 eliminated the reference to productivity in 49 U.S.C. 31137; however, the Agency would not penalize motor carrier actions aimed at productivity, provided that the action did not constitute harassment as defined in today's proposal.

C. Complaint Procedures

The SNPRM proposes to add new §§ 386.12a and 390.36, prescribing a process for filing a harassment complaint. Among other things, the complaint would need to describe the action by the motor carrier that the driver deems harassment, including how the ELD or related technology was used to contribute to the carrier's action. The complaint would also need to identify how the motor carrier's action violated 49 CFR 392.3 or part 395.

The proposals outlined in this SNPRM would give drivers control over their own ELD records and ensure driver access to such records. Furthermore, drivers would be able to annotate their records reflecting concerns such as driver fatigue. These

[14] Currently, drivers can file an informal complaint on any violation of the FMCSRs with FMCSA's National Consumer Complaint Database help desk. This option would not change.

records would provide drivers with better information to substantiate any complaint.

D. Enhanced Penalties To Deter Harassment

FMCSA proposes a new penalty for a motor carrier that engages in harassment. Because harassment would be considered in cases of alleged HOS violations, the penalty for harassment would supplement the underlying HOS violations of 49 CFR 392.3 and part 395. An underlying violation would have to be found for a penalty for harassment to be assessed. Further, harassment would constitute an acute violation under part 385.

E. Mute Function

FMCSA acknowledges that some drivers feel their motor carriers inappropriately contact them during rest periods through FMS communication systems—technology frequently used, but not required, as part of a minimally compliant ELD. Thus, if the driver puts the ELD into a sleeper berth status, and, in the case of co-drivers, no other driver has logged into the ELD in an on-duty driving status, the SNPRM specifies that the ELD must automatically mute the ELD's volume, turn off the ELD's audible output, or allow the driver to do so. FMCSA believes this addition is important to allow drivers to obtain adequate rest during sleeper berth periods.

F. Edit Rights

FMCSA recognizes that some electronic recorders currently in use allow changes to drivers' HOS records by motor carriers or dispatchers without the driver's input. FMCSA proposes to revise the procedures for amendment of electronic records to better protect the integrity of those records and to prevent related instances of driver harassment. In today's SNPRM, the word ''edit'' means a change to an electronic record that does not overwrite the original record. An example of such a change would be revising a duty status designation from ''off duty'' to ''on-duty not driving.'' Edits would need to reflect their authorship, and an edit could not convert driving time into non-driving time. In this SNPRM, FMCSA proposes that a driver may edit and the motor carrier may request edits to electronic RODS. Drivers would have a full range of edit abilities and rights over their own records (except for the listed limitations in the rule), while a carrier would be allowed to propose edits for a driver's approval or rejection.

All edits, whether made by a driver or the motor carrier, would have to be annotated to document the reason for the change. For example, an edit showing time being switched from ''off duty'' to ''on-duty not driving'' could be annotated by the carrier to note, ''Driver logged training time incorrectly as off duty.'' This edit and annotation would then be sent to the driver for approval. FMCSA believes this is the most efficient way to capture these data and ensure that HOS violations are not being concealed from either party. FMCSA believes that there are good reasons for both the motor carrier and the driver to be able to view HOS records and understands that there are legitimate reasons that both a motor carrier and a driver might want to edit these records. For example, if a driver were to inadvertently show a 30 minute break as ODND, the record could be annotated to show a mandatory break. It is the Agency's view that these provisions, and additional requirements addressing security of data, would significantly reduce the potential for driver harassment resulting from use of ELDs.

G. Tracking of Vehicle Location

FMCSA acknowledges that some drivers view the FMS, which often includes ELD functions as well as additional recording capabilities and real-time communication features, as a mechanism for the harassment of drivers or invasion of privacy. Motor carriers counter, however, that companies use this technology to know where their CMVs are at all times and how much time their drivers may continue to operate in compliance with the HOS regulations. The technical specifications in today's SNPRM are intended to address drivers' concerns in terms of the level of data collected for HOS enforcement.

Location recording is a critical component of HOS enforcement. Drivers have always had to record certain location information on paper RODS. Although electronic recording is more accurate, the acquisition of location information for CMV operators is not a novel requirement. Nonetheless, FMCSA does not propose to require real-time tracking of CMVs or the recording of precise location information. Instead, location data would be required to be recorded when the driver changes duty status, when a driver indicates personal use or yard moves, when the CMV engine powers up and shuts down, and at 60-minute intervals when the vehicle is in motion. During on-duty driving periods, FMCSA would limit the location accuracy for HOS enforcement to coordinates of two decimal places, providing an accuracy of approximately a 1-mile radius for purposes of HOS enforcement. However, when a CMV is operated for personal use, the position reporting accuracy would be even further reduced to an approximate 10-mile radius. Thus, the Agency would not require that an ELD determine or record a CMV's or driver's exact location. Moreover, the SNPRM would not require that the ELD record and transmit any CMV location data in real time, either to the motor carrier or to enforcement officials.

H. FMCSRs Enforcement Proceedings

MAP–21 requires that the Agency institute appropriate measures to preserve the confidentiality of personal data recorded by an ELD that is disclosed in the course of an FMCSRs enforcement proceeding (49 U.S.C. 31137(e)(2)). To protect data of a personal nature unrelated to business operations, the Agency would redact such information included as part of the administrative record before a document was made available in the public docket.

I. Summary

In today's SNPRM, FMCSA would provide enhanced procedural protections and remedies intended to protect drivers using ELDs from actions considered harassment. In addition, the proposed technical specifications for the ELD were specifically designed to provide drivers additional protection. By recording the time spent behind the wheel of a CMV accurately, the ELD would make all parties involved aware of the actual time for a driver to make a certain trip. FMCSA believes this increased transparency would lead to reduced pressure on drivers to falsify their RODS. ELDs provide a more reliable and simpler tool for recording drivers' HOS than paper RODS. FMCSA believes the use of ELDs would lead, not only to better compliance with HOS regulations, but also to a clearer understanding of driver schedules. The technical specifications aimed at protecting drivers from harassment are further addressed under Part IV.

XI. MAP–21 Coercion Language

As a result of section 32911 of MAP–21, FMCSA will publish an NPRM that proposes regulations that would prohibit motor carriers, shippers, receivers, or transportation intermediaries from coercing drivers to operate CMVs in violation of certain provisions of the FMCSRs or the Hazardous Materials Regulations. The coercion NPRM would propose procedures for drivers to report incidents of coercion to FMCSA, rules of practice the Agency would follow in

response to allegations of coercion, and penalties that would be imposed on entities found to have coerced drivers.

The coercion rule will differ from the anti-harassment provisions proposed in this rulemaking. Major differences include that the proposed coercion rule will address shippers, receivers, and transportation intermediaries as well as motor carriers; and its focus is on the loss or potential loss of future business or work. While the term ''coercion'' will be defined in the coercion rule, today's SNPRM specifically proposes prohibiting motor carriers from coercing drivers to falsely certify ELD records.

XII. Section-by-Section Analysis

This SNPRM contains significant changes to the NPRM published February 1, 2011. Today's proposed regulatory text supersedes the February 2011 NPRM. In light of the vacatur of the April 2010 final rule and the enactment of MAP–21, this SNPRM addresses requirements for technical specifications for ELDs, the use of ELDs, the maintenance of supporting documents, and the potential for harassment of drivers related to ELD technology. This section-by-section analysis describes the revised proposed rule provisions in numerical order.

A. Part 385—Safety Fitness Procedures

In Section VII of appendix B of part 385, the list of acute and critical regulations would be modified to reflect proposed changes in parts 390 (driver harassment) and 395 (hours of service).

B. Part 386—Rules of Practice for Motor Carrier, Intermodal Equipment Provider, Broker, Freight Forwarder, and Hazardous Materials Proceedings

1. Section 386.1

This section would be modified to reflect the handling of substantial violations and harassment violations by the appropriate Division Administrator, rather than the Assistant Administrator.

2. Section 386.12

This section would be changed to reflect the handling of substantial violation complaints by the Division Administrator for the State where the incident occurs, rather than the Assistant Administrator. It would prescribe procedures governing these complaints. It would also address how allegations brought to the attention of other officials in the Agency would be handled.

3. Section 386.12a

This section would be added to prescribe procedures for the handling of harassment complaints filed with the Division Administrator for the State where the incident occurs. It would prescribe the information that a driver would need to include in a written complaint alleging harassment by a motor carrier as well as procedures that the Division Administrator would need to follow in handling complaints. It would also address how allegations brought to the attention of other officials in the Agency would be handled.

4. Appendix B to Part 386

New paragraph (a)(7) would be added to emphasize how the Agency would impose penalties upon a finding of driver harassment.

C. Part 390—Federal Motor Carrier Safety Regulations; General

FMCSA would add a new § 390.36 to define harassment, prohibit motor carriers from engaging in harassment, and reference the process under which a driver could file a written complaint.

D. Part 395—Hours of Service of Drivers

Today's SNPRM would divide part 395 into two subparts. Proposed subpart A, General, would include §§ 395.1 through 395.19. Proposed subpart B, ELDs, would address the design and use of ELDs and would consist of §§ 395.20 through 395.38 and detailed performance specifications applicable to ELDs in the appendix to subpart B.

Subpart A—General

1. Section 395.1(e)

This paragraph would be amended to reflect that drivers who qualify to use the short-haul exceptions under 49 CFR 395.1(e)(1) or (2) would not be required to keep supporting documents under proposed § 395.11.

2. Section 395.2

In this section, FMCSA proposes to add the following new definitions.

Electronic Logging Device (ELD). FMCSA would add a new definition of ''ELD'': A device or technology that meets the requirements of proposed subpart B of part 395.

Supporting Document. FMCSA proposes a definition of ''supporting document'' similar to the definition in the HMTAA. Substantive provisions pertaining to supporting documents are proposed in § 395.11.

3. Section 395.7

This section would add procedural provisions that would apply during any proceeding involving the enforcement of 49 CFR part 395. Specifically, it would provide that a motor carrier would be liable for an employee's acting or failing to act in a manner that violates part 395 as long as the action was within the course of the motor carrier's operation. The burden of proving that the employee acted outside the scope of the motor carrier's operation would be on the motor carrier. Finally, knowledge of any document in the motor carrier's possession, or available to the motor carrier, that could be used to ensure compliance with part 395 would be imputed to the motor carrier.

4. Section 395.8

This section addresses general requirements for HOS RODS. Subject to limited exceptions, it would require motor carriers to install and use ELDs that comply with the proposed technical specifications no later than 2 years following the rule's effective date.

Subject to limited exceptions, under paragraph (a)(1), motor carriers would need to require drivers that keep RODS to use ELDs. The rule would allow for continued use of AOBRDs (2-year grandfathering of devices installed prior to compliance date) as well as use of paper RODS by drivers requiring RODS not more than 8 days in a 30-day period after the rule's compliance date. Paragraph (a)(2) would require drivers to use the recording method required by their motor carrier and to submit their RODS to their carrier within 8 days. The requirement for motor carriers to use ELDs, however, would not apply when an extension is granted by FMCSA to allow a motor carrier to repair, replace, or service one or more malfunctioning ELDs under § 395.34(d).

Paragraph (e) would prohibit a motor carrier or driver from making a false report in connection with duty status and from tampering with, or allowing another person to tamper with, an AOBRD or ELD to prevent it from recording or retaining accurate data.

Paragraph (i), which currently allows submission of records to a motor carrier within 13 days, would be eliminated in light of proposed § 395.8(a)(2)(ii), which would require drivers to submit records to the motor carrier within 8 days.

Paragraph (k)(1) would continue to require a motor carrier to maintain RODS and supporting documents for a 6-month period.

5. Section 395.11

FMCSA would place the detailed requirements concerning supporting documents in § 395.11.

Paragraph (a) provides that the new supporting document provisions would take effect 2 years after the effective date of the final rule. Until this date, the June 2010 policy on the retention of supporting documents and the use of electronic mobile communication/

tracking technology would remain in place (75 FR 32984).

Paragraph (b) would address the drivers' obligation to submit supporting documents to their employers within 8 days. (The term ''employer'' is defined in § 390.5.)

Paragraph (c) describes five categories of supporting documents generated or received in the normal course of business. These categories would include: (1) Bills of lading, itineraries, schedules, or equivalent documents indicating the origin and destination of a trip; (2) dispatch records, trip records, or equivalent documents; (3) expense receipts related to ODND time; (4) electronic mobile communication records reflecting communications transmitted through an FMS (e.g., text messages, email messages, instant messages, or pre-assigned coded messages); and (5) payroll records, settlement sheets, or equivalent documents reflecting driver payments. Paragraph (c) also would address the data elements that a document must reflect to qualify as a supporting document.

Paragraph (d) generally proposes to require a motor carrier to retain, at most, 10 documents for an individual driver's 24-hour duty day. It also describes how FMCSA would treat electronic mobile communication records in applying the 10-document cap. If a driver were to submit more than 10 documents for a 24-hour period, the motor carrier would need to retain the documents containing earliest and latest time indications. Finally, for drivers that continued to use paper RODS, all toll receipts would also need to be maintained, irrespective of the 10-document requirement. The Agency interprets the reference to ''toll receipts'' to include electronic records.

Paragraph (e) would require a motor carrier to maintain supporting documents in a way that allows the documents to be matched to a driver's RODS.

Paragraph (f) would prohibit motor carriers and drivers from obscuring, defacing, destroying, mutilating, or altering information in a supporting document.

Paragraph (g) would require that a driver make available, during a roadside inspection, any supporting document in the driver's possession.

Paragraph (h) describes the proposed process for submitting requests for self-compliance systems that FMCSA may authorize on a case-by-case basis, as required by HMTAA.

6. Section 395.15

FMCSA proposes to sunset the authority to use AOBRDs 2 years after the rule's effective date. However, those motor carriers that have installed AOBRDs prior to the sunset date would be allowed to continue using AOBRDs for an additional 2 years (i.e., up to 4 years after the effective date of the final rule).

Subpart B—Electronic Logging Devices (ELDs)

7. Section 395.20

Section 395.20 paragraph (a) would describe the scope of ELDs described in proposed subpart B.

Paragraph (b) would describe the applicability of technical specifications required for ELDs under subpart B, effective 2 years after the rule's effective date.

Paragraph (c) would clarify that, throughout subpart B, the term ''ELD'' includes an ELD support system, as applicable.

8. Section 395.22

Section 395.22 outlines the proposed responsibilities of the motor carrier related to the ELD.

Paragraph (a) proposes a requirement for motor carriers to use only ELDs registered and certified with FMCSA and listed on the Agency's Web site.

Paragraph (b) outlines the responsibilities of a motor carrier and its support personnel.

Paragraph (c) lists the proposed driver identification data that would be required.

Paragraph (d) details the identification data for motor carrier support personnel.

Paragraph (e) describes the proposed requirement for a motor carrier to require its drivers and support personnel to use the proper log-in process for an ELD.

Paragraph (f) proposes the requirement for a motor carrier to calibrate and maintain ELD systems.

Paragraph (g) proposes requirements for mounting portable ELDs.

Paragraph (h) lists the information a motor carrier would be required to provide to its drivers who are using ELDs in their CMVs.

Paragraph (i) would require a motor carrier to maintain a driver's ELD records so as to protect the driver's privacy in a manner consistent with sound business practices. However, given the diversity of the regulated community and business practices, the Agency declines to require specific record maintenance requirements. It also would require that the motor carrier keep a back-up copy of ELD records in storage.

Paragraph (j) would require a motor carrier to provide 6 months of ELD records electronically to authorized safety officials as requested during an enforcement activity.

9. Section 395.24

Paragraph (a) would require a driver to provide data as prompted by the ELD and as specified by the motor carrier.

Paragraph (b) lists the duty statuses that a driver may choose from, corresponding to the duty status categories currently listed on paper RODS.

Paragraph (c) lists other data that a driver may sometimes need to enter manually into the ELD, such as annotations, file comments, verification, CMV number, trailer numbers, and shipping numbers, as applicable.

Paragraph (d) would require a driver to produce and transfer the driver's HOS data to an authorized safety official on request.

10. Section 395.26

Paragraph (a) outlines the purpose of the section, namely, to provide an overview of what an ELD accomplishes in accordance with the provisions of the appendix to proposed subpart B of part 395.

Paragraph (b) lists the data elements recorded when an ELD logs an event.

Paragraph (c) describes requirements for data recording during a change of duty status event.

Paragraph (d) describes what an ELD records during an intermediate recording when the CMV is in motion and there has been no change of duty status entered into the ELD and no other intermediate status recorded in an hour.

Paragraph (e) describes what an ELD records when a driver selects a special driving category, i.e., personal use or yard moves.

Paragraph (f) describes what an ELD records when a driver certifies a daily log.

Paragraph (g) describes what an ELD records when there is a login/logoff event.

Paragraph (h) describes what happens when the CMV's engine powers on or off.

Paragraph (i) describes the recording of location information during authorized personal use of a CMV.

Paragraph (j) describes what happens in the case of an ELD malfunction event.

11. Section 395.28

Paragraph (a) lists special driving categories and explains that motor carriers may configure these settings based on company policies. This paragraph also lists driver responsibilities when selecting one of these special driving categories.

Paragraph (b) proposes that a motor carrier may configure an ELD to show that a driver is exempt from the requirement to use an ELD.

Paragraph (c) proposes that a driver excepted under § 390.3(f) or § 395.1 must annotate the record to explain why the driver is excepted.

12. Section 395.30

Paragraph (a) proposes that both drivers and motor carriers are responsible for ensuring that drivers' ELD records are accurate.

Paragraph (b) lists the proposed requirements for a driver to review and certify that the driver's RODS are accurate.

Paragraph (c) explains the proposed process for a driver to edit, add missing information to, and annotate RODS to fix information entered in error.

Paragraph (d) explains the proposed process for motor carrier support personnel to request edits of a driver. This paragraph also explains that, under the proposal, edits made to the driver's record by anyone other than the driver would require the driver's approval or rejection.

Paragraph (e) would prohibit a motor carrier from coercing a driver to falsely certify the driver's ELD records. FMCSA plans to define the term ''coerce'' in a separate rulemaking.

Paragraph (f) would prohibit a motor carrier from manipulating or deleting ELD records or their source data streams.

13. Section 395.32

Paragraph (a) describes the concept of ''non-authenticated driver logs,'' an account which is assigned any driving time not associated with an authorized ELD user and driver.

Paragraph (b) describes how a driver would have to review any driving time listed under the ''non-authenticated driver log'' account upon login to the ELD. If there were driving time listed under this account that belonged to the driver, the driver would be required to add that driving time to the driver's own record.

Paragraph (c) lists the proposed requirements for a motor carrier to explain or assign ''non-authenticated driver log'' time. This paragraph proposes that the motor carrier retain these records as a part of its HOS ELD records and present them to safety enforcement officials.

14. Section 395.34

Paragraph (a) explains what a driver would be required to do should the ELD malfunction. It specifies that the driver would need to notify the motor carrier of an ELD malfunction in writing within 24 hours. Written notice could be provided by electronic means such as email.

Paragraph (b) explains what a driver would be required to do if the driver's HOS records were inspected during a malfunction.

Paragraph (c) explains that a driver would have to address any data inconsistency in the ELD according to the ELD provider's and motor carrier's procedures.

Paragraph (d) would require a motor carrier to take action to repair any malfunctioning ELD within 8 days of discovery of the malfunction or a driver's notification of the malfunction. If a motor carrier needs additional time to repair, replace, or service one or more ELDs, paragraph (d) also provides a process for requesting an extension of time.

15. Section 395.36

Paragraph (a) would require a motor carrier to provide its drivers with access to their own ELD records in a way that does not require requesting them through the motor carrier if those records are available on or retrievable through the ELD.

Paragraph (b) would require a motor carrier to give a driver access to the driver's own ELD records, upon request, if they are unavailable through the ELD.

16. Section 395.38

Section 395.38 describes materials that would be incorporated by reference in subpart B and addresses where the materials are available. Whenever FMCSA, or any Federal agency, wants to refer in its rules to materials or standards published elsewhere, it needs approval from the Director of the Office of the Federal Register. The process FMCSA needs to follow is described in this section. For additional information regarding use of technical standards see Section N. of Part XIII.

The following explanations provide a brief description of each standard. In order to provide better access, FMCSA includes Web addresses where more information about each standard can be found. Complete contact information is included as part of § 395.38. These standards are also available for review at FMCSA headquarters.

In paragraph (b)(1), ''Standard for Authentication in Host Attachments of Transient Storage Devices'' is a standard from the IEEE that describes a trust and authentication protocol for USB flash drives and other storage devices that would be able to be used for a possible transfer of ELD data according to the specifications of this proposed rule. As of November 25, 2013, this standard was available for $175, and information about it can be found at *http://standards.ieee.org/findstds/standard/1667-2009.html.*

Paragraph (c)(1) references the ''Universal Serial Bus Specification'' or USB, which is an industry standard for communication between two computing devices. The USB allows a driver to transfer the record of duty status data to a safety official using a small device commonly called a ''flash drive.'' As of November 18, 2013, this standard was available at no cost, and information about it can be found at *https://www.bluetooth.org/Technical/Specifications/adopted.htm.*

Paragraph (d)(1) describes ''ANSI INCITS 446–2008, American National Standard for Information Technology—Identifying Attributes for Named Physical and Cultural Geographic Features (Except Roads and Highways) of the United States, Its Territories, Outlying Areas, and Freely Associated Areas and the Waters of the Same to the Limit of the Twelve-Mile Statutory Zone (10/28/2008),'' a standard from the American National Standards Institute (ANSI) that covers geographic names and locations stored in the U.S. Geological Survey (USGS) Geographic Names Information System (GNIS). This information is required to populate the location database of complaint ELDs. As of November 25, 2013, this standard was available for $30, and information about it can be found at *http://webstore.ansi.org/RecordDetail.aspx?sku=ANSI+INCITS+446-2008.*

Paragraph (d)(2) describes ''Information Systems—Coded Character Sets—7-Bit American National Standard Code for Information Interchange (7-Bit ASCII),'' a standard from ANSI that describes a character set code to convert digits to alphabet, number, and symbol characters used in computing. This code set is used to create ELD files. As of December 10, 2013, this standard was available for $30, and information about it can be found at *http://webstore.ansi.org/RecordDetail.aspx?sku=ANSI+INCITS+4-1986+%28R2007%29.*

Paragraph (e)(1) ''ISO/IEC 18004:2006 Information technology—Automatic identification and data capture techniques—QR Code 2005 bar code symbology specification,'' which is an industry standard from the International Standards Organization (ISO) for converting information into two dimensional barcodes that can be read using common tools such as smart phones or hand scanners. This standard would be used to comply with the transfer of ELD data specifications. As of December 10, 2013, this standard was

available from the ANSI at *http://www.webstore.ansi.org/RecordDetail.aspx?sku=ISO%2fIEC+18004%3a200t* 6 for $250.

Paragraph (e)(2) describes ''ISO/IEC 17568 Information technology—Telecommunications and information exchange between systems—Close proximity electric induction wireless communications,'' a standard from the ISO for transmitting a large amount of data at high speed when two devices are held very close together. This standard is used commercially in the TransferJet technology. This standard describes how close proximity transfers of data would take place with a compliant ELD that may elect to support TransferJet. As of December 10, 2013, this standard was available at *http://webstore.ansi.org/RecordDetail.aspx?sku=ISO%2FIEC+17568%3A2013* for $235.

Paragraph (f)(1) ''The Transport Layer Security (TLS) Protocol Version 1.2'' describes a standard from the Internet Engineering Task Force (IETF), which describes a security mechanism for information that is being transmitted over a network. This standard is best known for use with Web sites that start with ''https://'' rather than just ''http://''. This standard would be used to secure data if ELD files are transferred using the web. As of December 10, 2013, this standard was available at no cost and it can be found at *https://ietf.org/doc/rfc5246/.*

Paragraph (f)(2) ''Simple Mail Transfer Protocol'' is an industry standard from the IETF for a computer networking protocol to send and receive electronic mail (email) containing ELD data. As of December 12, 2013, this standard was available at no cost, and can be found at *https://ietf.org/doc/rfc5321/.*

Paragraph (f)(3) ''Internet Message Format,'' describes an industry standard from the IETF for the format of email, including address, header information, text, and attachments, including those emails containing ELD data. As of December 12, 2013, this standard was available at no cost, and can be found at *https://ietf.org/doc/rfc5322/.*

Paragraph (g)(1) ''Federal Information Processing Standards (FIPS) Publication 197, November 26, 2001, Announcing the ADVANCED ENCRYPTION STANDARD (AES)'' describes a Federal government standard from the National Institute of Standards and Technology (NIST) for encrypting data to protect its confidentiality and integrity. This standard would be used to encrypt emailed data derived from the ELD. This standard is available at no cost at *http://csrc.nist.gov/publications/fips/fips197/fips-197.pdf.*

Paragraph (g)(2) describes ''Special Publication (SP) 800–32, February 26, 2001, Introduction to Public Key Technology and the Federal PKI Infrastructure,'' a guidance document from NIST for securely exchanging sensitive information, including some ELD data. This standard is available at no cost at *http://csrc.nist.gov/publications/nistpubs/800-32/sp800-32.pdf.*

Paragraph (h)(1) ''Web Services Description Language (WSDL) 1.1, W3C Note 15, March 2001'' describes a specification from the World Wide Web Consortium (W3C) that describes the interface to a Web service. This standard would be used if ELD files are transferred using the web. As of December 12, 2013, this standard was available at no cost, and can be found at *http://www.w3.org/TR/wsdl.*

Paragraph (h)(2) describes ''Simple Object Access Protocol (SOAP) Version 1.2 Part 1: Messaging Framework (Second Edition), W3C Recommendation 27 April 2007,'' a specification from the W3C for a computer networking protocol for Web services. This standard would be used if ELD files are transferred using the web. As of December 12, 2013, this standard was available at no cost, and can be found at *http://www.w3.org/TR/soap12-part1/.*

Paragraph (h)(3) describes ''Extensible Markup Language (XML) 1.0 (Fifth Edition), W3C Recommendation 26 November 2008,'' a specification from the W3C for annotating data to make it readable by both humans and machines. This standard would be used if ELD files are transferred using the web. As of December 12, 2013, this standard was available at no cost, and can be found at *http://www.w3.org/TR/REC-xml/.*

Paragraph (h)(4) describes ''Hypertext Transfer Protocol—HTTP/1.1,'' a specification from the W3C for a computer networking protocol that is the foundation for the World Wide Web. This standard would be used if ELD files are transferred using the web. As of December 12, 2013, this standard was available at no cost, and can be found at *http://www.w3.org/Protocols/rfc2616/rfc2616.html.*

Paragraph (i)(1) describes ''Specification of the Bluetooth System: Wireless Connections Made Easy,'' a standard from the Bluetooth Special Interest Group for short range wireless network communication that would be able to be used as a possible transfer of ELD data according to the specifications of this proposed rule. As of December 24, 2013, this standard was available for free and can be found at *https://www.bluetooth.org/en-us/specification/adopted-specifications.*

17. Appendix to Subpart B of Part 395

The proposed appendix to subpart B of part 395 contains the technical requirements for ELDs. It consists of seven sections.

Section 1 contains the scope of the appendix. It outlines the purpose and content of the rest of the appendix.

Section 2 lists the abbreviations used throughout this appendix.

Section 3 provides definitions for terms and notations used in this appendix.

Section 4 lists all the functional requirements for an ELD. This section describes the technical specifications for an ELD, including security requirements, internal engine synchronization, ELD inputs, manual entries of data, and drivers' use of multiple vehicles, in sufficient detail to allow the ELD provider to know if an ELD would meet the requirements for certification.

Section 5 describes the ELD certification and registration process.

Section 6 lists the cited references throughout this appendix.

Section 7 provides a data elements dictionary for each data element referenced in the appendix.

XIII. Regulatory Analyses

A. Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

FMCSA has determined that this rulemaking is an economically significant regulatory action under Executive Order (E.O.) 12866, Regulatory Planning and Review, as supplemented by E.O. 13563 (76 FR 3821, January 21, 2011). It also is significant under Department of Transportation regulatory policies and procedures because the economic costs and benefits of the rule exceed the $100 million annual threshold and because of the substantial congressional and public interest concerning the crash risks associated with driver fatigue.

FMCSA is proposing to mandate the installation and use of ELDs for the majority of interstate motor carrier operations.[15] However, the costs and benefits of such a broad mandate are not identical across all options. The Agency

[15] Today's SNPRM would not require short-haul drivers who would need to keep RODS more than 8 days in any 30-day period to use an ELD. Although FMCSA cannot quantify the costs to carriers, the Agency believes extending the ELD mandate to these drivers would not be cost beneficial.

has chosen to evaluate options that reflect public comments regarding past ELD and HOS rulemakings and the Agency's safety priorities. The RIA associated with this SNPRM examines four options:

- Option 1: ELDs are mandated for all CMV operations subject to 49 CFR part 395.
- Option 2: ELDs are mandated for all CMV operations where the driver is required to complete RODS under 49 CFR 395.8 (this is the FMCSA-preferred option).
- Option 3: ELDs are mandated for all CMV operations subject to 49 CFR part 395, and the ELD is required to include, or be able to be connected to, a printer, and to print RODS.
- Option 4: ELDs are mandated for all CMV operations where the driver is required to complete RODS under 49 CFR 395.8, and the ELD is required to include, or be able to be connected to, a printer, and to print RODS.

Of the four options, Option 2 is preferred by FMCSA. This table summarizes the cost and benefits of this option:

TABLE 7—PREFERRED OPTION (2) SUMMARY

	Annualized costs and benefits in millions (2011$, 7 percent discount rate)
New ELD Costs	$955.7
AOBRD Replacement Costs	3.0
HOS Compliance Costs	604.1
Enforcement Training Costs	1.7
Enforcement Equipment Costs	10.0
Total Costs	1,574.5
Paperwork Savings	1,529.9
Safety Benefits	394.8
Total Benefits	1,924.7
Net Benefits	350.2

B. Regulatory Flexibility Act

1. Introduction

The Regulatory Flexibility Act of 1980, Public Law 96–354, 94 Stat. 1164 (5 U.S.C. 601–612) requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term ''small entities'' comprises small businesses and 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. Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities and mandates that agencies strive to lessen any adverse effects on these businesses.

A Regulatory Flexibility Analysis must contain the following:

- A description of the reasons for the action by the Agency.
- A succinct statement of the objectives of, and legal basis for, the rule.
- A description—and, where feasible, an estimate of the number—of small entities to which the rule applies.
- A description of the reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities that will be subject to the requirement and the types of professional skills necessary for preparation of the report or record.
- Identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with the rule.
- A description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and minimize any significant economic impact of the proposed rule on small entities.

2. Description of Reasons for Action by the Agency

The Agency is required by statute (MAP–21) to adopt regulations requiring that CMVs operated in interstate commerce by drivers required to keep RODS be equipped with ELDs. FMCSA proposes to amend part 395 of the FMCSRs to require the installation and use of ELDs for CMV operations for which RODS are required. CMV drivers are currently required to record their HOS (driving time, on- and off-duty time) in paper RODS, although some carriers have voluntarily adopted an earlier standard for HOS recording devices known as AOBRDs.

The HOS regulations are designed to ensure that driving time, one of the principal ''responsibilities imposed on the operators of commercial motor vehicles,'' does ''not impair their ability to operate the vehicles safely'' (49 U.S.C. 31136(a)(2)). Driver compliance with the HOS rules helps ensure that ''the physical condition of commercial motor vehicle drivers is adequate to enable them to operate the vehicles safely'' (49 U.S.C. 31136(a)(3)). FMCSA believes that properly designed, used, and maintained ELDs would enable motor carriers to track their drivers' on-duty driving hours accurately, thus preventing regulatory violations or excessive driver fatigue. Improved HOS compliance, which today's proposed rule would promote, will prevent commercial vehicle operators from driving for long periods without opportunities to obtain adequate sleep. Sufficient sleep is necessary to ensure that a driver is alert behind the wheel and able to respond appropriately to changes in the driving environment.

Substantial paperwork and recordkeeping burdens are also associated with HOS rules, including time spent by drivers filling out and submitting paper RODS and time spent by motor carrier staff reviewing, filing, and maintaining these RODS. ELDs would eliminate most of the clerical tasks associated with the RODS and significantly reduce the time drivers spend recording their HOS. These paperwork reductions offset most of the costs of the devices.

3. Objectives and Legal Basis

The Agency is issuing an SNPRM proposing to mandate the use of ELDs by the majority of interstate CMV operations. The objective is to reduce the number of crashes caused by driver fatigue that could have been avoided had the driver complied with the HOS rules. The legal basis for this proposed rule is described in Part IV.

4. Small Entities Affected

FMCSA regulations affect many different industries, and no single Small Business Administration (SBA) threshold for determining whether an entity is a ''small business'' is applicable to all motor carriers. Most for-hire property carriers operate under North American Industrial Classification System (NAICS) code 484, truck transportation, although some for-hire carriers categorize themselves as ''express delivery services'' (NAICS 492110), ''local delivery'' (NAICS 492210), or operate primarily in other modes of freight transportation. As shown in the table below, the SBA ''small business'' size standard for truck transportation and local delivery services is currently $25.5 million in revenue per year, and 1,500 employees for express delivery services. For other firms in other modes that may also be registered as for-hire motor carriers, the size standard is 500 or 1,500 employees. As Table 8, below, also shows, for-hire passenger operations that FMCSA regulates have a size standard of $14 million in annual revenue. This rulemaking also affects other industry sectors, including the industry descriptions reflected in Table 8.

TABLE 8—SBA SIZE STANDARDS FOR SELECTED INDUSTRIES

NAICS codes	NAICS industry description	Annual revenue (millions)	Employees
481112 and 481212	Freight Air Transportation		1,500
482111	Line-Haul Railroads		1,500
483111 through 483113	Freight Water Transportation		500
484110 through 484230	Freight Trucking	$25.5	
492110	Couriers and Express Delivery		1,500
492210	Local Messengers and Local Delivery	25.5	
485210 through 485510	Bus Transportation	14.0	
445110	Supermarkets and Grocery Stores	30.0	
452111	Department Stores (except Discount Department Stores)	30.0	
452112	Discount Department Stores	27.0	
452910	Warehouse Clubs and Superstores	27.0	
452990	Other General Merchandise Stores	30.0	
453210	Office Supplies and Stationery Stores	30.0	
236115 through 236220	Building Construction	33.5	
237110	Water and Sewer Line and Related Structures Construction	33.5	
237120	Oil and Gas Pipeline and Related Structures Construction	33.5	
237130	Power and Communication Line and Related Structures Construction	33.5	
237210	Land Subdivision	7.0	
237310	Highway, Street, and Bridge Construction	33.5	
237990	Other Heavy and Civil Engineering Construction	33.5	
238110 through 238990	Specialty Trade Contractors	14.0	
111110 through 111998	Crop Production	0.75	
112111	Beef Cattle Ranching and Farming	0.75	
112112	Cattle Feedlots	2.5	
112120	Dairy Cattle and Milk Production	0.75	
112210	Hog and Pig Farming	0.75	
112310	Chicken Egg Production	12.5	
112320 through 112990	All Other Animal Production	0.75	
113310	Logging		500
211111 through 213111	Oil and Gas Extraction and Mining		500

Private motor carriers use the CMVs they own or lease to ship their own goods or in other regulated transportation activities related to their primary business activities. These include, for example, a motor carrier that a retail department store chain operates to distribute goods from its warehouses to its store locations, dump trucks used by construction companies, or passenger transportation services not available to the general public. Separate NAICS codes for entities with private motor carrier operations are not available; and FMCSA, therefore, cannot determine the appropriate size standard to use for each case. As shown, the size standards among industries that contain private motor carrier operations vary widely, from $0.75 million for many types of farms to $33.5 million for building construction firms.

For for-hire motor carriers, FMCSA examined data from the 2007 Economic Census to determine the percentage of firms that have revenue at or below SBA's thresholds. Although boundaries for the revenue categories used in the Economic Census do not exactly coincide with the SBA thresholds, FMCSA was able to make reasonable estimates using these data. According to the Economic Census, about 99 percent of trucking firms had annual revenue less than $25 million; the Agency concluded that the percentage would be approximately the same using the SBA threshold of $25.5 million. For passenger carriers, the $14 million SBA threshold falls between two Economic Census revenue categories, $10 million and $25 million. The percentages of passenger carriers with revenue less than these amounts were 96.7 percent and 98.9 percent, respectively. Because the SBA threshold is closer to the lower of these two boundaries, FMCSA has assumed that the percent of passenger carriers that are small will be closer to 96.7 percent, and is using a figure of 97 percent.

For private carriers, the Agency constructed its estimates under the assumption that carriers with more CMVs than the 98.9 percentile of for-hire property carriers or the 97 percentile of for-hire passenger carriers will also be large. That is, any company large enough to maintain a CMV fleet large enough to be considered a large truck or bus company will be large within its own industry. Because of NAICS classifications, this methodology could overestimate the number of small, private carriers. Under this conservative analysis, however, the Agency is confident that no small private carrier would be excluded. The Agency found that for property carriers, the threshold was 194 CMVs, and for passenger carriers, it was 89 CMVs. FMCSA identified 201,725 small private property carriers (99.4 percent of this group), and 6,000 small private passenger carriers (100.0 percent of this group).

Table 9 below shows the complete estimates of the number of small carriers. All told, FMCSA estimates that 99.1 percent of regulated motor carriers are small businesses according to SBA size standards.

TABLE 9—ESTIMATES OF NUMBERS OF SMALL ENTITIES

	For-hire general freight	For-hire specialized freight	For-hire passenger	Private property	Private passenger	Total
Carriers	176,000	139,000	8,000	203,000	6,000	532,000
Percentage of Small Carriers	98.9%	98.9%	97.0%	99.4%	100.0%	99.1%
Number of Small Carriers	174,064	137,471	7,760	201,725	6,000	527,020

5. Reporting, Recordkeeping, and Other Compliance Requirements

FMCSA believes that implementation of the SNPRM would not require additional reporting, recordkeeping, or other paperwork-related compliance requirements beyond what are already required in the existing regulations. In fact, the SNPRM is estimated to result in paperwork savings, particularly from the elimination of paper RODS. Furthermore, the carriers would experience compensatory time-saving or administrative efficiencies as a result of using ELD records in place of paper RODS. The level of savings would vary with the size of the carrier implementing the systems (larger carriers generally experience greater savings).

Under current regulations, most CMV drivers are required to fill out RODS for every 24-hour period. The remaining population of CMV drivers is required to fill out time cards at their workplace (reporting location). Motor carriers must retain the RODS (or timecards, if used) for 6 months. FMCSA estimates the annual recordkeeping cost savings from this proposed rule to be about $705 per driver. This comprises $487 for a reduction in time drivers spend completing paper RODS and $56 submitting those RODS to their employers; $120 for motor carrier clerical staff to handle and file the RODS; and $42 for elimination of expenditures on blank paper RODS for drivers. Two of the options discussed in the SNPRM extend the ELD mandate to carrier operations that are exempt from the RODS. Paperwork savings will not accrue to drivers engaged in these operations.

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 et seq.), Federal agencies must obtain approval from the OMB for each collection of information they conduct, sponsor, or require through regulations. This SNPRM proposes regulatory changes to several parts of the FMCSRs, but only those applicable to part 395, ''Hours of Service of Drivers,'' would alter or impose information collection requirements. The information collection requirements of this NPRM would affect OMB Control Number 2126–0001, which is currently approved through December 31, 2014, at 184,380,000 burden hours.

OMB requires agencies to provide a specific, objective estimate of the burden hours imposed by their information collection requirements (5 CFR 1320.8(a)(4)). This SNPRM proposes a compliance date 2 years after the date of publication of the final rule to allow regulated entities a reasonable opportunity to satisfy its requirements. The reduction in the burden hours resulting from this SNPRM will take effect in the third year of the ICR connected with OMB Control Number 2126–0001. The reduction in the annual burden is estimated to be 22,093,000 hours. This is an average over the 3 years of this ICR: There will be no reduction in the first 2 years, and a reduction of 66,280,000 hours in the third. This estimated burden reduction includes CMVs that voluntarily had ELDs installed in them.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Rule

The Agency did not identify any Federal rules that duplicate, overlap, or conflict with the rule.

7. Steps To Minimize Adverse Economic Impacts on Small Entities

Of the population of motor carriers that FMCSA regulates, 99 percent are considered small entities under the SBA's definition. Because small businesses constitute a large part of the demographic the Agency regulates, providing exemptions to small business to permit noncompliance with safety regulations is not feasible and not consistent with good public policy. The safe operation of CMVs on the Nation's highways depends on compliance with all of FMCSA's safety regulations. Accordingly, the Agency will not allow any motor carriers to be exempt from coverage of the proposed rule based solely on a status as a small entity.

FMCSA analyzed an alternative 5-year implementation schedule in the previous NPRM that would have provided a longer implementation period for small businesses. However, the estimated cost of compliance for motor carriers, including small businesses, did not decrease from the 3-year ''baseline'' proposed implementation period. Furthermore, a considerably longer implementation period could compromise the consistency of compliance-assurance and enforcement activities, and thereby diminish the rule's potential safety benefits. Therefore, the Agency's proposal includes a single compliance date for all motor carriers that would be subject to the new rule's requirements.

The Agency recognizes that small businesses may need additional information and guidance in order to comply with the proposed regulation. To improve their understanding of the proposal and any rulemaking that would result from it, FMCSA proposes to conduct outreach aimed specifically at small businesses. FMCSA would conduct Webinars and other presentations upon request as needed and at no charge to the participants. These would be held after the final rule has published and before the rule's compliance date. To the extent practicable, these presentations would be interactive. Their purpose would be to describe in plain language the compliance and reporting requirements so they are clear and readily understood by the small entities that would be affected.

ELDs can lead to significant paperwork savings that can offset the costs of the devices. The Agency, however, recognizes that these devices entail an up-front investment that can be burdensome for small carriers. At least one vendor, however, provides free hardware and recoups the cost of the device over time in the form of higher monthly operating fees. The Agency is also aware of lease-to-own programs that allow carriers to spread the purchase costs over several years. Nevertheless, the typical carrier would likely be required to spend about $800 per CMV to purchase and install ELDs. In addition to purchase costs, carriers would also likely spend about $25 per month per CMV for monthly service fees.

C. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 requires Agencies to evaluate whether an Agency action would result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $143.1 million or more (as adjusted for inflation) in any 1 year, and, if so, to take steps to minimize these unfunded mandates. As Table 10 shows, this rulemaking would result in private sector expenditures in excess of the $143.1 million threshold for each of the proposed options. Gross costs, however, are expected to be more than offset in savings from paperwork burden reductions. The savings will be realized by the same entities that are required to employ ELDs.

The Agency is required by statute to adopt regulations requiring that CMVs operated in interstate commerce, operated by drivers required to keep RODS, be equipped with ELDs. 49 U.S.C. 31137. To the extent this rule implements the direction of Congress in mandating the use of ELDs, a written statement under the Unfunded Mandates Reform Act is not required. However, the Agency has provided an analysis of the costs to the private sector in the Preliminary Regulatory Evaluation available in the docket referenced above. Additionally the Agency's proposed option provides the lowest cost and highest net benefits of the options considered.

TABLE 10—ANNUALIZED NET EXPENDITURES BY PRIVATE SECTOR

[millions]

	Option 1	Option 2	Option 3	Option 4
Total ELD Cost	$1,270.0	$955.7	$1,722.6	$1,311.1
Total Paperwork Savings	1,637.7	1,637.7	1,637.7	1,637.7
Net ELD Cost	−367.7	−682.0	84.9	−326.6

D. Executive Order 12988 (Civil Justice Reform)

This SNPRM would meet 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.

E. Executive Order 13045 (Protection of Children)

FMCSA analyzed this action under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. FMCSA determined that this SNPRM would not pose an environmental risk to health or safety that might affect children disproportionately.

F. Executive Order 12630 (Taking of Private Property)

This rulemaking would not effect a taking of private property or otherwise have takings implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

G. Executive Order 13132 (Federalism)

A rulemaking has implications for Federalism under E.O. 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 State or local governments. FMCSA analyzed this action in accordance with E.O. 13132. The rule would not have a substantial direct effect on States or local governments, nor would it limit the policymaking discretion of States. Nothing in this rulemaking would preempt any State law or regulation.

H. Executive Order 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this action.

I. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

FMCSA analyzed this rulemaking in accordance with the principles and criteria in E.O. 13175, Consultation and Coordination with Indian Tribal Governments. This rulemaking is required by law and does not significantly or uniquely affect the communities of the Indian tribal governments or impose substantial direct compliance costs on tribal governments. Thus, the funding and consultation requirements of E.O. 13175 do not apply and no tribal summary impact statement is required.

J. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) requires Federal agencies to obtain OMB approval of each collection of information they conduct, sponsor, or require through agency regulations. On December 11, 2011, OMB approved the information collection (IC) requirements of part 395 and the Agency's estimate of the annual IC burden of 184.38 million burden hours (OMB Control Number 2126–0001, ''Hours of Service of Drivers''). OMB's approval expires December 31, 2014.

OMB's regulations require agencies to provide a specific, objective estimate of the burden hours imposed by their IC requirements [5 CFR 1320.8(a)(4)]. The IC requirements of part 395 would change when the amendments proposed by this SNPRM become final; the IC requirements of other parts of the FMCSRs would not be affected by this SNPRM.

The Agency in this subsection J is estimating the paperwork burden of part 395 as amended by the proposals of this SNPRM. The Agency is also in this subsection J incorporating revised Agency estimates of the population of CMV drivers subject to the recordkeeping requirements of part 395. The Agency recently analyzed data in FMCSA's Motor Carrier Management Information System [16] (MCMIS) and revised the Agency's estimate of the CMV driver population from the estimate approved by OMB in 2011. Customarily, FMCSA provides a separate **Federal Register** notice explaining revised Agency estimates derived solely from updated Agency data and inviting public comment. However, to avoid confusion, the Agency is presenting a single estimate of the IC burden of part 395 as affected by both the changes in Agency data and the proposals of this SNPRM.

The net effect of updated Agency data on the CMV driver population is that the Agency now estimates that 2.84 million CMV drivers are subject to the IC requirements of the HOS rules. In 2011, the Agency provided OMB a baseline estimate of 7 million CMV drivers subject to the FMCSRs. Current data indicate that this baseline population is 4.32 million drivers. The Agency reduces this figure to exclude

[16] Source: FMCSA, Motor Carrier Management Information System (MCMIS) registration data as of April 27, 2012.

short-haul drivers. Short-haul drivers are subject to most of the on-duty and off-duty requirements of the HOS rules, but are exempt from the requirement to maintain an HOS record, or log, on the vehicle. All the IC requirements of part 395 are associated with the log, so these drivers experience no IC burden under the HOS rules. In 2011, FMCSA estimated the population of these short-haul CMV drivers to be 2.4 million, and derived its estimate of 4.6 million CMV drivers subject to the IC requirements of the HOS rules (7 million less 2.4 million). The Agency's data indicates that .64 million interstate CMV drivers currently qualify for the short-haul exception; accordingly, the Agency reduces its baseline estimate of 4.32 million CMV drivers to 3.68 million (4.32 million less .64 million). The Agency further revises its estimate to exclude drivers who operate exclusively in intrastate commerce. In 2011, FMCSA included all CMV drivers in its estimate of the driver population. However, drivers who operate exclusively in intrastate commerce are not subject to part 395. FMCSA has analyzed its data and estimates that .84 million CMV drivers operate exclusively in intrastate commerce. Consequently, the Agency reduces its baseline estimate of the population of CMV drivers by .84 million, to 2.84 million (3.68 million less .84 million). The Agency estimates that 2.84 million CMV drivers are subject to the recordkeeping requirements of the HOS rules. Though this change is unrelated to this rulemaking and not an OMB-approved figure, FMCSA uses these populations in its analysis of the rule for simplicity, and will be updating the ICR to reflect this change.

This SNPRM proposes a transition period of 2 years following publication of a final ELD rule after which drivers and motor carriers would be required to have ELDs in place. OMB regulations require that Agencies estimate IC burdens over a period of 3 years after a rule becomes final. In the third year after publication of a final ELD rule, the Agency estimates the IC burden of part 395 would be reduced by 66,280,000.00 burden hours; thus, the average reduction in the annual burden over the 3-year period would be approximately 22,093,000.00 burden hours. This estimate incorporates the Agency's estimate of the voluntary use of ELDs in years 1 and 2.

K. National Environmental Policy Act and Clean Air Act

FMCSA analyzed this SNPRM for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.) and determined under DOT environmental procedures Order 5610.1, issued March 1, 2004 (69 FR 9680), that this action would have a minor impact on the environment. The Environmental Assessment is available for inspection or copying at the *Regulations.gov* website listed under **ADDRESSES**.

FMCSA also analyzed this action under section 176(c) of the Clean Air Act (CAA), as amended (42 U.S.C. 7506(c)), and the U.S. Environmental Protection Agency's implementing regulations, 40 CFR part 93. Pursuant to 40 CFR 93.153, a conformity determination is required ''for each criteria pollutant or precursor where the total of direct and indirect emissions of the criteria pollutant or precursor in a nonattainment or maintenance area caused by a Federal action would equal or exceed any of the rates in paragraphs (b)(1) or (2) of this section.'' FMCSA recognizes that the action taken in this rulemaking could slightly affect emissions of criteria pollutants from CMVs. FMCSA discusses the air emissions analysis in section 3.2.1. of the draft Environmental Assessment for this rule.

As discussed in section 3.1.2 of the Environmental Assessment, the CAA requires additional analysis to determine if this proposed action impacts air quality. In determining whether this action conforms to CAA requirements in areas designated as nonattainment under section 107 of the CAA and maintenance areas established under section 175A of the CAA, FMCSA is required (among other criteria) to determine if the total direct and indirect emissions are at or above de minimis levels. In the case of the alternatives proposed in this SNPRM, as discussed in section 3.2.1 (except for the No-Action Alternative), FMCSA considers the change in emissions to be an indirect result of the rulemaking action. FMCSA is requiring drivers and motor carriers to use ELDs that would lead to greater compliance with the HOS regulations, which does not directly result in additional emissions releases.

Although emissions from idling are foreseeable and an indirect result of the rulemaking, in order for the idling emissions to qualify as 'indirect emissions' pursuant to 40 CFR 93.152, they must meet all four criteria in the definition: (1) The emissions are caused or initiated by the Federal action and originate in the same nonattainment or maintenance area but occur at a different time or place as the action; (2) they are reasonably foreseeable; (3) FMCSA can practically control them; and (4) FMCSA has continuing program responsibility for them. FMCSA does not believe the increase of emissions of some criteria pollutants or their precursors from this proposed rulemaking meet two of the criteria: That FMCSA can practically control the emissions, and that FMCSA has continuing program responsibility. FMCSA's statutory authority limits its ability to require drivers to choose alternatives to idling while taking a rest period. If FMCSA had authority to control CMV emissions, the Agency could prohibit idling or require drivers to choose an alternative such as electrified truck stops or use of auxiliary power units, both of which reduce idling emissions. Moreover, based on FMCSA's analysis, it is reasonably foreseeable that the SNPRM would not significantly increase total CMV mileage, nor would it change the routing of CMVs, how CMVs operate, or the CMV fleet mix of motor carriers. Therefore, because the idling emissions do not meet the definition of direct or indirect emissions in 40 CFR 93.152, FMCSA has determined it is not required to perform a CAA general conformity analysis, pursuant to 40 CFR 93.153.[17]

L. Executive Order 12898 (Environmental Justice)

FMCSA evaluated the environmental effects of this SNPRM in accordance with E.O. 12898 and determined that there are neither environmental justice issues associated with its provisions nor any collective environmental impact resulting from its promulgation. Environmental justice issues would be raised if there were ''disproportionate'' and ''high and adverse impact'' on minority or low-income populations. None of the alternatives analyzed in the Agency's deliberations would result in high and adverse environmental justice impacts.

M. Executive Order 13211 (Energy Effects)

FMCSA analyzed this action under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. FMCSA determined that it is not a ''significant energy action'' under that E.O. because, although this rulemaking is economically significant, it is not likely to have an adverse effect on the supply, distribution, or use of energy.

[17] Additionally, the EPA General Conformity regulations provide an exemption for rulemaking activities. See 40 CFR 93.153(c)(2)(iii).

N. National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) requires agencies to ''use technical standards that are developed or adopted by voluntary consensus standards bodies'' to carry out policy objectives determined by the agencies, unless the standards are ''inconsistent with applicable law or otherwise impractical.'' This requirement pertains to ''performance-based or design-specific technical specifications and related management systems practices.'' MAP–21 also requires that the Agency adopt a ''standard security level for an electronic logging device and related components to be tamper resistant by using a methodology endorsed by a nationally recognized standards organization'' (49 U.S.C. 31137(b)(2)(C)).

FMCSA is not aware of any technical standards addressing ELDs. However, in today's SNPRM, the Agency employs several publicly-available consensus standards consistent with these statutory mandates, including standards adopted by the World Wide Web Consortium to facilitate secure Web based communications, American National Standards Institute (ANSI) codes for identification of geographic locations and for standard information display, Institute of Electrical and Electronic Engineers (IEEE) Standards Association standards addressing secure transfer of data with a portable storage device,, International Standards Organization standards concerning QR codes, Bluetooth Special Interest Group (SIG) standards addressing short-range wireless information transfer, and the USB Specification (Revision 2.0). In addition, although not developed by a private sector consensus standard body, FMCSA also employs the National Institute of Standards and Technology (NIST) standards concerning data encryption. A complete list of standards that FMCSA proposes for adoption is found in proposed 49 CFR 395.38 of this SNPRM.

O. E-Government Act of 2002

The E-Government Act of 2002, Public Law 107–347, § 208, 116 Stat. 2899, 2921 (Dec. 17, 2002), requires Federal agencies to conduct a privacy impact assessment (PIA) for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. FMCSA has completed a PIA in connection with today's SNPRM addressing the handling of PII. The PIA is a documented assurance that privacy issues have been identified and adequately addressed, ensures compliance with laws and regulations related to privacy, and demonstrates the DOT's commitment to protect the privacy of any personal information we collect, store, retrieve, use, and share. Additionally, the publication of the PIA demonstrates DOT's commitment to provide appropriate transparency in the ELD rulemaking process. A copy of the PIA is available in the docket for this rulemaking.

List of Subjects

49 CFR Part 385

Administrative practice and procedure, Highway safety, Mexico, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 386

Administrative practice and procedure, Brokers, Freight forwarders, Hazardous materials transportation, Highway safety, Motor carriers, Motor vehicle safety, Penalties.

49 CFR Part 390

Highway safety, Intermodal transportation, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 395

Highway safety, Incorporation by reference, Motor carriers, Reporting and recordkeeping requirements.

In consideration of the foregoing, FMCSA proposes to amend 49 CFR chapter III, parts 385, 386, 390, and 395 to read as follows:

PART 385—SAFETY FITNESS PROCEDURES

■ 1. The authority citation for part 385 continues to read as follows:

Authority: 49 U.S.C. 113, 504, 521(b), 5105(e), 5109, 13901–13905, 14701, 31133, 31135, 31136, 31137(a), 31144, 31148, and 31502; Sec. 113(a), Pub. L. 103–311; Sec. 408, Pub. L. 104–88; Sec. 350, Pub. L. 107–87; and 49 CFR 1.87.

■ 2. Amend Appendix B to part 385—Explanation of Safety Rating Process section VII by removing the entries for §§ 395.8(a), 395.8(e), and 395.8(i), and the two entries for § 395.8(k)(1) and adding the following violations § 390.36(b)(1), § 395.8(a)(1), § 395.8(e)(1), § 395.8(e)(2), § 395.8(k)(1), § 395.11(b) or (c), § 395.11(d), § 395.11(e), and § 395.30(e) in numerical order to read as follows:

Appendix B to Part 385—Explanation of Safety Rating Process

* * * * *

VII. List of Acute and Critical Regulations

* * * * *

§ 390.36(b)(1) Engaging in harassment of a driver (acute).

* * * * *

§ 395.8(a)(1) Failing to require a driver to make a record of duty status using appropriate method (critical).

§ 395.8(e)(1) Making a false report (critical).

§ 395.8(e)(2) Disabling, deactivating, disengaging, jamming, or otherwise blocking or degrading a signal transmission or reception; tampering with an automatic on-board recording device or ELD; or permitting or requiring another person to engage in such activity (acute).

§ 395.8(k)(1) Failing to preserve a driver's record of duty status or supporting documents for 6 months (critical)

§ 395.11(b) or (c) Failing to maintain a supporting document as required by § 395.12(b) or (c) (critical).

§ 395.11(d) Failing to maintain supporting documents in a manner that permits the effective matching of the documents to the driver's record of duty status (critical).

§ 395.11(e) Altering, defacing, destroying, mutilating, or obscuring a supporting document (critical).

§ 395.30(e) Failing to maintain ELD information (acute).

* * * * *

PART 386—RULES OF PRACTICE FOR MOTOR CARRIER, INTERMODAL EQUIPMENT PROVIDER, BROKER, FREIGHT FORWARDER, AND HAZARDOUS MATERIALS PROCEEDINGS

■ 3. The authority citation for part 386 is revised to read as follows:

Authority: 49 U.S.C. 113, chapters 5, 51, 59, 131–141, 145–149, 311, 313, and 315; Sec. 204, Pub. L. 104–88, 109 Stat. 803, 941 (49 U.S.C. 701 note); Sec. 217, Pub. L. 106–159, 113 Stat. 1748, 1767; Sec. 206, Pub. L. 106–159, 113 Stat. 1748, 1763; subtitle B, title IV of Pub. L. 109–59, 119 Stat. 1144, 1751–1761; and 49 CFR 1.81 and 1.87.

■ 4. Amend § 386.1 by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 386.1 Scope of rules in this part.

(a) Except as provided in paragraph (c) of this section, the rules in this part govern proceedings before the Assistant Administrator, who also acts as the Chief Safety Officer of the Federal Motor Carrier Safety Administration (FMCSA), under applicable provisions of the Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR parts 350–399), including the commercial regulations (49 CFR parts 360–379), and the Hazardous Materials Regulations (49 CFR parts 171–180).

* * * * *

(c)(1) The rules in § 386.12 govern the filing of a complaint of a substantial violation and the handling of the

complaint by the Division Administrator for the State where the incident occurs.

(2) The rules in § 386.12a govern the filing of a complaint of a harassment violation under § 390.36 and the handling of the complaint by the Division Administrator for the State where the incident occurs.

■ 5. Revise § 386.12 to read as follows:

§ 386.12 Complaint of substantial violation.

(a) *Complaint.* Any person alleging that a substantial violation of any regulation issued under the Motor Carrier Safety Act of 1984 is occurring or has occurred within the preceding 60 days may file a written complaint with the FMCSA Division Administrator for the State where the incident is occurring or has occurred. A substantial violation is one which could reasonably lead to, or has resulted in, serious personal injury or death. Allegations brought to the attention of other officials of the Agency through letter, email, social media, phone call, or other means will be referred to the Division Administrator for the State where the incident occurred. Delays in transferring the allegations to the appropriate Division Administrator do not stay the 60-day period for filing a written complaint. Each complaint must be signed by the complainant and must contain:

(1) The name, address, and telephone number of the person who files it;

(2) The name and address of the alleged violator and, with respect to each alleged violator, the specific provisions of the regulations that the complainant believes were violated; and

(3) A concise but complete statement of the facts relied upon to substantiate each allegation, including the date of each alleged violation.

(b) *Action on complaint.* Upon the filing of a complaint of a substantial violation under paragraph (a) of this section, the Division Administrator shall determine whether the complaint is non-frivolous and meets the requirements of paragraph (a) of this section. If the Division Administrator determines the complaint is non-frivolous and meets the requirements of paragraph (a), the Division Administrator shall investigate the complaint. The complainant shall be timely notified of findings resulting from such investigation. The Division Administrator shall not be required to conduct separate investigations of duplicative complaints. If the Division Administrator determines the complaint is frivolous or does not meet the requirements of paragraph (a), the Division Administrator shall dismiss the complaint and notify the complainant in writing of the reasons for the dismissal. If after investigation the Division Administrator determines that a violation has occurred, the Division Administrator may issue a Notice of Violation under § 386.11(b) or a Notice of Claim under § 386.11(c) of this part.

(c) *Protection of complainant.* Notwithstanding the provisions of section 552 of title 5, United States Code, the Division Administrator shall not disclose the identity of complainants unless it is determined that such disclosure is necessary to prosecute a violation. If disclosure becomes necessary, the Division Administrator shall take every practical means within the Division Administrator's authority to ensure that the complainant is not subject to harassment, intimidation, disciplinary action, discrimination, or financial loss as a result of such disclosure.

■ 6. Add § 386.12a to read as follows:

§ 386.12a Complaint of harassment.

(a) *Complaint.* (1) A driver, as defined in § 390.5, alleging harassment prohibited by § 390.36 by a motor carrier is occurring or has occurred within the preceding 60 days may file a written complaint with the FMCSA Division Administrator for the State where the incident is occurring or has occurred. Allegations brought to the attention of other officials in the Agency through letter, email, social media, phone call, or other means will be referred to the Division Administrator for the State where the incident occurred. Delays in transferring the allegations to the appropriate Division Administrator do not stay the 60-day period for filing a written complaint.

(2) Each complaint must be signed by the driver and must contain:

(i) The name, address, and telephone number of the driver who files it;

(ii) The name and address of the alleged violator; and

(iii) A concise but complete statement describing the alleged action taken by the motor carrier that the driver claims constitutes harassment, including:

(A) How the ELD or other technology used in combination with and not separable from the ELD was used to contribute to harassment; and

(B) How the motor carrier's action violated either § 392.3 or part 395.

(3) Each complaint may include any supporting evidence that will assist the Division Administrator in determining the merits of the complaint.

(b) *Action on complaint.* Upon the filing of a complaint of a substantial violation under paragraph (a) of this section, the Division Administrator shall determine whether the complaint is non-frivolous and meets the requirements of paragraph (a) of this section. If the Division Administrator determines the complaint is non-frivolous and meets the requirements of paragraph (a), the Division Administrator shall investigate the complaint. The complainant shall be timely notified of findings resulting from such investigation. The Division Administrator shall not be required to conduct separate investigations of duplicative complaints. If the Division Administrator determines the complaint is frivolous or does not meet the requirements of paragraph (a), the Division Administrator shall dismiss the complaint and notify the complainant in writing of the reasons for the dismissal. If after investigation the Division Administrator determines that a violation has occurred, the Division Administrator may issue a Notice of Violation under § 386.11(b) or a Notice of Claim under § 386.11(c) of this part.

(c) *Protection of complainant.* Notwithstanding the provisions of section 552 of title 5, United States Code, the Division Administrator shall not disclose the identity of complainants unless it is determined that such disclosure is necessary to prosecute a violation. If disclosure becomes necessary, the Division Administrator shall take every practical means within the Division Administrator's authority to ensure that the complainant is not subject to harassment, intimidation, disciplinary action, discrimination, or financial loss as a result of such disclosure.

■ 7. Amend appendix B to part 386 by adding paragraph (a)(7) to read as follows:

Appendix B to Part 386—Penalty Schedule; Violations and Monetary Penalties

* * * * *

(a) * * *

(7) *Harassment.* In instances of a violation of § 390.36(b)(1) the Agency may consider the ''gravity of the violation,'' for purposes of 49 U.S.C. 521(b)(2)(D), sufficient to warrant imposition of penalties up to the maximum permitted by law.

* * * * *

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL

■ 8. The authority citation for part 390 continues to read as follows:

Authority: 49 U.S.C. 504, 508, 31132, 31133, 31136, 31144, 31151, 31502; sec. 114, Pub. L. 103–311, 108 Stat. 1673, 1677–1678; sec. 212, 217, 229, Pub. L. 106–159, 113 Stat.

1748, 1766, 1767; sec. 229, Pub. L. 106–159 (as transferred by sec. 4114 and amended by secs. 4130–4132, Pub. L. 109–59, 119 Stat. 1144, 1726, 1743–1744); sec. 4136, Pub. L. 109–59, 119 Stat. 114, 1745; sections 32101(d) and 34934, Pub. L. 112–141, 126 Stat. 405, 778, 830; and 49 CFR 1.87.

■ 9. Add § 390.36 to read as follows:

§ 390.36 Harassment of drivers prohibited.

(a) *Harass or harassment defined.* As used in this section, harass or harassment means an action by a motor carrier toward a driver employed by the motor carrier (including an independent contractor while in the course of operating a commercial motor vehicle on behalf of the motor carrier) involving the use of information available to the motor carrier through an ELD, as defined in § 395.2 of this chapter, or through other technology used in combination with and not separable from the ELD, that the motor carrier knew, or should have known, would result in the driver violating § 392.3 or part 395 of this chapter.

(b) *Prohibition against harassment.* (1) No motor carrier may harass a driver.

(2) Nothing in paragraph (b)(1) of this section shall be construed to prevent a motor carrier from using technology allowed under this subchapter to monitor productivity of a driver provided that such monitoring does not result in harassment.

(c) *Complaint process.* A driver who believes he or she was the subject of harassment by a motor carrier may file a written complaint under § 386.12a of this subchapter.

PART 395—HOURS OF SERVICE OF DRIVERS

■ 10. The authority citation for part 395 continues to read as follows:

Authority: 49 U.S.C. 504, 31133, 31136, 31137, and 31502; sec. 113, Pub. L. 103–311, 108 Stat. 1673, 1676; sec. 229, Pub. L. 106–159 (as transferred by sec. 4115 and amended by secs. 4130–4132, Pub. L. 109–59, 119 Stat. 1144, 1726, 1743, 1744); sec. 4133, Pub. L. 109–59, 119 Stat. 1144, 1744; sec. 108, Pub. L. 110–432, 122 Stat. 4860–4866; sec. 32934, Pub. L. 112–141, 126 Stat. 405, 830; and 49 CFR 1.87.

■ 11. In Part 395 redesignate § 395.1 through § 395.19 as subpart A, and add a new subpart heading to read as follows:

Subpart A—General

■ 12. Amend § 395.1 by revising introductory text paragraphs (e)(1) and (e)(2) to read as follows:

§ 395.1 Scope of rules in this part.

* * * * *

(e) * * * (1) *100 air-mile radius driver.* A driver is exempt from the requirements of § 395.8 and § 395.11 if:

* * * * *

(2) *Operators of property-carrying commercial motor vehicles not requiring a commercial driver's license.* Except as provided in this paragraph, a driver is exempt from the requirements of § 395.3(a)(2), 395.8, and 395.11 and ineligible to use the provisions of § 395.1(e)(1), (g), and (o) if:

* * * * *

■ 13. Amend § 395.2 by adding the definitions for *Electronic logging device (ELD) and Supporting document,* in alphabetical order, to read as follows:

§ 395.2 Definitions.

* * * * *

Electronic logging device (ELD) means a device or technology that automatically records a driver's driving time and facilitates the accurate recording of the driver's hours of service, and that meets the requirements of subpart B of this part.

* * * * *

Supporting document means a document, in any medium, generated or received by a motor carrier in the normal course of business as described in § 395.11 that can be used, as produced or with additional identifying information, by the motor carrier and enforcement officials to verify the accuracy of a driver's record of duty status.

* * * * *

■ 14. Add § 395.7 to read as follows:

§ 395.7 Enforcement proceedings.

(a) *General.* A motor carrier is liable for any act or failure to act by an employee, as defined in § 390.5, that violates any provision of part 395 if the act or failure to act is within the course of the motor carrier's operations. The fact that an employee may also be liable for a violation in a proceeding under this subchapter based on the employee's act or failure to act does not affect the liability of the motor carrier.

(b) *Burden of proof.* Notwithstanding any other provision of this subchapter, the burden of proof is on a motor carrier to prove that the employee was acting outside the scope of the motor carrier's operations when committing an act or failing to act in a manner that violates any provision of this part.

(c) *Imputed knowledge of documents.* A motor carrier shall be deemed to have knowledge of any document in its possession and any document that is available to the motor carrier and that the motor carrier could use in ensuring compliance with this part. ''Knowledge of any document'' means knowledge of the fact that a document exists and the contents of the document.

■ 15. Amend § 395.8 by:

■ a. Removing and reserving paragraph (i),

■ b. Revising paragraphs (a) and (e), and

■ c. Revising the heading of paragraph (k), and paragraph (k)(1) to read as follows:

§ 395.8 Driver's record of duty status.

(a)(1) Except for a private motor carrier of passengers (nonbusiness), as defined in § 390.5, a motor carrier subject to the requirements of this part must require each driver used by the motor carrier to record the driver's duty status for each 24-hour period using the method prescribed in paragraphs (a)(1)(i) through (iv) of this section, as applicable.

(i) Subject to paragraphs (a)(1)(ii) and (iii) of this section, a motor carrier operating commercial motor vehicles must install and require each of its drivers to use an ELD to record the driver's duty status in accordance with subpart B of this part no later than [DATE TWO YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE].

(ii) A motor carrier that installs and requires a driver to use an automatic on-board recording device in accordance with § 395.15 before [DATE TWO YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE] may continue to use the compliant automatic on-board recording device no later than [DATE FOUR YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE].

(iii) A motor carrier may require a driver who must complete a record of duty status not more than 8 days within any 30-day period to record the driver's duty status manually, in accordance with this section. The record of duty status must be recorded in duplicate for each 24-hour period for which recording is required. The duty status shall be recorded on a specified grid, as shown in paragraph (g) of this section. The grid and the requirements of paragraph (d) of this section may be combined with any company form.

(iv) Subject to paragraph (a)(1)(i) through (iii) of this section, until [DATE TWO YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], a motor carrier operating commercial motor vehicles shall require each of its drivers to record the driver's record of duty status:

(A) Using an ELD that meets the requirements of subpart B of this part;

(B) Using an automatic on-board recording device that meets the requirements of § 395.15; or

(C) Manually, recorded on a specified grid as shown in paragraph (g) of this section. The grid and the requirements of paragraph (d) of this section may be combined with any company form. The record of duty status must be recorded in duplicate for each 24-hour period for which recording is required.

(2) A driver operating a commercial motor vehicle must:

(i) Record the driver's duty status using one of the methods under paragraph (a)(1) of this section and

(ii) Submit the driver's record of duty status to the motor carrier within 8 days of the 24-hour period to which the record pertains.

(3) Unless an extension of time has been granted under § 395.34(d), a motor carrier required to use an ELD is in violation of paragraph (a)(1)(i) of this section during any period in which the motor carrier is operating a commercial motor vehicle while the ELD is malfunctioning.

* * * * *

(e)(1) No driver or motor carrier may make a false report in connection with a duty status.

(2) No driver or motor carrier shall disable, deactivate, disengage, jam, or otherwise block or degrade a signal transmission or reception, or reengineer, reprogram, or otherwise tamper with an automatic on-board recording device or ELD so that the device does not accurately record and retain required data.

(3) No driver or motor carrier shall permit or require another person to disable, deactivate, disengage, jam, or otherwise block or degrade a signal transmission or reception, or reengineer, reprogram, or otherwise tamper with an automatic on-board recording device or ELD so that the device does not accurately record and retain required data.

* * * * *

(i) [Reserved]

* * * * *

(k) *Retention of driver's record of duty status and supporting documents.* (1) A motor carrier shall retain and maintain records of duty status and supporting documents required under this part for each of its drivers for a period of not less than 6 months from the date of receipt.

* * * * *

■ 16. Add § 395.11 to read as follows:

§ 395.11 Supporting documents.

(a) *Applicability.* The supporting document provisions under this section take effect [DATE TWO YEARS AFTER THE EFFECTIVE DATE OF FINAL RULE].

(b) *Submission of supporting documents to motor carrier.* Except for a private motor carrier of passengers (nonbusiness), a driver must submit to the driver's employer the driver's supporting documents required to be maintained under this section within 8 days of either the 24-hour period to which the documents pertain or the day the document comes into the driver's possession, whichever is later.

(c) *Supporting document retention.* (1) Subject to paragraph (d) of this section, a motor carrier must maintain each supporting document generated or received in the normal course of business in the following categories for each of its drivers for every 24-hour period to verify on-duty not driving time in accordance with § 395.8(k):

(i) Each bill of lading, itinerary, schedule, or equivalent document that indicates the origin and destination of each trip;

(ii) Each dispatch record, trip record, or equivalent document;

(iii) Each expense receipt related to any on-duty not driving time;

(iv) Each electronic mobile communication record, reflecting communications transmitted through a fleet management system; and

(v) Each payroll record, settlement sheet, or equivalent document that indicates what and how a driver was paid.

(2)(i) A supporting document must include each of the following data elements:

(A) On the document or on another document that enables the carrier to link the document to the driver, the driver's name or personal identification number (PIN) or a unit (vehicle) number if the unit number can be associated with the driver operating the unit;

(B) The date, which must be the date at the location where the date is recorded;

(C) The location, which must include the name of the nearest city, town, or village to enable Federal, State, or local enforcement personnel to quickly determine a vehicle's location on a standard map or road atlas; and

(D) Subject to paragraph (c)(2)(ii) of this section, the time, which must be convertible to the local time at the location where it is recorded.

(ii) If a driver has fewer than 10 supporting documents containing the four data elements under paragraph (c)(2)(i) of this section for a 24-hour period, a document containing the data elements under (c)(2)(i)(A)–(C) of this section is considered a supporting document for purposes of paragraph (d) of this section.

(d) *Maximum number of supporting documents.* (1) Subject to paragraphs (d)(3) and (4) of this section, a motor carrier need not maintain more than 10 supporting documents for an individual driver's 24-hour period under paragraph (c) of this section.

(2) In applying the limit on the number of documents required under paragraph (d)(1) of this section, each electronic mobile communication record applicable to an individual driver's 24-hour period shall be counted as a single document.

(3) If a driver submitted more than 10 supporting documents for a 24-hour period, a motor carrier must retain the supporting documents containing earliest and latest time indication among the 10 supporting documents maintained.

(4) In addition to other supporting documents required under this section, and notwithstanding the maximum number of documents under paragraph (d)(1) of this section, a motor carrier that requires a driver to complete a paper record of duty status under § 395.8(a)(1)(iii) must maintain toll receipts for any period when the driver kept paper records of duty status.

(e) *Link to driver's record of duty status.* A motor carrier must maintain supporting documents in such a manner that they may be effectively matched to the corresponding driver's record of duty status.

(f) *Prohibition of destruction.* No motor carrier or driver may obscure, deface, destroy, mutilate, or alter existing information contained in a supporting document.

(g)(1) On request during a roadside inspection, a driver must make available to an authorized Federal, State, or local official for the official's review any supporting document in the driver's possession.

(2) A driver need not produce a supporting document under paragraph (g)(1) of this section in a format other than the format in which the driver possesses it.

(h) *Self-compliance systems.* (1) FMCSA may authorize on a case-by-case basis motor carrier self-compliance systems.

(2) Requests for use of a supporting document self-compliance system may be submitted to FMCSA under the procedures described in 49 CFR part 381, subpart C (Procedures for Applying for Exemptions).

(3) FMCSA will consider requests concerning types of supporting documents maintained by a motor carrier under § 395.8(k)(1) and the method by which a driver retains and maintains a copy of the record of duty

status for the previous 7 days and makes it available for inspection while on duty in accordance with § 395.8.

■ 17. Amend § 395.15 by revising paragraph (a) to read as follows:

§ 395.15 Automatic on-board recording devices.

(a) *Authority to use.* (1) A motor carrier that installs and requires a driver to use an automatic on-board recording device in accordance with this section before [DATE TWO YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE] may continue to use the compliant automatic on-board recording device no later than [DATE FOUR YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE]. Otherwise, the authority to use automatic on-board recording devices (AOBRDs) under this section ends on [DATE TWO YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE].

(2) A motor carrier may require a driver to use an automatic on-board recording device to record the driver's hours of service.

(3) Every driver required by a motor carrier to use an automatic on-board recording device shall use such device to record the driver's hours of service.

* * * * *

§§ 395.16–395.19 [Reserved]

■ 18. Add and reserve §§ 395.16 through 395.19.

■ 19. Amend part 395 by adding a new subpart B, consisting of §§ 395.20 through 395.38, and Appendix to Subpart B of Part 395, to read as follows:

Subpart B—Electronic Logging Devices (ELDs)

Subpart B—Electronic Logging Devices (ELDs)

§ 395.20 ELD applicability and scope.

(a) *Scope.* This subpart applies to ELDs used to record a driver's hours of service under § 395.8(a).

(b) *Applicability.* An ELD used after [DATE TWO YEARS AFTER THE EFFECTIVE DATE OF FINAL RULE] must meet the requirements of this subpart.

(c) *ELD system.* Throughout this subpart, a reference to an ELD includes, to the extent applicable, an ELD support system.

§ 395.22 Motor carrier responsibilities—In general.

(a) *Registered ELD required.* A motor carrier required to use an ELD must use only an ELD that is listed on the Federal Motor Carrier Safety Administration's registered ELDs list, accessible through the Agency's Web site.

(b) *User rights management.* (1) This paragraph (b) of this section applies to a motor carrier whose drivers use ELDs and to the motor carrier's support personnel who have been authorized by the motor carrier to access ELD records and make or suggest authorized edits.

(2) A motor carrier must:

(i) Actively manage ELD accounts, including creating, deactivating, and updating accounts, and ensure that properly authenticated individuals have ELD accounts with appropriate rights;

(ii) Assign a unique ELD username to each user account with the required user identification data;

(iii) Ensure that a driver's license used in the creation of an ELD driver account is valid and corresponds to the intended driver; and

(iv) Ensure that information entered to create a new account is accurate.

(c) *Driver identification data.* (1) The ELD user account assigned by the motor carrier to a driver requires the following data elements:

(i) A driver's first and last name, as reflected on the driver's license;

(ii) A unique ELD username selected by the motor carrier;

(iii) The driver's valid driver's license number; and

(iv) The State or jurisdiction that issued the driver's license.

(2) The driver's license number or Social Security number must not be used as, or as part of, the username for the account created on an ELD.

(d) *Motor carrier support personnel identification data.* The ELD user account assigned by a motor carrier to support personnel requires the following data elements:

(1) The individual's first and last name, as reflected on a government issued identification; and

(2) A unique ELD username selected by the motor carrier.

(e) *Proper log-in required.* The motor carrier must require that its drivers and support personnel log into the ELD system using their proper identification data.

(f) *Calibration.* A motor carrier must ensure that an ELD is calibrated and maintained in accordance with the provider's specifications.

(g) *Portable ELDs.* If a driver uses a portable ELD, the motor carrier shall ensure that the ELD is mounted in a fixed position during the operation of the commercial motor vehicle and visible to the driver when the driver is seated in the normal driving position.

(h) *In-vehicle information.* A motor carrier must ensure that its drivers possess onboard a commercial motor vehicle an ELD information packet containing the following items:

(1) A user's manual for the driver describing how to operate the ELD;

(2) An instruction sheet for the driver describing the data transfer mechanisms supported by the ELD and step-by-step instructions for the driver to produce and transfer the driver's hours-of-service records to an authorized safety official;

(3) An instruction sheet for the driver describing ELD malfunction reporting requirements and recordkeeping procedures during ELD malfunctions; and

(4) A supply of blank driver's records of duty status graph-grids sufficient to record the driver's duty status and other related information for a minimum of 8 days.

(i) Record backup and security. (1) A motor carrier must maintain for 6 months a back-up copy of the ELD records on a device separate from that on which the original data are stored.

(2) A motor carrier must maintain a driver's ELD records so as to protect a driver's privacy in a manner consistent with sound business practices.

(j) *Record production.* When requested by an authorized safety official, a motor carrier must produce ELD records in an electronic format either on request or, if the motor carrier has multiple offices or terminals, within the time permitted under § 390.29.

§ 395.24 Driver responsibilities—In general.

(a) *In general.* A driver must provide the information the ELD requires as prompted by the ELD and required by the motor carrier.

(b) *Driver's duty status.* A driver must input the driver's duty status by selecting among the following categories available on the ELD:

(1) ''Off duty'' or ''OFF'' or ''1'';

(2) ''Sleeper berth'' or ''SB'' or ''2'', to be used only if sleeper berth is used;

(3) ''Driving'' or ''D'' or ''3''; or

(4) ''On-duty not driving'' or ''ON'' or ''4''.

(c) *Miscellaneous data.* (1) A driver must manually input the following information in the ELD:

(i) Annotations, when applicable;
(ii) Driver's location description, when prompted by the ELD; and
(iii) Output file comment, when directed by an authorized safety officer.
(2) A driver must manually input or verify the following information on the ELD:
(i) Commercial motor vehicle power unit number;
(ii) Trailer number(s), if applicable; and
(iii) Shipping document number, if applicable.
(d) *Driver use of ELD.* On request by an authorized safety official, a driver must produce and transfer from an ELD the driver's hours-of-service records in accordance with the instruction sheet provided by the motor carrier.

§ 395.26 ELD data automatically recorded.

(a) *In general.* An ELD provides the following functions and automatically records the data elements listed in this section in accordance with the requirements contained in the appendix to subpart B of part 395.
(b) *Data automatically recorded.* The ELD automatically records the following data elements:
(1) Date;
(2) Time;
(3) CMV geographic location information;
(4) Engine hours;
(5) Vehicle miles;
(6) Driver or authenticated user identification data;
(7) Vehicle identification data; and
(8) Motor carrier identification data.
(c) *Change of duty status.* When a driver indicates a change of duty status under § 395.24(b), the ELD records the data elements in paragraphs (b)(1) through (8) of this section.
(d) *Intermediate recording.* (1) When a commercial motor vehicle is in motion and there has not been a duty status change or another intermediate recording in the previous 1 hour, the ELD automatically records an intermediate recording that includes the data elements in paragraphs (b)(1) through (8) of this section.
(2) If the intermediate recording is created during a period when the driver indicates authorized personal use of a commercial motor vehicle, the data elements in paragraphs (b)(4) and (b)(5) of this section (engine hours and vehicle miles) will be left blank and paragraph (b)(3) of this section (location) will be recorded with a single decimal point resolution (approximately within a 10-mile radius).
(e) *Change in special driving category.* If a driver indicates a change in status under § 395.28(a)(2), the ELD records the data elements in paragraphs (b)(1) through (8) of this section.
(f) *Certification of the driver's daily record.* The ELD provides a function for recording the driver's certification of the driver's records for every 24-hour period. When a driver certifies or recertifies the driver's records for a given 24-hour period under § 395.30(b)(2), the ELD records the date, time and driver identification data elements in paragraphs (b)(1), (2), and (6) of this section.
(g) *Log in/log out.* When an authorized user logs into or out of an ELD, the ELD records the data elements in paragraphs (b)(1) and (2) and (b)(4) through (8) of this section.
(h) *Engine power up/shut down.* When a commercial motor vehicle's engine is powered up or powered down, the ELD records the data elements in paragraphs (b)(1) through (8) of this section.
(i) *Authorized personal use.* If the record is created during a period when the driver has indicated authorized personal use of a commercial motor vehicle, the data element in paragraph (a)(3) of this section is logged with a single decimal point resolution (approximately within a 10-mile radius).
(j) *Malfunction and data diagnostic event.* When an ELD detects or clears a malfunction or data diagnostic event, the ELD records the data elements in paragraphs (b)(1) and (2) and (b)(4) through (8) of this section.

§ 395.28. Special driving categories; other driving statuses.

(a) *Special driving categories.* (1) *Motor carrier options.* A motor carrier may configure an ELD to authorize a driver to indicate that the driver is operating a commercial motor vehicle under any of the following special driving categories:
(i) Authorized personal use; and
(ii) Yard moves.
(2) *Driver's responsibilities.* A driver operating a commercial motor vehicle under one of the authorized categories listed in paragraph (a)(1) of this section:
(i) Must select on the ELD the applicable special driving category before the start of the status and deselect when the indicated status ends; and
(ii) When prompted by the ELD, annotate the driver's ELD record describing the driver's activity.
(b) *Drivers exempt from ELD use.* A motor carrier may configure an ELD to designate a driver as exempt from ELD use.
(c) *Other driving statuses.* A driver operating a commercial motor vehicle under any exception under § 390.3(f) or § 395.1 who is not covered under paragraph (a) or (b) of this section must annotate the driver's ELD record explaining the applicable exemption.

§ 395.30 ELD record submissions, edits, annotations, and data retention.

(a) *True and correct record keeping.* A driver and the motor carrier must ensure that the driver's ELD records are accurate.
(b) *Review of records and certification by driver.* (1) A driver must review the driver's ELD records, edit and correct inaccurate records, enter any missing information, and certify the accuracy of the information.
(2) Using the certification function of the ELD, the driver must certify the driver's records by affirmatively selecting ''Agree'' immediately following a statement that reads, ''I hereby certify that my data entries and my record of duty status for this 24-hour period are true and correct.'' The driver must certify the record immediately after the final required entry has been made or corrected for the 24-hour period.
(3) The driver must submit the driver's certified ELD records to the motor carrier in accordance with § 395.8(a)(2).
(4) If any edits are necessary after the driver submits the records to the motor carrier, the driver must recertify the record after the edits are made.
(c) *Edits, entries, and annotations.* (1) Subject to the edit limitations of an ELD, a driver may edit, enter missing information, and annotate ELD recorded events. When edits, additions, or annotations are necessary, a driver must use the ELD and respond to the ELD's prompts.
(2) The driver or support personnel must annotate each change or addition to a record.
(3) In the case of team drivers, if there was a mistake resulting in the wrong driver being assigned driving-time hours by the ELD, and if the team drivers were both indicated in each other's records for that period as co-drivers, driving time may be edited and reassigned between the team drivers following the procedure supported by the ELD.
(d) *Motor carrier-proposed edits.* (1) On review of a driver's submitted records, the motor carrier may request edits to a driver's records of duty status to ensure accuracy. A driver must confirm or reject any proposed change, implement the appropriate edits on the driver's record of duty status, and recertify and resubmit the records in order for any motor carrier-proposed changes to take effect.
(2) A motor carrier may not request edits to the driver's electronic records

before the records have been submitted by the driver.

(3) Edits requested by any system or by any person other than the driver must require the driver's electronic confirmation or rejection.

(e) *Coercion prohibited.* A motor carrier may not coerce a driver to make a false certification of the driver's data entries or record of duty status.

(f) *Motor carrier data retention requirements.* A motor carrier must not alter or erase, or permit or require alteration or erasure of, the original information collected concerning the driver's hours of service, the source data streams used to provide that information, or information contained in any ELD support system that uses the original information and source data streams.

§ 395.32 Non-authenticated driver logs.

(a) *Tracking non-authenticated operation.* The ELD must associate the non-authenticated operation of a commercial motor vehicle with a single account labeled ''Unidentified Driver'' as soon as the vehicle is in motion, if no driver has logged into the ELD.

(b) *Driver.* When a driver logs into an ELD, the driver must review any unassigned driving time when prompted by the ELD and must:

(1) Assume any records that belong to the driver under the driver's account; or

(2) Indicate that the records are not attributable to the driver.

(c) *Motor carrier.* (1) A motor carrier must ensure that records of unidentified driving are reviewed and must:

(i) Annotate the record, explaining why the time is unassigned; or

(ii) Assign the record to the appropriate driver to correctly reflect the driver's hours of service.

(2) A motor carrier must retain unidentified driving records for each ELD for a minimum of 6 months from the date of receipt.

(3) During a safety inspection, audit or investigation by an authorized safety official, a motor carrier must make available unidentified driving records from the ELD corresponding to the time period for which ELD records are required.

§ 395.34 ELD malfunctions and data diagnostic events.

(a) *Recordkeeping during ELD malfunctions.* In case of an ELD malfunction, a driver must do the following:

(1) Note the malfunction of the ELD and provide written notice of the malfunction to the motor carrier within 24 hours;

(2) Reconstruct the record of duty status for the current 24-hour period and the previous 7 consecutive days, and record the records of duty status on graph-grid paper logs that comply with § 395.8, unless the driver already possesses the records or the records are retrievable from the ELD; and

(3) Continue to manually prepare a record of duty status until the ELD is serviced and brought back into compliance with this subpart.

(b) *Inspections during malfunctions.* When a driver is inspected for hours of service compliance during an ELD malfunction, the driver must provide the authorized safety official the driver's records of duty status manually maintained as specified under paragraphs (a)(2) and (3) of this section.

(c) *Driver requirements during ELD data diagnostic events.* If an ELD indicates that there is a data inconsistency that generates a data diagnostic event, the driver must follow the motor carrier's and ELD provider's recommendations in resolving the data inconsistency.

(d) *Motor carrier requirements for repair, replacement, or service.* (1) If a motor carrier receives or discovers information concerning the malfunction of an ELD, the motor carrier must take corrective actions to correct the malfunction of the ELD within 8 days of discovery of the condition or a driver's notification to the motor carrier, whichever occurs first.

(2) A motor carrier seeking to extend the period of time permitted for repair, replacement, or service of one or more ELDs shall notify the FMCSA Division Administrator for the State of the motor carrier's principal place of business within 5 days after a driver notifies the motor carrier under paragraph (a)(1) of this section. Each request for an extension under this section must be signed by the motor carrier and must contain:

(i) The name, address, and telephone number of the motor carrier representative who files the request;

(ii) The make, model, and serial number of each ELD;

(iii) The date and location of each ELD malfunction as reported by the driver to the carrier; and

(iv) A concise statement describing actions taken by the motor carrier to make a good faith effort to repair, replace, or service the ELD units, including why the carrier needs additional time beyond the 8 days provided by this section.

(3) If FMCSA determines that the motor carrier is continuing to make a good faith effort to ensure repair, replacement, or service to address the malfunction of each ELD, FMCSA may allow an additional period.

(4) FMCSA will provide written notice to the motor carrier of its determination. The determination may include any conditions that FMCSA considers necessary to ensure hours-of-service compliance. The determination shall constitute a final agency action.

(5) A carrier providing a request for extension that meets the requirements of paragraph (d)(2) of this section is deemed in compliance with § 395.8(a)(1)(i) and (a)(2) until FMCSA makes an extension determination under this section, provided the motor carrier and driver continue to comply with the other requirements of this section.

§ 395.36 Driver access to records.

(a) *Records on ELD.* Drivers must be able to access their own ELD records. A motor carrier must not introduce a process that would require a driver to go through the motor carrier to obtain copies of the driver's own ELD records if such records exist on or are automatically retrievable through the ELD operated by the driver.

(b) *Records in motor carrier's possession.* On request, a motor carrier must provide a driver with access to and copies of the driver's own ELD records unavailable under paragraph (a) of this section during the period a motor carrier is required to retain the records under § 395.8(k).

§ 395.38 Incorporation by reference.

(a) *Incorporation by reference.* Certain materials are incorporated by reference in part 395, with the approval of the Director of the Office of the Federal Register under 5 U.S.C. 552(a), and 1 CFR part 51. To enforce any edition other than that specified in this section, the Federal Motor Carrier Safety Administration must publish notice of change in the **Federal Register**, and the material must be available to the public. All approved material is available for inspection at the Federal Motor Carrier Safety Administration, Office of Bus and Truck Standards and Operations (MC–PS), (202) 366–4325, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) Institute of Electrical and Electronic Engineers (IEEE) Standards Association. 445 Hoes Lane, Piscataway, NJ 08854–4141. Web page is *http://standards.ieee.org/index.html.* Telephone is (732) 981–0060.

(1) ''Standard for Authentication in Host Attachments of Transient Storage Devices,'' IEEE Standards Association: 2009 (IEEE Std. 1667–2009). Incorporation by reference approved for appendix to subpart B of part 395, paragraph 4.10.2.1.

(2) [Reserved]

(c) Universal Serial Bus Implementers Forum (USBIF). 3855 SW. 153rd Drive, Beaverton, Oregon 97006. Web page is *http://www.usb.org*. Telephone is (503) 619–0426.

(1) ''Universal Serial Bus Specification,'' Compaq, Hewlett-Packard, Intel, Lucent, Microsoft, NEC, Philips; April 27, 2000 (Revision 2.0). Incorporation by reference approved for appendix to subpart B of part 395, paragraphs 4.9.1, Table 5, 4.9.2, 4.10.2.1, and 4.10.3.

(2) [Reserved]

(d) American National Standards Institute (ANSI). 11 West 42nd Street, New York, New York 10036. Web page is *http://webstore.ansi.org*. Telephone is (212) 642–4900.

(1) ''ANSI INCITS 446–2008, American National Standard for Information Technology—Identifying Attributes for Named Physical and Cultural Geographic Features (Except Roads and Highways) of the United States, Its Territories, Outlying Areas, and Freely Associated Areas and the Waters of the Same to the Limit of the Twelve-Mile Statutory Zone (10/28/2008),'' (ANSI INCITS 446–2008). Incorporation by reference approved for appendix to subpart B of part 395, paragraph 4.4.2. (For further information, see also the Geographic Names Information System (GNIS) at *http://geonames.usgs.gov/domestic/index.html*.)

(2) ''Information Systems—Coded Character Sets—7-Bit American National Standard Code for Information Interchange (7-Bit ASCII),'' ANSI INCITS 4–1986 (R2007). Incorporation by reference approved for appendix to subpart B of part 395, Table 3 and paragraph 4.8.2.1.

(e) International Standards Organization (ISO). 1, ch. de la Voie-Creuse, CP 56—CH–1211, Geneva 20, Switzerland. Web page is *http://www.iso.org*. Telephone is 41 22 749 03 46.

(1) ''ISO/IEC 18004:2006 Information technology—Automatic identification and data capture techniques—QR Code 2005 bar code symbology specification.'' Incorporation by reference approved for appendix to subpart B of part 395, paragraph 4.10.2.2.

(2) ''ISO/IEC 17568 Information technology—Telecommunications and information exchange between systems—Close proximity electric induction wireless communications.'' Incorporation by reference approved for appendix to subpart B of part 395, paragraph 4.10.2.3.

(f) Internet Engineering Task Force (IETF). C/o Association Management Solutions, LLC (AMS) 48377 Freemont Blvd., Suite 117, Freemont, CA 94538. Telephone is (510) 492–4080.

(1) Request for Comment (RFC) 5246–''The Transport Layer Security (TLS) Protocol Version 1.2,'' August 2008. Incorporation by reference approved for appendix to subpart B of part 395, paragraph 4.10.1.1.

(2) RFC 5321—''Simple Mail Transfer Protocol,'' October 2008. Incorporation by reference approved for appendix to subpart B of part 395, paragraph 4.10.1.3.

(3) RFC 5322—''Internet Message Format,'' October 2008. Incorporation by reference approved for appendix to subpart B of part 395, paragraph 4.10.1.3.

(g) U.S. Department of Commerce, National Institute of Standards and Technology (NIST). 100 Bureau Drive, Stop 1070, Gaithersburg, MD 20899–1070. Web page is *http://www.nist.gov*. Telephone is (301) 975–6478.

(1) ''Federal Information Processing Standards (FIPS) Publication 197, November 26, 2001, Announcing the ADVANCED ENCRYPTION STANDARD (AES).'' Incorporation by reference approved for appendix to subpart B of part 395, paragraphs 4.10.1.3 and 4.10.2.1.

(2) ''Special Publication (SP) 800–32, February 26, 2001, Introduction to Public Key Technology and the Federal PKI Infrastructure.'' Incorporation by reference approved for appendix to subpart B of part 395, paragraphs 4.10.1.1 and 4.10.1.3.

(h) World Wide Web Consortium (W3C). 32 Vassar Street, Building 32–G514, Cambridge, MA 02139. Web page is *http://www.w3.org*. Telephone is (617) 253–2613.

(1) ''Web Services Description Language (WSDL) 1.1, W3C Note 15, March 2001,'' Ariba, IBM Research, Microsoft. Incorporation by reference approved for appendix to subpart B of part 395, paragraph 4.10.1.1(1).

(2) ''Simple Object Access Protocol (SOAP) Version 1.2 Part 1: Messaging Framework (Second Edition), W3C Recommendation 27 April 2007,'' W3C® (MIT, ERCIM, Keio). Incorporation by reference approved for appendix to subpart B of part 395, paragraph 4.10.1.1(2).

(3) ''Extensible Markup Language (XML) 1.0 (Fifth Edition), W3C Recommendation 26 November 2008,'' W3C® (MIT, ERCIM, Keio). Incorporation by reference approved for appendix to subpart B of part 395, paragraph 4.10.1.1(3).

(4) RFC 2616 ''Hypertext Transfer Protocol—HTTP/1.1'' Incorporation by reference approved for appendix to subpart B of part 395, paragraph 4.10.1.1.

(i) Bluetooth SIG, Inc., 5209 Lake Washington Blvd. NE., Suite 350, Kirkland, WA 98033. Web page is *https://www.bluetooth.org/Technical/Specifications/adopted.htm*. Telephone is (425) 691–3535.

(1) ''Specification of the Bluetooth System: Wireless Connections Made Easy,'' Bluetooth SIG Version, Covered Core Package version 2.1 + EDR or a higher version. Incorporation by reference approved for appendix to subpart B of part 395, paragraph 4.10.1.2.

(2) [Reserved]

Appendix to Subpart B of Part 395—Functional Specifications for All Electronic Logging Devices (ELDs)

Table of Contents

1. Scope and Description

This appendix specifies the minimal requirements for an electronic logging device (ELD) necessary for an ELD provider to build and certify that its technology is compliant with this appendix.

Throughout this appendix, a reference to an ELD includes, to the extent applicable, an ELD support system.

1.1. ELD Function

The ELD discussed in this appendix is an electronic module capable of recording the electronic records of duty status for CMV drivers using the unit in a driving environment within a CMV and meets the compliance requirements in this appendix.

1.2. System Users

Users of ELDs are:

(1) CMV drivers employed by a motor carrier; and

(2) Support personnel who have been authorized by the motor carrier to:

(a) Create, remove and manage user accounts;

(b) Configure allowed ELD parameters; and

(c) Access, review and manage drivers' ELD records on behalf of the motor carrier.

1.3. System Architecture

An ELD may be implemented as a stand-alone technology or within another electronic module. It may be installed in a CMV or may be implemented on a handheld unit that may be moved from vehicle to vehicle. The functional requirements are the same for all types of system architecture that may be used in implementing the ELD functionality.

1.4. System Design

An ELD is integrally synchronized with the engine of the CMV such that driving time can be automatically recorded for the driver operating the CMV and using the ELD.

An ELD allows for manual inputs from the driver and the motor carrier support personnel and automatically captures date and time, vehicle position, and vehicle operational parameters.

An ELD records a driver's electronic RODS and other supporting events with the required data elements specified in this appendix and retains data to support the performance requirements specified in this appendix

An ELD generates a standard data file output and transfers it to an authorized safety official upon request.

This appendix specifies minimally required data elements that must be part of an event record such that a standard ELD output file can be produced by all compliant ELDs.

Figure 1 provides a visual layout of how this appendix is generally organized to further explain the required sub-functions of an ELD.

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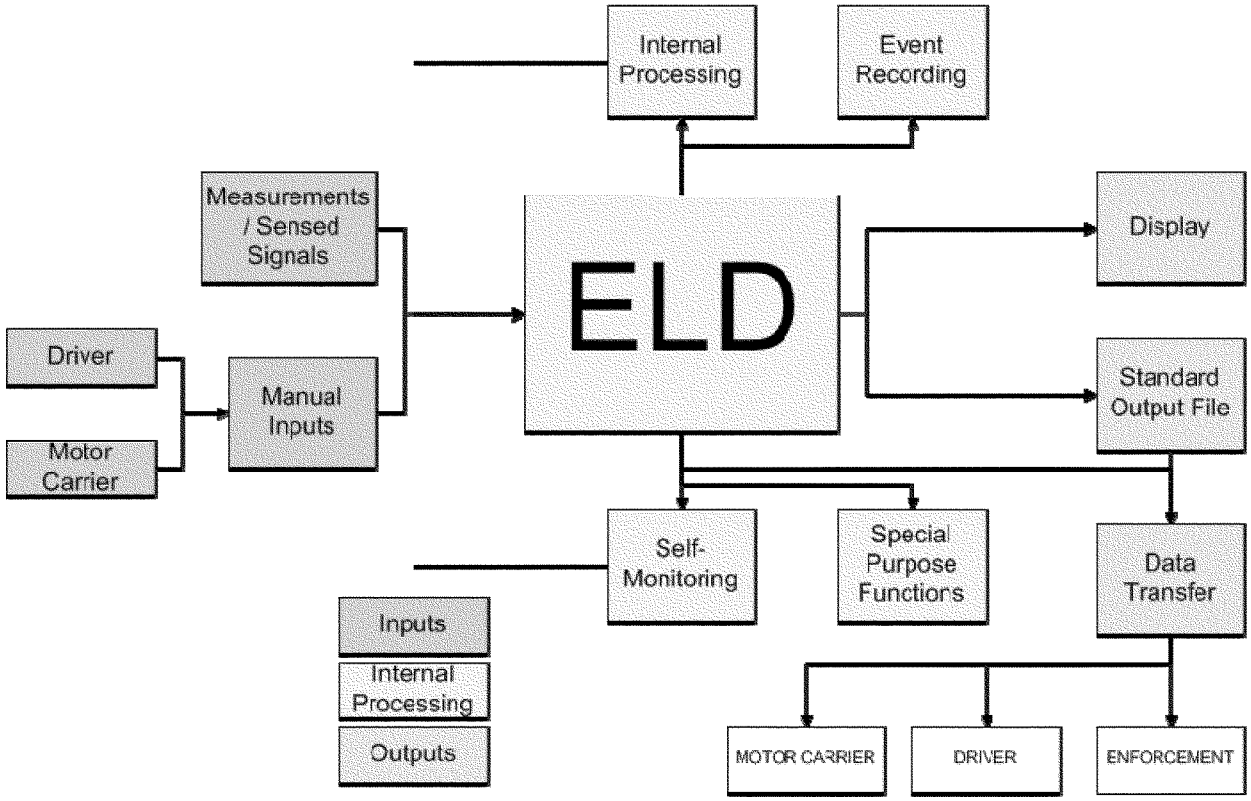
Figure 1

A Pictorial Overview of an ELD's Inputs, Outputs, and Other Sub-Functions



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1.5. Sections of Appendix

Section 2 lists the abbreviations used throughout this appendix.

Section 3 provides definitions for terms and notations used in this document.

Section 4 lists functional requirements for an ELD. More specifically, section 4.1 describes the security requirements for account management within an ELD system and introduces the term ''Unidentified Driver'' account. Section 4.2 explains internal engine synchronization requirements and its applicability when used in recording a driver's record of duty status in CMVs built before and after a threshold model year.

Section 4.3 describes the inputs of an ELD which includes automatically measured signals by the ELD as covered in section 4.3.1, and manual entries by the authenticated driver as covered in section 4.3.2 and by the motor carrier as covered in section 4.3.3. The ELD requirements for internal processing and tracking of information flow are described in section 4.4 which includes conditions for and prohibitions against automatic setting of duty-status in section 4.4.1, required geo-location and date and time conversion functions in sections 4.4.2 and 4.4.3, respectively, use of event attributes for tracking of edit and entry history in section 4.4.4, and the use of data check functions in the recording of ELD logs in section 4.4.5 as standard security measures for all ELDs. Section 4.5 describes the events an ELD must record and the data element each type of an event must include. Section 4.6 introduces device self-monitoring requirements and standardizes the minimal set of malfunctions and data diagnostic events an ELM must be able to detect. Section 4.7 introduces technical functions that are intended to guard a driver against harassment and introduces a privacy preserving provision when a driver operates a CMV for personal purposes. Section 4.8 explains ELD outputs, which are the information displayed to a user and the standard data output file an ELD must produce. Sections 4.9 and 4.10, respectively,

describe the data reporting requirements and the communications protocols.

Section 5 describes the ELD certification and registration process.

Section 6 lists the cited references throughout this appendix.

Section 7 provides a data elements dictionary for each data element referenced in this appendix.

2. Abbreviations

3pDP Third-party Developers' Partnership
ASCII American Standard Code for Information Interchange
CAN Control Area Network
CMV Commercial Motor Vehicle
ECM Electronic Control Module
ELD Electronic Logging Device
FMCSA Federal Motor Carrier Safety Administration
HOS Hours of Service
HTTP Hypertext Transfer Protocol
HTTPS Hypertext Transfer Protocol Secure
ICD Interface Control Document
SAFER Safety and Fitness Electronic Records
QR Quick Response
RFC Request for Comments
RODS Records of Duty Status
TLS Transport Layer Security
UCT Coordinated Universal Time
USB Universal Serial Bus
WSDL Web Services Definition Language
XML Extensible Markup Language
XOR Exclusive Or {bitwise binary operation}

3. Definitions; Notations

3.1. Definitions

3.1.1. Databus

A vehicle databus refers to an internal communications network that interconnects components inside a vehicle and facilitates exchange of data between subsystems typically using serial or control area network protocols.

3.1.2. ELD Event

An ELD event refers to a discrete instance in time when the ELD records data with the data elements specified in this appendix. The discrete ELD events relate to the driver's duty status and ELD's operational integrity. They are either triggered by input from the driver (driver's duty status changes, driver's login/logout activity, etc.) or triggered by ELD's internal monitoring functions (ELD malfunction detection, data diagnostics detection, intermediate logs, etc.). ELD events and required data elements for each type of ELD events are described in detail in section 4.5.1.

3.1.3. Exempt Driver

As specified in further detail in section 4.3.3.1.2, an ELD must allow a motor carrier to configure an ELD for a driver who may be exempt from the use of ELD. Examples of an exempt driver would be a 100 air-mile radius driver and non-CDL 150-air mile radius driver. Even though exempt drivers do not have to use an ELD, in operations when an ELD equipped CMV may be shared between exempt and non-exempt drivers, motor carriers can use this allowed configuration to avoid issues with unidentified driver data diagnostics errors.

3.1.4. Geo-Location

Geo-location is the conversion of a position measurement in latitude/longitude coordinates into a description of the distance and direction to a recognizable nearby location name. Geo-location information is used in ELD's displayable outputs such as on a screen.

3.1.5. Ignition Power Cycle, Ignition Power On Cycle, Ignition Power Off Cycle

An ignition power cycle refers to the engine's power status changing from ''on to off'' or ''off to on'', typically with driver controlling ignition power by switching the ignition key positions.

An ignition power on cycle refers to the engine power sequence changing from ''off to on and then off''. This refers to a continuous period when a CMV's engine is powered.

An ignition power off cycle refers to the engine power sequence changing from ''on to off and then on''. This refers to a continuous period when a CMV's engine is not powered.

3.1.6. Unidentified Driver

''Unidentified Driver'' refers to the operation of a CMV featuring an ELD without an authenticated driver logging in the system. Functional specifications in this appendix require an ELD to automatically capture driving time under such conditions and attribute such records with the unique ''Unidentified Driver'' account, as specified in section 4.1.5, until they are reviewed and assigned to the true and correct owner of these records.

3.2. Notations

Throughout this appendix the following notations are used when data elements are referenced.

<.> indicates a parameter an ELD must track. For example ELD username refers to the unique <ELD username> or identifier specified during the creation of an ELD account with the requirements set forth in section 7.1.17.

{.} indicates which of multiple values of a parameter is being referenced. For example ELD username {*for the co-driver*} refers specifically the ELD username for the co-driver.

<CR> indicates a carriage return or new line or end of current line. This notation is used in section 4.8.2 which describes the standard ELD output file and in section 4.10.2.4 which describes a standard printout report.

4. Functional Requirements

4.1. ELD User Accounts

4.1.1. Account Types

An ELD must support a user account structure that separates drivers and motor carrier's support personnel (i.e. non-drivers).

4.1.2. Account Creation

Each user of the ELD must have a valid active account on the ELD with a unique identifier assigned by the motor carrier.

Each driver account must require the entry of the driver's license number and the State or jurisdiction that issued the driver's license into the ELD during the account creation process. The driver account must securely store this information on the ELD.

An ELD must not allow creation of more than one driver account associated with a driver's license for a given motor carrier.

A driver account must not have administrative rights to create new accounts on the ELD.

A support personnel account must not allow recording of ELD data for its account holder.

An ELD must reserve a unique driver account for recording events during non-authenticated operation of a CMV. This appendix will refer to this account as unidentified driver account.

4.1.3. Account Security

An ELD must provide secure access to data recorded and stored on the system by requiring user authentication during system login.

Driver accounts must only have access to data associated with that driver, protecting the authenticity and confidentiality of the collected information.

4.1.4. Account Management

An ELD must be capable of separately recording and retaining ELD data for each individual driver using the ELD.

An ELD must provide for and require concurrent authentication for team drivers.

If more than one ELD unit is used to record a driver's electronic records within a motor carrier's operation, the ELD in the vehicle the driver is operating most recently must be able to produce a complete ELD report for that driver, on demand, for the current 24-hour period and the previous 7 consecutive days.

4.1.5. Non-Authenticated Operation

An ELD must associate all non-authenticated operation of a CMV with a single ELD account labeled unidentified driver.

If a driver does not log onto the ELD, as soon as the vehicle is in motion, the ELD must:

(a) Provide a visual or visual and audible warning reminding the driver to stop and login to the ELD;

(b) Record accumulated driving and on-duty, not-driving, time in accordance with the ELD defaults described in section 4.4.1 under the unidentified driver profile; and

(c) Not allow entry of any information into the ELD other than a response to the login prompt.

4.2. ELD-Vehicle Interface

An ELD must be integrally synchronized with the engine of the CMV. Engine synchronization for purposes of ELD compliance means the monitoring of the vehicle's engine operation to automatically capture engine's power status, vehicle's motion status, miles driven value, and engine hours value. Furthermore, an ELD used while operating a CMV that is a model year 2000 or later model year, as indicated by the vehicle identification number, that has engine electronic control module (ECM), must establish a link to the engine ECM and receive this information automatically through the serial or Control Area Network communication (CAN) protocols supported by the vehicle's engine ECM. Otherwise, an ELD may use alternative sources to obtain or

estimate these vehicle parameters with the listed accuracy requirements under section 4.3.1.

4.3. ELD Inputs

4.3.1. ELD Sensing

4.3.1.1. Engine Power Status

An ELD must be powered within 15 seconds of the vehicle's engine receiving power and must remain powered for as long as the vehicle's engine stays powered.

4.3.1.2. Vehicle Motion Status

An ELD must automatically determine whether a CMV is in motion or stopped by comparing the vehicle speed information with respect to a set speed threshold as follows:

(1) Once the vehicle speed exceeds the set speed threshold, it must be considered in motion.

(2) Once in motion, the vehicle must be considered in motion until its speed falls to 0 miles per hour and stays at 0 miles per hour for 3 consecutive seconds. Then, the vehicle will be considered stopped.

(3) An ELD's set speed threshold for determination of the in-motion state for the purpose of this section must not be configurable to greater than 5 miles per hour.

If an ELD is required to have a link to the vehicle's engine ECM, vehicle speed information must be acquired from the engine ECM. Otherwise, vehicle speed information must be acquired using an independent source apart from the positioning services described under section 4.3.1.6 and must be accurate within ±3 miles per hour of the CMV's true ground speed for purposes of determining the in-motion state for the CMV.

4.3.1.3. Vehicle Miles

An ELD must monitor vehicle miles as accumulated by a CMV over the course of an ignition power on cycle (accumulated vehicle miles) and over the course of CMV's operation (total vehicle miles). Vehicle miles information must use or must be converted to units of whole miles.

If the ELD is required to have a link to the vehicle's engine ECM as specified in section 4.2:

(1) The ELD must monitor the engine ECM's odometer message broadcast and use it to log total vehicle miles information; and

(2) The ELD must use the odometer message to determine accumulated vehicle miles since engine's last power on instance.

Otherwise, the accumulated vehicle miles indication must be obtained or estimated from a source that is accurate to within ±10% of miles accumulated by the CMV over a 24-hour period as indicated on the vehicle's odometer display.

4.3.1.4. Engine Hours

An ELD must monitor engine hours of the CMV over the course of an ignition power on cycle (elapsed engine hours) and over the course of the CMV's operation total engine hours. Engine hours must use or must be converted to hours in intervals of a tenth of an hour.

If an ELD is required to have a link to the vehicle's engine ECM, the ELD must monitor engine ECM's total engine hours message broadcast and use it to log total engine hours information. Otherwise, engine hours must be obtained or estimated from a source that monitors the ignition power of the CMV and must be accurate within ±0.1 hour of the engine's total operation within a given ignition power on cycle.

4.3.1.5. Date and Time

The ELD must obtain and record the date and time information automatically without allowing any external input or interference from a motor carrier, driver, or any other person.

The ELD time must be synchronized to Coordinated Universal Time (UCT) and the absolute deviation from UCT must not exceed 10 minutes at any point in time.

4.3.1.6. CMV Position

An ELD must have the capability to automatically determine the position of the CMV in standard latitude/longitude coordinates with the accuracy and availability requirements of this section.

ELD must obtain and record this information without allowing any external input or interference from a motor carrier, driver, or any other person.

CMV position measurement must be accurate to ±0.5 mile of absolute position of the CMV when an ELD measures a valid latitude/longitude coordinate value.

Position information must be obtained in or converted into standard signed latitude and longitude values and must be expressed as decimal degrees to hundreds of a degree precision (i.e., a decimal point and two decimal places).

Measurement accuracy combined with the reporting precision requirement implies that position reporting accuracy will be in the order of ±1mile of absolute position of the CMV during the course of a CMV's commercial operation.

During periods of a driver's indication of personal use of the CMV, measurement reporting precision requirement is further reduced to be expressed as decimal degrees to tenths of a degree (i.e. a decimal point and single decimal place) as further specified in section 4.7.3.

An ELD must be able to acquire a valid position measurement at least once every 5 miles of driving; however, CMV location information is only recorded during ELD events as specified in section 4.5.1.

4.3.1.7. CMV VIN

The vehicle identification number (VIN) for the power unit of a CMV must be automatically obtained from the engine ECM and recorded if it is available on the vehicle databus.

4.3.2. Driver's Manual Entries

An ELD must prompt the driver to input information into the ELD only when the CMV is stationary and driver's duty status is not on-duty driving, except for the condition specified in section 4.4.1.2.

If the driver's duty status is driving, an ELD must only allow the driver who is operating the CMV to change the driver's duty status to another duty status.

A stopped vehicle must maintain zero (0) miles per hour speed to be considered stationary for purposes of information entry into an ELD.

An ELD must allow an authenticated co-driver who is not driving, but who has logged into the ELD prior to the vehicle being in motion to make entries over his or her own records when the vehicle is in motion. The ELD must not allow co-drivers to switch driving roles when the vehicle is in motion.

4.3.2.1. Driver's Entry of Required Event Data Fields

An ELD must provide a means for a driver to manually enter information pertaining to driver's ELD records such as CMV power unit number as specified in section 7.1.4, trailer number(s) as specified in section 7.1.41 and shipping document number as specified in 7.1.38.

If these fields are populated automatically by motor carrier's ELD system, the ELD must provide means for the driver to review such information and make corrections as necessary.

4.3.2.2. Driver's Status Inputs

4.3.2.2.1. Driver's Indication of Duty Status

An ELD must provide a means for the authenticated driver to select a driver's duty status. The ELD must use the ELD duty status categories listed in Table 1.

TABLE 1—DUTY STATUS CATEGORIES

Duty status	Abbreviation	Data coding
Off Duty	OFF	1
Sleeper Berth	SB	2
Driving	D	3
On-duty Not Driving	ON	4

4.3.2.2.2. Driver's Indication of Situations Impacting Driving Time Recording

An ELD must provide means for a driver to indicate the beginning and end of a period when the driver may use the CMV for authorized personal use, or for performing yard moves. The ELD must acquire this status in a standard format from the category list in Table 2. This list must be supported independent of the duty status categories described in section 4.3.2.2.1.

TABLE 2—CATEGORIES FOR DRIVER'S INDICATION OF SITUATIONS IMPACTING DRIVING TIME RECORDING

Category	Abbreviation	Data coding
Authorized Personal Use of CMV	PC	1
Yard Moves	YM	2
Default: None		0

An ELD must allow a driver to only select categories that a motor carrier enables by configuration for that driver, as described in section 4.3.3.1.1.

An ELD must only allow one category to be selected at any given time and use the latest selection by the driver.

The ELD must prompt the driver to enter an annotation upon selection of a category from Table 2 and record driver's entry.

A driver's indication of special driving situation must reset to none if the ELD or CMV's engine goes through a power off cycle (ELD or CMV's engine turns off and then on) except if the driver has indicated authorized personal use of CMV, in which case, the ELD must require confirmation of continuation of the authorized personal use of CMV condition by the driver. If not confirmed by the driver and the vehicle is in motion, the ELD must default to none.

4.3.2.3. Driver's Certification of Records

An ELD must include a function whereby a driver can certify the driver's records at the end of a 24-hour period. This function, when selected, must display a statement that reads ''I hereby certify that my data entries and my record of duty status for this 24-hour period are true and correct.'' Driver must be prompted to select ''Agree'' or ''Not ready.'' Driver's affirmative selection of ''Agree'' must be recorded as an event.

An ELD must only allow the authenticated driver to certify records associated with that driver.

If any edits are necessary after the driver certifies the records for a given 24-hour period, the ELD must require and prompt the driver to re-certify the updated records.

If there are any past records on the ELD (excluding the current 24-hour period) that requires certification or re-certification by the driver, the ELD must indicate the required driver action on the ELD's display and prompt the driver to take the necessary action during the login and logout processes.

4.3.2.4. Driver's Data Transfer Initiation Input

An ELD must provide a standardized single-step driver interface for compilation of driver's ELD records and initiation of the data transfer to authorized safety officials when requested during a roadside inspection.

The ELD must input the data transfer request from the driver, require confirmation, present and request selection of the supported data transfer options by the ELD, and prompt for entry of the output file comment as specified in section 4.3.2.5. Upon confirmation, the ELD must generate the compliant output file and perform the data transfer.

The supported single-step data transfer initiation mechanism (such as a switch or an icon on a touch-screen display) must be clearly marked and visible to the driver when the vehicle is stopped.

4.3.2.5. Driver's Entry of an Output File Comment

An ELD must accommodate the entry of an output file comment up to 60 characters long. If an authorized safety official provides a key phrase or code during an inspection to be included in the output file comment, it must be entered and embedded into the electronic ELD records in the exchanged dataset as specified in section 4.8.2.1.1. The default value for the output file comment must be blank. This output file comment must be used only for the creation of the related data files for the intended time, place, and ELD user.

4.3.2.6. Driver's Annotation of Records

An ELD must allow for a driver to add annotations in text format to recorded, entered, or edited ELD events.

The ELD must require annotations to be 4 characters or longer, including embedded spaces if driver annotation is required and driver is prompted by the ELD.

4.3.2.7. Driver's Entry of Location Information

An ELD must allow manual entry of a CMV's location by the driver in text format in support of the driver edit requirements described in section 4.3.2.8.

Driver's manual location entry must be available as an option to a driver only when prompted by the ELD under allowed conditions as described in section 4.6.1.4.

A manual location entry must show ''M'' in the latitude/longitude coordinates fields in ELD records.

4.3.2.8. Driver's Record Entry/Edit

An ELD must provide a mechanism for a driver to review, edit, and annotate the driver's ELD records when a notation of errors or omissions is necessary or enter the driver's missing ELD records subject to the requirements specified in this section.

An ELD must not permit alteration or erasure of the original information collected concerning the driver's ELD records or alteration of the source data streams used to provide that information.

4.3.2.8.1. Mechanism for Driver Edits and Annotations

If a driver edits or annotates an ELD record or enters missing information the act must not overwrite the original record.

The ELD must use the process outlined in section 4.4.4.2 to configure required event attributes to track the edit history of records.

Driver edits must be accompanied by an annotation. The ELD must prompt the driver to annotate edits.

4.3.2.8.2. Driver Edit Limitations

An ELD must not allow or require the editing or manual entry of records with the following event types, as described in section 7.1.24:

Event Type	Description
2	An intermediate log,
5	A driver's login/logout activity,
6	CMV's engine power up/shut down, or
7	ELD malfunctions and data diagnostic events.

An ELD must not allow automatically recorded driving time to be shortened. An ELD must not allow the ELD username associated with an ELD record to be edited or reassigned, except under the following circumstances:

(1) *Assignment of Unidentified Driver records.* ELD events recorded under the ''Unidentified Driver'' profile may be edited and assigned to the driver associated with the record; and

(2) *Correction of errors with team drivers.* In the case of team drivers, the driver account associated with the driving time records may be edited and reassigned between the team drivers if there was a mistake resulting in a mismatch between the actual driver and the driver recorded by the ELD and if the team drivers were both indicated in each other's records as a co-driver. The ELD must require each co-driver to confirm the change for the corrective action to take effect.

4.3.3. Motor Carrier's Manual Entries

An ELD must restrict availability of motor carrier entries outlined in this subsection only to authenticated ''support personnel'' account holders.

4.3.3.1. ELD Configuration

If an ELD or a technology that includes an ELD function offers configuration options to the motor carrier or the driver that are not otherwise addressed or prohibited in this appendix, the configuration options must not

affect the ELD's compliance with the requirements of this rule for each configuration setting of the ELD.

4.3.3.1.1. Configuration of Available Categories Impacting Driving Time Recording

An ELD must allow a motor carrier to unilaterally configure the availability of each of the three categories listed on Table 2 that the motor carrier chooses to authorize for each of its drivers. By default, none of these categories must be available to a new driver account without the motor carrier proactively configuring their availability.

A motor carrier may change the configuration for the availability of each category for each of its drivers. Changes to the configuration setting must be recorded on the ELD and communicated to the applicable authenticated driver during the ELD login process.

4.3.3.1.2. Configuration of Using ELDs

An ELD must provide the motor carrier an ability to configure a driver account exempt from use of an ELD.

The ELD must default the setting of this configuration option for each new driver account created on an ELD to no exemption. An exemption must be proactively configured for an applicable driver account by the motor carrier. The ELD must prompt the motor carrier to annotate the record and provide an explanation for the configuration of exemption.

If a motor carrier configures a driver account to be exempt, the ELD must present the configured indication that is in effect for that driver during the ELD login and logout processes.

If a motor carrier configures a driver account as exempt the ELD must continue to record ELD driving time but suspend detection of missing data elements data diagnostic event for the driver described in section 4.6.1.5 and data transfer compliance monitoring function described in section 4.6.1.7 when such driver is authenticated on the ELD.

4.3.3.2. Motor Carrier's Post-Review Electronic Edit Requests

An ELD may allow the motor carrier (via a monitoring algorithm or support personnel) to screen, review, and request corrective edits to the driver's certified (as described in section 4.3.2.3) and submitted records through the ELD system electronically. If this function is implemented by the ELD, the ELD must also support functions for the driver to see and review the requested edits.

Edits requested by anyone or any system other than the driver must require the driver's electronic confirmation or rejection.

4.4. ELD Processing and Calculations

4.4.1. Conditions for Automatic Setting of Duty Status

4.4.1.1. Automatic Setting of Duty Status to Driving

An ELD must automatically record driving time when the vehicle is in motion by setting duty status to driving for the driver unless, before the vehicle is in motion, the driver:

(1) Sets the duty status to off-duty and indicates personal use of CMV, in which case duty status must remain off-duty until driver's indication of the driving condition ends; or

(2) Sets the duty status to on-duty not driving and indicates yard moves, in which case duty status must remain on-duty not driving until driver's indication of the driving condition ends.

4.4.1.2. Automatic Setting of Duty Status to On-Duty Not Driving

When the duty status is set to driving, and the CMV has not been in-motion for 5 consecutive minutes, the ELD must prompt the driver to confirm continued driving status or enter the proper duty status. If the driver does not respond to the ELD prompt within 1-minute after receiving the prompt, the ELD must automatically switch the duty status to on-duty not driving. The time thresholds for purposes of this section must not be configurable.

4.4.1.3. Other Automatic Duty-Status Setting Actions Prohibited

An ELD must not feature any other automatic records of duty setting mechanism than those described in sections 4.4.1.1 and 4.4.1.2. Duty status changes that are not initiated by the driver, including duty status alteration recommendations by motor carrier support personnel or a software algorithm, are subject to motor carrier edit requirements in section 4.3.3.2.

4.4.2. Geo-Location Conversions

For each change in duty status, the ELD must convert automatically captured vehicle position in latitude/longitude coordinates into geo-location information, indicating approximate distance and direction to an identifiable location corresponding to the name of a nearby city, town, or village, with a State abbreviation.

Geo-location information must be derived from a database that contains all cities, towns, and villages with a population of 5,000 or greater and listed in ANSI INCITS 446–2008 (incorporated by reference, see § 395.38), reference (3)(a) in section 6 of this appendix.

An ELD's viewable outputs (such as printouts or displays) must feature geo-location information as place names in text format.

4.4.3. Date and Time Conversions

An ELD must have the capability to convert and track date and time captured in UTC standard to the time standard in effect at driver's home terminal, taking the daylight savings time changes into account by using the parameter ''Time Zone Offset from UTC'' as specified in section 7.1.40.

An ELD must record the driver's record of duty status using the time standard in effect at the driver's home terminal for a 24-hour period beginning with the time specified by the motor carrier for that driver's home terminal.

The data element ''Time Zone Offset from UTC'' must be included in the ''Driver's certification of Own Records'' events as specified in section 4.5.1.4.

4.4.4. Setting of Event Parameters in Records, Edits, and Entries

This section describes the security measures for configuring and tracking event attributes for ELD records, edits, and entries in a standardized manner.

4.4.4.1. Event Sequence Identifier (ID) Number

Each ELD event must feature an event sequence ID Number.

The event sequence ID number for each ELD must use continuous numbering across all users of that ELD and across engine and ELD power on and off cycles.

An ELD must use the next available event sequence ID number (incremented by one) each time a new event log is recorded.

Event sequence ID number must track at least the last 65,536 unique events recorded on the ELD.

The continuous event sequence ID numbering structure used by the ELD must be mapped into a continuous hexadecimal number between 0000 (Decimal 0) and FFFF (Decimal 65535).

4.4.4.2. Event Record Status, Event Record Origin, Event Type Setting

An ELD must retain the original records even when allowed edits and entries are made over a driver's ELD records.

An ELD must keep track of all event record history, and the process used by the ELD must produce the event record status, event record origin, and event type for the ELD records in the standard categories specified in sections 7.1.22, 7.1.21 and 7.1.24, respectively for each record as a standard security measure. For example, an ELD may use the process outlined in sections 4.4.4.2.1–4.4.4.2.6 to meet the requirements of this section.

4.4.4.2.1. Records Automatically Logged by ELD

At the instance an ELD creates a record automatically, the ELD must:

(1) Set the ''Event Record Status'' to ''1'' (active); and

(2) Set the ''Event Record Origin'' to ''1'' (automatically recorded by ELD).

4.4.4.2.2. Driver Edits

At the instance of a driver editing existing record(s), the ELD must:

(1) Identify the ELD record(s) being modified for which the ''Event Record Status'' is currently set to ''1'' (active);

(2) Acquire driver input for the intended edit and construct the ELD record(s) that will replace the record(s) identified in (1) above;

(3) Set the ''Event Record Status'' of the ELD record(s) identified in (1) above, which is being modified, to ''2'' (inactive-changed);

(4) Set the ''Event Record Status'' of the ELD record(s) constructed in (2) above to ''1'' (active); and

(5) Set the ''Event Record Origin'' of the ELD record(s) constructed in (2) above to ''2'' (edited or entered by the driver).

4.4.4.2.3. Driver Entries

When a driver enters missing record(s), the ELD must:

(1) Acquire driver input for the missing entries being implemented and construct the new ELD record(s) that will represent the driver entries;

(2) Set the ''event record status'' of the ELD record(s) constructed in (1) above to ''1'' (active); and

(3) Set the ''event record origin'' of the ELD record(s) constructed in (1) above to ''2'' (edited or entered by the driver).

4.4.4.2.4. Driver's Assumption of Unidentified Driver Logs

When a driver reviews and assumes ELD record(s) logged under the unidentified driver profile, the ELD must:

(1) Identify the ELD record(s) logged under the unidentified driver profile that will be reassigned to the driver;

(2) Use elements of the unidentified driver log(s) from (1) above and acquire driver input to populate missing elements of the log originally recorded under the unidentified driver profile, and construct the new event record(s) for the driver;

(3) Set the event record status of the ELD record(s) identified in (1) above, which is being modified, to ''2'' (inactive–changed);

(4) Set the event record status of the ELD record(s) constructed in (2) above to ''1'' (active); and

(5) Set the event record origin of the ELD record(s) constructed in (2) above to ''4'' (assumed from unidentified driver profile).

4.4.4.2.5. Motor Carrier Edit Suggestions

If a motor carrier requests an edit on a driver's records electronically, the ELD must:

(1) Identify the ELD record(s) being requested to be modified for which the ''event record status'' is currently set to ''1'' (active);

(2) Acquire motor carrier input for the intended edit and construct the ELD record(s) that will replace the record identified in (1) above —if approved by the driver;

(3) Set the event record status of the ELD record(s) in (2) above to ''3'' (inactive–change requested); and

(4) Set the event record origin of the ELD record constructed in (2) above to ''3'' (edit requested by an authenticated user other than the driver).

4.4.4.2.6. Driver's Actions Over Motor Carrier Edit Suggestions

(1) If edits are requested by the motor carrier to the driver over a driver's records electronically, the ELD must implement functions for the driver to review the requested edits, see their effects and indicate on the ELD whether the driver confirms or rejects the requested edit(s).

(2) If the driver approves the motor carrier's edit suggestion the ELD must:

(a) Set the event record status of the ELD record(s) identified under section 4.4.4.2.5(1) being modified, to ''2'' (inactive–changed); and

(b) Set the ''event record status'' of the ELD record(s) constructed in 4.4.4.2.5(2) to ''1'' (active).

(3) If the driver disapproves the motor carrier's edit(s) suggestion, the ELD must set the ''event record status'' of the ELD record(s) identified in 4.4.4.2.5(2) to ''4'' (inactive–change rejected).

4.4.5. Data Integrity Check Functions

An ELD must support standard security measures which require the calculation and recording of standard data check values for each ELD event recorded, for each line of the output file, and for the entire data file to be generated for transmission to an authorized safety official or the motor carrier.

For purposes of implementing data check calculations, the alphanumeric-to-numeric mapping provided in Table 3 must be used.

Each ELD event record type specified in sections 4.5.1.1 and 4.5.1.3 must include an event data check value, which must be calculated as specified in section 4.4.5.1. An event data check value must be calculated at the time of the following instances and must accompany that event record thereafter:

(1) When an event record is automatically created by the ELD;

(2) When an authorized edit is performed by the driver on the ELD or on its support systems; and

(3) When an electronic edit proposal is created by the motor carrier through the ELD system.

Each line of the ELD output file must include a line data check value, which must be calculated as specified in section 4.4.5.2.

Each ELD report must also include a file data check value, which must be calculated as specified in section 4.4.5.3.

4.4.5.1. Event Data Check

The event data check value must be calculated as follows.

4.4.5.1.1. Event Checksum Calculation

A checksum calculation includes the summation of numeric values or mappings of a specified group of alphanumeric data elements. The ELD must calculate an event checksum value associated with each ELD event at the instance of the event record being created.

The event record elements that must be included in the checksum calculation are the following:

(1) <Event Type>,
(2) <Event Code>,
(3) <Event Date>,
(4) <Event Time>,
(5) <Vehicle Miles>,
(6) <Engine Hours>,
(7) <Event Latitude>,
(8) <Event Longitude>,
(9) <CMV number>, and
(10) < ELD username>.

The ELD must sum the numeric values of all individual characters making up the listed data elements using the character to decimal value coding specified in Table 3, and use the 8-bit lower byte of the hexadecimal representation of the summed total as the event checksum value for that event.

4.4.5.1.2. Event Data Check Calculation

The event data check value must be the hexadecimal representation of the output 8-bit byte, after the below bitwise operations are performed on the binary representation of the event checksum value, as set forth below:

(1) Three consecutive circular shift left (rotate no carry -left) operations; and

(2) A bitwise exclusive OR (XOR) operation with the hexadecimal value C3 (decimal 195; binary 11000011).

4.4.5.2. Line Data Check

A line data check value must be calculated at the time of the generation of the ELD output file, to transfer data to authorized safety officials or to catalogue drivers' ELD records at a motor carrier's facility. A line data check value must be calculated as follows.

4.4.5.2.1. Line Checksum Calculation

The ELD must calculate a line checksum value associated with each line of ELD output file at the instance when an ELD output file is generated.

The data elements that must be included in the line checksum calculation vary as per the output data file specified in section 4.8.2.1.

The ELD must convert each character featured in a line of output using the character to decimal value coding specified on Table 3 and sum the converted numeric values of each character listed on a given ELD output line item (excluding the line data check value being calculated), and use the 8-bit lower byte value of the hexadecimal representation of the summed total as the line checksum value for that line of output.

4.4.5.2.2. Line Data Check Calculation

The line data check value must be calculated by performing the following operations on the binary representation of the line checksum value as follows:

(1) Three consecutive circular shift left (rotate no carry-left) operations on the line checksum value; and

(2) A bitwise XOR operation with the hexadecimal value 96 (decimal 150; binary 10010110).

4.4.5.2.3. Line Data Check Value Inclusion in Output File

The calculated line data check value must be appended as the last line item of each of the individual line items of the ELD output file as specified in the output file format in section 4.8.2.1.

4.4.5.3. File Data Check

A file data check value must also be calculated at the time of the creation of an ELD output file. A file data check value must be calculated as follows.

4.4.5.3.1. File Checksum Calculation

The ELD must calculate a single 16-bit file checksum value associated with an ELD output file at the instance when an ELD output file is generated.

The file data check value calculation must include all individual line data check values contained in that file.

The ELD must sum all individual line data check values contained in a data file output created, and use the lower two 8-bit byte values of the hexadecimal representation of the summed total as the ''file checksum'' value.

4.4.5.3.2. File Data Check Value Calculation

The file data check value must be calculated by performing the following operations on the binary representation of the file checksum value:

(1) Three consecutive circular shift left (aka rotate no carry -left) operations on each 8-bit bytes of the value; and

(2) A bitwise XOR operation with the hexadecimal value 969C (decimal 38556; binary 1001011010011100).

The file data check value must be the 16-bit output obtained from the above process.

4.4.5.3.3. File Data Check Value Inclusion in Output File

The calculated 16-bit file data check value must be converted to hexadecimal 8-bit bytes and must be appended as the last line item of the ELD output file as specified in the output file format in section 4.8.2.1.11.

BILLING CODE 4190–EX–P

Table 3

Character to Decimal Value Mapping for Checksum Calculations

"Character" → Decimal mapping {ASCII ("Character") (*decimal*)– 48 (*decimal*)}

"1"→1	"A"→17	"J"→26	"S"→35	"a"→49	"j"→58
	"s"→67				
"2"→2	"B"→18	"K"→27	"T"→36	"b"→50	"k"→59
	"t"→68				
"3"→3	"C"→19	"L"→28	"U"→37	"c"→51	"l"→60
	"u"→69				
"4"→4	"D"→20	"M"→29	"V"→38	"d"→52	"m"→61
	"v"→70				
"5"→5	"E"→21	"N"→30	"W"→39	"e"→53	"n"→62
	"w"→71				
"6"→6	"F"→22	"O"→31	"X"→40	"f"→54	"o"→63
	"x"→72				
"7"→7	"G"→23	"P"→32	"Y"→41	"g"→55	"p"→64
	"y"→73				
"8"→8	"H"→24	"Q"→33	"Z"→42	"h"→56	"q"→65
	"z"→74				
"9"→9	"I"→25	"R"→34		"i"→57	"r"→66
All other characters including blank spaces→ 0					

BILLING CODE 4190–EX–C

4.5. ELD Recording

4.5.1. Events and Data to Record

An ELD must record data at the following discrete events:

4.5.1.1. Event: Change in Driver's Duty Status

When a driver's duty status changes, the ELD must associate the record with the driver, the record originator—if created during an edit or entry—the vehicle, the motor carrier, and the shipping document number and must include the following data elements:

(1) <Event Sequence ID Number> as described in section 7.1.23;

(2) <Event Record Status> as described in section 7.1.22;

(3) <Event Record Origin> as described in section 7.1.21;

(4) <Event Type> as described in section 7.1.24;

(5) <Event Code> as described in section 7.1.19;

(6) <{*Event*} Date> as described in section 7.1.8;

(7) <{*Event*} Time> as described in section 7.1.39;

(8) <{*Accumulated*} Vehicle Miles> as described in section 7.1.42;

(9) <{*Elapsed*} Engine Hours> as described in section 7.1.18;

(10) <{*Event*} Latitude> as described in section 7.1.30;

(11) <{*Event*} Longitude> as described in section 7.1.32;

(12) <Distance Since Last Valid Coordinates> as described in section 7.1.9;

(13) <Malfunction Indicator Status {*for ELD*}> as described in section 7.1.34;

(14) <Data Diagnostic Event Indicator Status {*for Driver*}> as described in section 7.1.7;

(15) <{*Event*} Comment/Annotation> as described in section 7.1.6;

(16) <Driver's Location Description> as described in section 7.1.12; and

(17) <Event Data Check Value> as described in section 7.1.20.

4.5.1.2. Event: Intermediate Logs

When a CMV is in motion, as described in section 4.3.1.2, and there has not been a duty status change event or another intermediate log event recorded in the previous 1-hour period, the ELD must record a new intermediate log event.

The ELD must associate the record to the driver, the vehicle, the motor carrier, and the shipping document number, and must include the same data elements outlined in section 4.5.1.1 except for item (16).

4.5.1.3. Event: Change in Driver's Indication of Allowed Conditions That Impact Driving Time Recording

At each instance when the status of a driver's indication of personal use of CMV or yard moves changes, the ELD must record a new event. The ELD must associate the record with the driver, the vehicle, the motor carrier, and the shipping document number, and must include the same data elements outlined in section 4.5.1.1.

4.5.1.4. Event: Driver's Certification of Own Records

At each instance when a driver certifies or re-certifies that driver's records for a given 24-hour period are true and correct, the ELD must record the event. The ELD must associate the record with the driver, the vehicle, the motor carrier, and the shipping document number and must include the following data elements:

(1) <Event Sequence ID Number> as described in section 7.1.23;

(2) <Event Type> as described in section 7.1.24;

(3) <Event Code> as described in section 7.1.19;

(4) <Time Zone Offset from UTC> as described in section 7.1.40.

(5) <{*Event*} Date>and <Date {of the certified record}> as described in section 7.1.8; and

(6) <{*Event*} Time> as described in section 7.1.39.

4.5.1.5. Event: Driver's Login/Logout Activity

At each instance when an authorized user logs in and out of the ELD, the ELD must record the event. The ELD must associate the record with the driver, the vehicle, the motor carrier, and the shipping document number, and must include the following data elements:

(1) <Event Sequence ID Number> as described in section 7.1.23;

(2) <Event Type> as described in section 7.1.24;

(3) <Event Code> as described in section 7.1.19;

(4) <{*Event*} Date> as described in section 7.1.8;

(5) <{*Event*} Time> as described in section 7.1.39;

(6) <{*Total*} Vehicle Miles> as described in section 7.1.42; and

(7) <{*Total*} Engine Hours> as described in section 7.1.18.

4.5.1.6. Event: CMV's Engine Power Up and Shut Down Activity

When a CMV's engine is powered up or shut down, an ELD must record the event within 1 minute of occurrence and retain the earliest shut down and latest power-up event if CMV has not moved since the last ignition power on cycle. The ELD must associate the record with the driver or the unidentified driver profile, the vehicle, the motor carrier, and the shipping document number, and must include the following data elements:

(1) <Event Sequence ID Number> as described in section 7.1.23;

(2) <Event Type> as described in section 7.1.24;

(3) <Event Code> as described in section 7.1.19;

(4) <{*Event*} Date> as described in section 7.1.8;

(5) <{*Event*} Time> as described in section 7.1.39;

(6) <{*Total*} Vehicle Miles> as described in section 7.1.42;

(7) <{*Total*} Engine Hours> as described in section 7.1.18;

(8) <{*Event*} Latitude> as described in section 7.1.30;

(9) <{*Event*} Longitude> as described in section 7.1.32; and

(10) <Distance Since Last Valid Coordinates> as described in section 7.1.9.

4.5.1.7. Event: ELD Malfunction and Data Diagnostics Occurrence

At each instance when an ELD malfunction or data diagnostic event is detected or cleared by the ELD, the ELD must record the event. The ELD must associate the record with the driver, the vehicle, the motor carrier, and the shipping document number, and must include the following data elements:

(1) <Event Sequence ID Number> as described in section 7.1.23;

(2) <Event Type> as described in section 7.1.24;

(3) <Event Code> as described in section 7.1.19;

(4) <Malfunction/Diagnostic Code> as described in section 7.1.33;

(5) <{*Event*} Date> as described in section 7.1.8;

(6) <{*Event*} Time> as described in section 7.1.39;

(7) <{*Total*} Vehicle Miles> as described in section 7.1.42; and

(8) <{*Total*} Engine Hours> as described in section 7.1.18.

4.6. ELD's Self-Monitoring of Required Functions

An ELD must have the capability to monitor its compliance with the technical requirements of this section for detectable malfunctions and data inconsistencies listed in Table 4 and must keep records of its malfunction and data diagnostic event detection.

TABLE 4—STANDARD CODING FOR REQUIRED COMPLIANCE MALFUNCTION AND DATA DIAGNOSTIC EVENT DETECTION

Malfunction/diagnostic code	Malfunction description
P	''Power Compliance'' Malfunction.
E	''Engine synchronization compliance'' malfunction.
T	''Timing compliance'' malfunction.
L	''Positioning compliance'' malfunction.
R	''Data recording compliance'' malfunction.
S	''Data transfer compliance'' malfunction.

TABLE 4—STANDARD CODING FOR REQUIRED COMPLIANCE MALFUNCTION AND DATA DIAGNOSTIC EVENT DETECTION—Continued

Malfunction/diagnostic code	Malfunction description
O	''Other'' ELD detected malfunction.
Malfunction/diagnostic code	**Data diagnostic event**
1	''Power data diagnostic'' event.
2	''Engine synchronization data diagnostic'' event.
3	''Missing required data elements data diagnostic'' event.
4	''Data transfer data diagnostic'' event.
5	''Unidentified driving records data diagnostic'' event.
6	''Other'' ELD identified diagnostic event.

4.6.1. Compliance Self-Monitoring, Malfunctions and Data Diagnostic Events

4.6.1.1. Power Compliance Monitoring

An ELD must monitor data it receives from the engine ECM or alternative sources as allowed in sections 4.3.1.1- 4.3.1.4, its onboard sensors, and data record history to identify instances when it may not have complied with the power requirements specified in section 4.3.1.1, in which case, the ELD must record a power data diagnostics event for the corresponding driver(s), or under the unidentified diver profile if no drivers were authenticated at the time of detection.

An ELD must set a power compliance malfunction if the power data diagnostics event described above indicate an aggregated in-motion driving time understatement of 30 minutes or more on the ELD over a 24-hour period across all driver profiles, including the unidentified driver profile.

4.6.1.2. Engine Synchronization Compliance Monitoring

An ELD must monitor the data it receives from the engine ECM or alternative sources as allowed in sections 4.3.1.1–4.3.1.4, its onboard sensors and data record history to identify instances and durations of its non-compliance with the ELD engine synchronization requirement specified in section 4.2.

An ELD required to establish a link to the engine ECM as described in section 4.2 of this section must monitor its connectivity to the engine ECM and its ability to retrieve the vehicle parameters described under section 4.3.1 and must record an engine-synchronization data diagnostics event when it no longer can acquire updated values for the ELD parameters required for records within 5 seconds of the need.

An ELD must set an engine synchronization compliance malfunction if connectivity to any of the required data sources specified in section 4.3.1 is lost for more than 30 minutes during a 24-hour period aggregated across all driver profiles, including the unidentified driver profile.

4.6.1.3. Timing Compliance Monitoring

The ELD must periodically cross-check its compliance with the requirement specified in section 4.3.1.5 with respect to an accurate external UTC source and must record a timing compliance malfunction when it can no longer meet the underlying compliance requirement.

4.6.1.4. Positioning Compliance Monitoring

An ELD must continually monitor the availability of valid position measurements meeting the listed accuracy requirements in section 4.3.1.6 and must track the distance and elapsed time from the last valid measurement point.

An ELD records requiring location information must use the last valid position measurement and include the latitude/longitude coordinates and distance traveled, in miles, since the last valid position measurement.

An ELD must monitor elapsed time during periods when the ELD fails to acquire a valid position measurement within the past 5 miles of CMV's movement. When such elapsed time exceeds a cumulative 60 minutes over a 24 hour period, the ELD must set and record a positioning compliance malfunction.

If a new ELD event must be recorded at an instance when ELD had failed to acquire a valid position measurement within the most recent elapsed 5 miles of driving, but the ELD has not yet set a positioning compliance malfunction, the ELD must record the character ''X'' in both the latitude and longitude fields, unless location is entered manually by the driver, in which case it must log the character ''M'' instead. Under the circumstances listed in this paragraph, if the ELD event is due to a change in duty status for the driver, the ELD must prompt the driver to enter location manually in accordance with section 4.3.2.7. If the location information is not entered by the driver and the vehicle is in motion, the ELD must record a missing required data elements data diagnostic event for the driver.

If a new ELD event must be recorded at an instance when the ELD has set a positioning compliance malfunction, the ELD must record the character ''E'' in both the latitude and longitude fields regardless of whether the driver is prompted and manually enters location information.

4.6.1.5. Data Recording Compliance Monitoring

An ELD must monitor its storage capacity and integrity and must detect a data recording compliance malfunction if it can no longer record or retain required events or retrieve recorded logs that are not otherwise catalogued remotely by the motor carrier.

An ELD must monitor the completeness of the ELD event record information in relation to the required data elements for each event type and must record a missing data elements data diagnostics event for the driver if any required field is missing at the time of recording.

4.6.1.6. Monitoring Records Logged Under the Unidentified Driver Profile

When there are ELD records involving driving time logged on an ELD under the unidentified driver profile, the ELD must prompt the driver(s) logging into that ELD with a warning indicating the existence of new unassigned driving time. The ELD must provide a mechanism for the driver to review and either acknowledge the assignment of one or more of the unidentified driver records attributable to the driver under the authenticated driver's profile as described in section 4.3.2.8.2(1) or indicate that these records are not attributable to the driver.

If more than 30 minutes of driving in a 24-hour period show unidentified driver on the ELD, the ELD must detect and record an unidentified driving records data diagnostic event and data diagnostic indicator must be turned on for all drivers logged in to that ELD for the current 24-hour period and the following 7 days.

An unidentified driving records data diagnostic event can be cleared by the ELD when driving time logged under the unidentified driver profile for the current 24-hour period and the previous 7 consecutive days drops to 15 minutes or less.

4.6.1.7. Data Transfer Compliance Monitoring

An ELD must implement in-service monitoring functions to verify that certified primary roadside transfer mechanism(s) described in section 4.9.1 are continuing to function properly. An ELD must verify this functionality at least once every 7 days. These monitoring functions may be automatic or may involve manual steps for a driver.

An ELD must record a data transfer data diagnostic event and enter an unconfirmed data transfer mode if the monitoring mechanism fails to confirm proper in-service operation of certified primary roadside transfer mechanism(s).

After an ELD records a data transfer data diagnostic event, the ELD must increase the frequency of the monitoring function to check at least once every 24-hour period. If the ELD stays in the unconfirmed data transfer mode following the next three consecutive monitoring checks, the ELD must detect a data transfer compliance malfunction.

4.6.1.8. Other Technology-Specific Operational Health Monitoring

In addition to the required monitoring schemes described in sections 4.6.1.1–4.6.1.7, the ELD provider may implement additional, technology-specific malfunction and data diagnostic detection schemes and may use the ELD's malfunction status indicator and data diagnostic status indicator (described in sections 4.6.2.1 and 4.6.3.1) to communicate ELD's malfunction or non-compliant state to the operator(s) of the ELD.

4.6.2. ELD Malfunction Status Indicator

ELD malfunctions affect integrity of the device and its compliance; therefore, active malfunctions must be indicated to all drivers who may use that ELD. An ELD must provide a recognizable visual indicator, and may provide an audible signal, to the operator as to its malfunction status.

4.6.2.1. Visual Malfunction Indicator

An ELD must display a single visual malfunction indicator for all drivers using the ELD on the ELD's display or on a stand-alone indicator. The visual signal must be visible to the driver when the driver is seated in the normal driving position.

The ELD malfunction indicator must be clearly illuminated when there is an active malfunction on the ELD.

The malfunction status must be continuously communicated to the driver when the ELD is powered.

4.6.3. ELD Data Diagnostic Status Indicator

ELD data diagnostic status affects only the authenticated user; therefore, an ELD must only indicate the active data diagnostics status applicable to the driver logged into the ELD. An ELD must provide a recognizable visual indicator, and may provide an audible signal, to the driver as to its data diagnostics status.

4.6.3.1. Visual Data Diagnostics Indicator

An ELD must display a single visual data diagnostics indicator, apart from the visual malfunction indicator described in section 4.6.2.1, to visually communicate existence of active data diagnostics events for the applicable driver. The visual signal must be visible to the driver when the driver is seated in the normal driving position.

The data diagnostic indicator must be clearly illuminated when there is a detected data inconsistency for the authenticated driver.

The data diagnostics status must be continuously communicated to the applicable driver when the ELD is powered.

4.7. Special Purpose ELD Functions

4.7.1. Driver's ELD Volume Control

If a driver selects the sleeper-berth state for the driver's record of duty status, and no co-driver has logged into the ELD as on-duty driving, and if the ELD outputs audible signals, the ELD must either:

(1) Allow the driver to mute the ELD's volume or turn off the ELD's audible output, or

(2) Automatically mute the ELD's volume or turn off the ELD's audible output.

For purposes of this section, if an ELD operates in combination with another device or other hardware or software technology that is not separate from the ELD, the volume controls required herein apply to the combined device or technology.

4.7.2. Driver's Access to Own ELD Records

An ELD must provide a mechanism for a driver to obtain a copy of the driver's own hours-of-service records on demand, in either an electronic or printout format compliant with inspection standards outlined in section 4.8.2.1.

The process must not require a driver to go through the motor carrier to obtain copies of the driver's own hours-of-service records if driver's records reside on or are accessible directly by the ELD unit used by the driver.

If an ELD meets the requirements of this section by making data files available to the driver, it must also provide a utility function for the driver to display the data on a computer, at a minimum, as specified in § 395.8(g).

4.7.3. Privacy Preserving Provision for Use During Personal Uses of a CMV

While an ELD must record the events listed in section 4.5.1 under all circumstances, a subset of the recorded elements must either be omitted in the records or recorded at a lower precision level, as described in further detail below, when a driver indicates that the driver is temporarily using the CMV for an authorized personal purpose. The driver indicates this intent by setting driver's duty status to off-duty as described in section 4.3.2.2.1 and indicating authorized personal use of CMV as described in section 4.3.2.2.2.

During a period when a driver indicates authorized personal use of CMV, the ELD must:

(1) Record all new ELD events with latitude/longitude coordinates information rounded to a single decimal place resolution; and

(2) Omit recording vehicle miles and engine hours fields in new ELD logs by leaving them blank, except for events corresponding to a CMV's engine power-up and shut-down activity as described in section 4.5.1.6.

A driver's indication that the CMV is being operated for authorized personal purposes may span more than one CMV ignition on cycle if the driver proactively confirms continuation of the personal use condition prior to placing the vehicle in motion when the ELD prompts the driver at the beginning of the new ignition power on cycle.

4.8. ELD Outputs

4.8.1. Information To Be Displayed by an ELD

An ELD must support the capability to present the following information to a user of the ELD via its user-interface:

(1) Authenticated driver's last name, first name and ELD username.

(2) Total miles driven and total engine hours information used in logs.

(3) ELD malfunction status indicator.

(4) ELD data diagnostic status indicator for the authenticated driver.

(5) ELD records associated with the authenticated driver, and records in which the driver serves as a co-driver including the following information:

(i) Each change of duty status for the current 24-hour period and the previous 7 consecutive days and the time of day and location for each change;

(ii) Total miles of driving during each driving period and the current duty day; and

(iii) The sequence of driver's indication pertaining to authorized personal use of the CMV and yard moves (as specified in section 4.3.2.2.2) and the accompanying driver annotations for the current 24-hour period and the previous 7 consecutive days.

(6) A summary of ELD records associated with the driver, reflecting total hours on duty and driving time for the current 24-hour period and the previous 7 consecutive days.

(7) A graph-grid view of driver's daily duty status changes for the current 24-hour period and each of the previous 7 consecutive days either on a display unit or on a printout report as specified in section 4.10.2.4.

(8) The ELD records associated with the unidentified driver profile recorded on that ELD as follows:

(i) The sequence of driving and non-driving time logged for the current 24-hour period and the previous 7 consecutive days.

(ii) Total miles of driving during each driving period and the current duty day.

(9) A summary of ELD records associated with the unidentified driver profile, reflecting the total hours on duty and driving time for the current 24-hour period and the previous 7 consecutive days.

4.8.2. ELD Data File

An ELD must have the capability to generate a consistent electronic file output compliant with the format described herein to facilitate the transfer, processing and standardized display of ELD data sets on the authorized safety officials' computing environments.

4.8.2.1. ELD Output File Standard

Regardless of the particular database architecture used for recording the ELD events in electronic format, the ELD must produce a standard ELD data output file for transfer purposes, which must be generated according to the standard specified in this section.

Data output must be provided in a single comma-delimited file outlined in this section using American National Standard Code for Information Exchange (ASCII) character sets meeting the standards of ANSI INCITS 4–1986 (R2007) (incorporated by reference, see § 395.38), reference (3)(b) in section 6 of this appendix. It must include: (1) A header segment, which specifies current or non-varying elements of an ELD file; and (2) variable length comma-delimited segments for the drivers, vehicles, ELD events, ELD malfunction and data diagnostics records, ELD login and logout activity, and unidentified driver records.

4.8.2.1.1. Header Segment

This segment must include the following data elements and format:

ELD File Header Segment: <CR>

<{Driver's} Last Name>,<{Driver's} First Name>,< ELD username{for the driver} > ,<

{Driver's} Driver's License Issuing State>,<{Driver's} Driver's License Number>, <Line

Data Check Value> <CR>

<{Co-Driver's} Last Name>,<{Co-Driver's} First Name>,<ELD username {for the co-

driver} >, <Line Data Check Value> <CR>

<CMV Power Unit Number>,<CMV VIN>,<Trailer Number(s)>,<Line Data Check

Value> <CR>

<Carrier's USDOT Number>,<Carrier Name>,<Multiday-basis Used>,<24-Hour Period

Starting Time>,<Time Zone Offset from UTC>,<Line Data Check Value> <CR>

<Shipping Document Number>,<Exempt Driver Configuration>,<Line Data Check

Value> <CR>

<{Current} Date>,< {Current} Time>,< {Current} Latitude>,<{Current} Longitude>,<

{Current} {Total} Vehicle Miles>,< {Current} {Total} Engine Hours>,<Line Data

Check Value> <CR>

<ELD Registration ID>,<ELD Identifier>,<ELD Authentication Value>,<Output File

Comment>,<Line Data Check Value> <CR>

4.8.2.1.2. User List

This segment must list all drivers and co-drivers with driving time records on the most recent CMV operated by the inspected driver or motor carrier's support personnel who requested edits within the time period for which this file is generated. The list must be in chronological order with most recent user of the ELD on top, including the driver being inspected, the co-driver, and the unidentified driver profile. This segment has a variable number of rows depending on the number of profiles with activity over the time period for which this file is generated. This section must start with the following title:

User List: <CR>

Each subsequent row must have the following data elements:

<{Assigned User} Order Number>,<{User's} ELD Account Type>,<{User's} Last Name>,<{User's} First Name>,<Line Data Check Value> <CR>

4.8.2.1.3. CMV List

This segment must list each CMV that the current driver operated and that has been recorded on the driver's ELD records within the time period for which this file is generated. The list must be rank ordered in accordance with the time of CMV operation with the most recent CMV being on top. This segment has a variable number of rows depending on the number of CMVs operated by the driver over the time period for which this file is generated. This section must start with the following title:

CMV List: <CR>

Each subsequent row must have the following data elements:

<{Assigned CMV} Order Number>,<CMV Power Unit Number>, <CMV VIN>,<Line Data Check Value> <CR>

4.8.2.1.4. ELD Event List for Driver's Record of Duty Status

This segment must list ELD event records tagged with event types 1 (a change in duty status as described in section 4.5.1.1), 2 (an intermediate log as described in section 4.5.1.2), and 3 (a change in driver's indication of conditions impacting driving time recording as described in section 4.5.1.3). The segment must list all event record status types and of all event record origins for the driver, rank ordered with the most current log on top in accordance with the date and time fields of the record. This segment has a variable number of rows depending on the number of ELD events recorded for the driver over the time period for which this file is generated. This section must start with the following title:

ELD Event List: <CR>

Each subsequent row must have the following data elements:

<Event Sequence ID Number>,<Event Record Status>,<Event Record Origin>,<Event Type>, <Event Code>,<{Event} Date>,<{Event} Time>,< {Accumulated} Vehicle Miles>,< {Elapsed} Engine Hours>,<{Event} Latitude>,<{Event} Longitude>,<Distance Since Last Valid Coordinates>, <{Corresponding CMV} Order Number>,<{ User} Order Number {for Record Originator}>,<Malfunction Indicator Status {for ELD}>,<Data Diagnostic Event Indicator Status {for Driver}>,<Event Data Check Value>,<Line Data Check Value> <CR>

4.8.2.1.5. Event Annotations, Comments, and Driver's Location Description

This segment must list only the elements of the ELD event list created in 4.8.2.1.4 above that have an annotation, comment, or a manual entry of location description by the driver. This segment has a variable number of rows depending on the number of ELD events under section 4.8.2.1.4 that feature a comment, annotation, or manual location entry by the driver. This section must start with the following title:

ELD Event Annotations or Comments: <CR>

Each subsequent row must have the following data elements:

<Event Sequence ID Number>,< ELD username {of the Record Originator} >,<{Event} Comment Text or Annotation>, <Driver's Location Description>,<Line Data Check Value> <CR>

4.8.2.1.6. ELD Event List for Driver's Certification of Own Records

This segment must list ELD event records with event type 4 (driver's certification of own records as described in section 4.5.1.4) for the inspected driver for time period for which this file is generated. It must be rank ordered with the most current record on top. This segment has a variable number of rows depending on the number of certification and re-certification actions the authenticated driver may have executed on the ELD over the time period for which this file is generated. This section must start with the following title:

Driver's Certification/Recertification Actions: <CR>

Each subsequent row must have the following data elements:

<Event Sequence ID Number>,<Event Code>,<{Event} Date>,<{Event} Time>, <Date {of the certified record}>,<{Corresponding CMV} Order Number>,<Line Data Check Value> <CR>

4.8.2.1.7. Malfunction and Diagnostic Event Records

This segment must list all ELD malfunctions that have occurred on this ELD during the time period for which this file is generated. It must list diagnostic event records related to the driver being inspected, rank ordered with the most current record on top. This segment has a variable number of rows depending on the number of ELD malfunctions and ELD diagnostic event records recorded and relevant to the inspected driver over the time period for which this file is generated. This section must start with the following title:

Malfunctions and Data Diagnostic Events: <CR>

Each subsequent row must have the following data elements:

<Event Sequence ID Number>,<Event Code>,<Malfunction/Diagnostic Code>,<{Event} Date>,<{Event} Time>,<{Total} Vehicle Miles>,<{Total} Engine Hours> ,<{Corresponding CMV} Order Number>,<Line Data Check Value> <CR>

4.8.2.1.8. ELD Login/Logout Report

This segment must list the login and logout activity on the ELD (ELD events with event type 5 (A driver's login/logout activity)) for the inspected driver for the time period for which this file is generated. It must be rank ordered with the most recent activity on top. This section must start with the following title:

ELD Login/Logout Report: <CR>

Each subsequent row must have the following data elements:

<Event Sequence ID Number>,<Event Code>,<ELD username>,<{Event} Date>,<{Event} Time>,<{Total} Vehicle Miles>,<{Total} Engine Hours> ,<Line Data Check Value> <CR>

4.8.2.1.9. CMV's Engine Power-Up and Shut Down Activity

This segment must list the logs created when CMV's engine is powered up and shut down (ELD events with event type 6 (CMV's engine power up/shut down)) for the time period for which this file is generated. It must be rank ordered with the latest activity on top. This section must start with the following title:

CMV Engine Power-Up and Shut Down Activity: <CR>

Each subsequent row must have the following data elements:

<Event Sequence ID Number>,<Event Code>,<{Event} Date>,<{Event} Time>,<{Total} Vehicle Miles>,<{Total} Engine Hours> ,<{Event} Latitude>,<{Event} Longitude>,<Line Data Check Value> <CR>

4.8.2.1.10. ELD Event Log List for the Unidentified Driver Profile

This segment must list the ELD event records for the Unidentified Driver profile, rank ordered with most current log on top in accordance with the date and time fields of the logs. This segment has a variable number of rows depending on the number of Unidentified Driver ELD records recorded over the time period for which this file is generated. This section must start with the following title:

Unidentified Driver Profile Records: <CR>

Each subsequent row must have the following data elements:

<Event Sequence ID Number>,<Event Record Status>,<Event Record Origin>,<Event Type>, <Event Code>,<{Event} Date>,<{Event} Time>,< {Accumulated} Vehicle Miles>,< {Elapsed} Engine Hours>,<{Event} Latitude>,<{Event} Longitude>,<Distance Since Last Valid Coordinates>, <{Corresponding CMV} Order Number>,<Malfunction Indicator Status {for ELD}>,<Event Data Check Value>,<Line Data Check Value> <CR>

4.8.2.1.11. File Data Check Value

This segment lists the file data check value as specified in section 4.4.5.3 of this appendix. This part includes a single line as follows:

End of File: <CR>

<File Data Check Value><CR>

4.8.2.2. ELD Output File Name Standard

If the ELD output is saved in a file for transfer or maintenance purposes, it must follow the twenty-five character-long filename standard below:

(1) The first five position characters of the filename must correspond to the first five letters of the last name of the driver for whom the file is compiled. If the last name of the driver is shorter than 5 characters, remaining positions must use the character

''_'' [underscore] as a substitute character. For example, if the last name of the driver is ''Lee'', the first five characters of the output file must feature ''Lee__''.

(2) The sixth and seventh position characters of the filename must correspond to the last two digits of the driver's license number for the driver for whom the file is compiled.

(3) The eighth and ninth position characters of the filename must correspond to the sum of all individual numeric digits in the driver's license number for the driver for whom the file is compiled. The result must be represented in two-digit format. If the sum value exceeds 99, use the last two digits of the result. For example, if the result equals ''113'', use ''13''. If the result is less than 10, use 0 as the first digit. For example, if the result equals ''5'', use ''05''.

(4) The tenth through fifteenth position characters of the filename must correspond to the date the file is created. The result must be represented in six digit format ''MMDDYY'' where ''MM'' represent the month, ''''DD'' represent the day and ''YY'' represent the last two digits of the year. For example, February 5, 2013 must be represented as ''020513''.

(5) The sixteenth position character of the filename must be a hyphen ''-''.

(6) The seventeenth through twenty-fifth position characters of the filename must, by default, be ''000000000'' but each of these nine digits can be freely configured by the motor carrier or the ELD provider to be a number between 0 and 9 or a character between A and Z to be able to produce distinct files—if or when necessary—that may otherwise be identical in filename as per the convention proposed in this section. ELD providers or motor carriers do not need to disclose details of conventions they may use for configuring the seventeenth through twenty-fifth digits of the filename.

4.9. Data Transfer Capability Requirements

An ELD must be able to present the captured ELD records of a driver in the standard electronic format as described below, and transfer the data file to an authorized safety official, on demand, for inspection purposes.

4.9.1. Data Reporting During Roadside Safety Inspections

On demand during a roadside safety inspection, an ELD must produce a driver's record of duty status for the current 24-hour period and the previous 7 consecutive days in electronic format, in the standard data format described in section 4.8.2.1.

When a driver uses the single-step driver interface, as described in section 4.3.2.4, to indicate for the ELD to compile and transfer driver's ELD records to authorized safety officials, the ELD must transfer the generated ELD data output to the computing environment used by authorized safety officials via the standards referenced in this section. To meet roadside data reporting requirements, an ELD must do at least one of the following:

(1) Generate a printout of the record of duty status report for the current 24-hour period and the previous 7 consecutive days in the printout format described in section 4.10.2.4 that can be handed to an enforcement officer. Upon request, the ELD must also generate a printout including a scannable QR code (Quick Response) or a series of QR codes that embed the ELD data used for the printout as specified in section 4.10.2.2; or

(2) Support the one primary and the two backup data transfer mechanisms in accordance with the transfer standards outlined in section 4.10.

(a) The primary transfer mechanisms options are as follows: Web Services as specified in section 4.10.1.1, or Bluetooth as specified in section 4.10.1.2, or email as specified in section 4.10.1.3.

(b) The backup transfer mechanisms are as follows:

USB 2.0 (incorporated by reference, see § 395.38), reference (2)(a) in section 6 of this appendix, and as specified in section 4.10.2.1, and

(i) Scannable QR codes as specified in section 4.10.2.2; or

(ii) TransferJet as specified in section 4.10.2.3.

An ELD must support one of the 7 options for roadside data transfer in Table 5 and must certify proper operation of each element under that option. An authorized safety official will specify which transfer mechanism the official will use within the certified transfer mechanisms of an ELD.

TABLE 5—REQUIRED COMBINATION OF ROADSIDE DATA TRANSFER CAPABILITIES FOR AN ELD

Option	Certified data transfer capabilities
Option 1:	Printout Report + QR Code printout.
Option 2:	Wireless Web Services + USB 2.0 + QR Codes.
Option 3:	Wireless Web Services + USB 2.0 + TransferJet.
Option 4:	Bluetooth + USB 2.0 + QR Codes.
Option 5:	Bluetooth + USB 2.0 + TransferJet.
Option 6:	Wireless Email + USB 2.0 + QR Codes.
Option 7:	Wireless Email + USB 2.0 + TransferJet.

4.9.2. Motor Carrier Data Reporting

An ELD or a support system used in conjunction with ELDs must be capable of maintaining and retaining copies of electronic ELD records for a period of at least 6 months from the date of receipt.

An ELD or a support system used in conjunction with an ELD must produce, on demand, a data file or a series of data files of ELD records for a subset of its drivers, a subset of its vehicles, and for a subset of the 6-month record retention period, to be specified by an authorized safety official, in an electronic format standard described in section 4.8.2.1 or, if the motor carrier has multiple offices or terminals, within the time permitted under § 390.29.

At a minimum, an ELD or a support system used in conjunction with an ELD must be able to transfer the ELD data file or files electronically by one of the following three transfer mechanisms:

(1) Web Services as specified in section 4.10.1.1 (but not necessarily wirelessly); or

(2) USB 2.0, reference (2)(a) in section 6 of this appendix, and as specified in section 4.10.2.1; or

(3) Email as specified 4.10.1.3 (but not necessarily wirelessly).

4.10. Communications Standards for the Transmittal of Data Files From ELDs

ELDs must transmit ELD records electronically in accordance with the file format specified in section 4.8.2.1 and must be capable of a one-way transfer of these records through wired and/or wireless methods to authorized safety officials upon request as specified in section 4.9.

4.10.1. Primary Wireless Data Transfer Mechanisms

For each type of wireless transfer mechanisms, an ELD, when used, must follow the underlying specifications in this section.

4.10.1.1. Wireless Data Transfer via Web Services

Transfer of ELD data to FMCSA via Web Services must follow the following standards:

(1) Web Services Description Language (WSDL) 1.1 (incorporated by reference, see § 395.38), reference (1)(a) in section 6 of this appendix

(2) Simple Object Access Protocol (SOAP) 1.2 (incorporated by reference, see § 395.38), reference (1)(b) in section 6 of this appendix

(3) Extensible Markup Language (XML) 1.0 5th Edition (incorporated by reference, see § 395.38), reference (1)(c) in section 6 of this appendix

(4) FMCSA's Third-Party Developers' Partnership (3pDP) (see *https://3pdp.fmcsa.dot.gov/*)

If an ELD provider plans to use Web Services, upon ELD provider registration as described in section 5.1 of this appendix, FMCSA will provide formatting files necessary to convert the ELD file into an XML format and upload the data to the

FMCSA servers. These files include the FMCSA's Rules of Behavior, XML Schema, WSDL file, Interface Control Document (ICD), and the ELD Web Services Development Handbook. Additionally, ELD Providers must obtain a Public/Private Key pair compliant with the NIST SP 800–32, Introduction to Public Key Technology and the Federal PKI Infrastructure, (incorporated by reference, see § 395.38), reference (5)(b) in section 6 of this appendix, and submit the public key with their registration. ELD Providers will be required to complete a test procedure to ensure their data is properly formatted before they can begin submitting driver's ELD data to the FMCSA server.

ELD data transmission from the ELD to the ELD support system must be accomplished in a way that protects the privacy of the driver(s).

At roadside if both the vehicle operator and law enforcement have an available data connection, the vehicle operator will initiate the transfer of ELD data to FMCSA. The ELD support system will convert the ELD file to XML using an FMCSA provided schema and upload it using information provided in the WSDL file using SOAP via Hypertext Transfer Protocol Secure (HTTPS) using HTTP and RFC 5246, Transport Layer Security (TLS) Protocol Version 1.2 (incorporated by reference, see § 395.38), references (1)(a), (b), (c), (d) and (7)(a) in section 6 of this appendix.

4.10.1.2. Wireless Data Transfer via Bluetooth®

Bluetooth SIG Specification of the Bluetooth System covering core package version 2.1 + EDR or higher (incorporated by reference, see § 395.38), reference (8)(a) in section 6 of this appendix, must be followed. ELDs using this standard must be capable of displaying a Personal Identification Number generated by the Bluetooth application profile for bonding with other devices. Upon request of an authorized official, the ELD must become discoverable by the authorized safety officials' Bluetooth-enabled computing platform, and generate a random code, which the driver must share with the official. The ELD must connect to the roadside authorized safety officials' technology via wireless personal area network and transmit the required data via Web Services as described in section 4.10.1.1 of this appendix.

4.10.1.3. Wireless Data Transfer Through EMail

ELD must attach a file to an email message to be sent using RFC 5321 Simple Mail Transfer Protocol (SMTP) (incorporated by reference, see § 395.38), reference (7)(b) in section 6 of this appendix, to a specific email address, which will be shared with the ELD providers during the technology registration process.

The file must have the format as described in section 4.8.2.1 and must be encrypted using AES–256 in FIPS Publication 197 (incorporated by reference, see § 395.38), reference (5)(a) in section 6 of this appendix, with the FMCSA public key compliant with NIST SP 800–32, reference (5)(b) in section 6 of this appendix, to be provided to the ELD provider at the time of registration.

The email must be formatted using the RFC 5322 Internet Message Format (incorporated by reference, see § 395.38), reference (7)(c) in section 6 of this appendix, as follows:

Element	Format
To :	<Address Provided by FMCSA during online registration>
From :	<Desired return address for confirmation>
Subject :	ELD records from <ELD Registration ID><':'> <ELD Identifier>
Body :	<Output File Comment>
Attachment :	MIME encoded AES-256 encrypted file with <filename>. <Date string>.<unique identifier>.aes

A message confirming receipt of the ELD file will be sent to the address specified in the email. The filename must follow the convention specified in section 4.8.2.2.

4.10.2. Backup Wired and Proximity Data Transfer Mechanisms

For each type of close proximity data transfer mechanisms used, an ELD must follow the specifications in this section.

4.10.2.1. USB 2.0

ELDs certified for USB data transfer mechanism must be capable of transferring ELD records using the Universal Serial Bus Specification (Revision 2.0) (incorporated by reference, see § 395.38), reference (2)(a) in section 6 of this appendix.

Each ELD technology must implement a single USB-compliant interface with the necessary adaptors for a Type A connector. The USB interface must implement the Mass Storage class (08h) for driverless operation, to comply with IEEE standard 1667–2009, (incorporated by reference, see § 395.38), reference (4)(a) in section 6 of this appendix.

ELD must be capable of providing power to a standard USB-compatible drive.

An ELD must re-authenticate the driver prior to saving the driver's ELD file to an external device.

On initiation by an authenticated driver, an ELD must be capable of saving ELD file(s) to USB-compatible drives (AES–256 hardware encrypted, reference (5)(a) in section 0 of this appendix) that are provided by authorized safety officials during an inspection. Prior to initiating this action, ELDs must be capable of reading a text file from an authorized safety officials' drive and verifying it against a file provided to ELD providers who have registered their technologies as described in section 5.1.

4.10.2.2. Data Transfer via Scannable QR Codes

ELD transmitting data via two-dimensional barcode(s) must be capable of encoding the data file described in section 4.8.2.1 via a QR code or a series of QR codes, as defined in ISO/IEC18004:2006 specification (incorporated by reference, see § 395.38), reference (6)(a) in section 6 of this appendix.

QR codes must be no smaller than 1.5 square inches and have the following specifications:

Level: L
Version: 15
Color: Black and White

4.10.2.3. Data Transfer via TransferJet ™

ELDs transmitting data via the close proximity wireless technology must use the TransferJet protocol as defined in ISO/IEC 17568 (incorporated by reference, see § 395.38), reference (6)(b) in section 6 of this appendix.

The device or component of the device transmitting the ELD data via TransferJet must be capable of being removed from the CMV to allow the official to receive the transmission without entering the vehicle.

An ELD must re-authenticate the driver prior to transferring driver's ELD file via TransferJet.

With the initiation of the authenticated driver, the ELD using TransferJet must activate Proactive Mode prior to transmitting driver's ELD data to an official.

4.10.2.4. Printout

If the ELD technology complies with the roadside data transfer requirement by producing a printout report, it must be able to generate the compliant report as specified in this section.

The printout must include separate reports for the inspected driver's profile and the unidentified driver profile. If there are no unidentified driver records existing on the ELD for the current 24-hour period and for any of the previous 7 consecutive days, an ELD does not need to print for the authorized safety official. Otherwise, both reports must be printed and provided to the authorized safety official.

Print paper must be at least 2 inches wide. The paper must also be at least 11 inches in height, or on a roll of paper that can be torn when each individual printout is complete.

The printout must include the following information for the current 24-hour period and each of the previous 7 consecutive days: (Items in < . > are data elements.)

Driver's Name: <{Driver's} First Name>,<{Driver's} Last Name>

Driver's License: <{Driver's} Driver's License Issuing State>,<{Driver's} Driver's License Number>

Co-Driver: <{Co-Driver's} First Name>,<{Co-Driver's} Last Name>

Power Unit: <CMV Power Unit Number>,<CMV VIN>

Trailer: <Trailer Number(s)>

Carrier: <Carrier's USDOT number>,<Carrier Name>

Multi Day Basis, 24-hour Starting Time, Time Zone Offset from UTC: <Multiday-basis Used>,<24-Hour Period Starting Time>, <Time Zone Offset from UTC>

Shipping Number: <Shipping Document Number>

Date and Time: <Date {of Printout}>,<Time {of Printout}>

Current Location: <{Current} Latitude>, <{Current} Longitude>,<Distance Since Last Valid Coordinates>

Current Odometer and Engine Hours: <{Current}{Total} Vehicle Miles>,<{Current}{Total} Engine Hours>

Current Geo-location: <{Current} Geo-location>

ELD: <ELD Registration ID>,<ELD Identifier>,ELD Authentication Value>

Output File Comment: <Output File Comment>

Unidentified Driving Records on the ELD?: <{Current} Data Diagnostic Event Indicator Status {for "Unidentified driving records data diagnostic" event}>

Exempt Driver Configuration by Motor Carrier: <Exempt Driver Configuration {for the Driver}>

ELD's Malfunction Status: <Malfunction Indicator Status {for ELD}>

Driver's Data Diagnostic Status: <Data Diagnostic Event Indicator Status {for Driver}>

Change of Duty Status, Intervening Interval Records and Change in Driver's indication of Special Driving Conditions:

<Event Sequence ID Number> , <Event Record Status>,<Event Record Origin>,<Event Type>, <Event Code>,<{Event} Date>, <{Event} Time>, <{Accumulated} Vehicle Miles>,<{Elapsed} Engine Hours>,<Geo-Location>#,<{Event} Comment/Annotation>

:

:

<Event Sequence ID Number> , <Event Record Status>,<Event Record Origin>,<Event Type>, <Event Code>,<{Event} Date>, <{Event} Time>, <{Accumulated} Vehicle Miles>,<{Elapsed} Engine Hours>,<Geo-Location>#,<{Event} Comment/Annotation>

"<Geo-location> must be substituted with "<Driver's Location Description>" field for manual entries and with "<{blank}>" field for intervening logs.

Driver's Record Certification Actions:

<Event Sequence ID Number>,<Event Code>,<{Event} Date>,<{Event} Time>, <Date {of the certified record}>

:

:

<Event Sequence ID Number>,<Event Code>,<{Event} Date>,<{Event} Time>, <Date {of the certified record}>

Malfunctions and Data Diagnostic Events[1]:

<Event Sequence ID Number>,<Event Code>,<Malfunction/Diagnostic Code>,<{Event} Date>,<{Event} Time>,<{Total} Vehicle Miles>,<{Total} Engine Hours>

:

:

<Event Sequence ID Number>,<Event Code>,<Malfunction/Diagnostic Code>,<{Event} Date>,<{Event} Time>,<{Total} Vehicle Miles>,<{Total} Engine Hours>

[1]Printout report must only list up to 10 most recent ELD malfunctions and up to 10 most recent data diagnostics events within the time period for which the report is generated.

ELD Login/Logout Report[2]:

<Event Sequence ID Number>,<Event Code>,<ELD username>,<{Event} Date>,<{Event} Time>,<{Total} Vehicle Miles>,<{Total} Engine Hours>

:

:

<Event Sequence ID Number>,<Event Code>,<ELD username>,<{Event} Date>,<{Event} Time>,<{Total} Vehicle Miles>,<{Total} Engine Hours>

[2]Printout report must only list up to 10 most recent driver's login and up to 10 most recent driver's logout events within the time period for which the report is generated.

CMV Engine Power up / Shut Down Report[3]:

<Event Sequence ID Number>,<Event Code>,<{Event} Date>,<{Event} Time>,<{Total} Vehicle Miles>,<{Total} Engine Hours>

:

:

<Event Sequence ID Number>,<Event Code>,<{Event} Date>,<{Event} Time>,<{Total} Vehicle Miles>,<{Total} Engine Hours>

[3]Printout report must only list up to 10 most recent engine power up and up to 10 most recent engine shut down events within the time period for which the report is generated.

The printout must include a graph-grid consistent with § 395.8(g) displaying each change of duty status. The graph-grid for each day's RODS must be at least 4 inches by 1.5 inches in size.

The graph-grid must also overlay periods of driver's indications of authorized personal use of CMV and yard moves using a different style line (such as dashed or dotted line) or shading. The appropriate abbreviation must also be indicated on the graph-grid.

Upon request, an ELD must also produce a printout including QR Code(s) as specified in section 4.10.2.2 to allow for the complete transfer of data via a scanner in addition to the visual presentation of the data on the printout report. Data coded in QR code(s) must be compliant with the ELD data output format specified in section 4.8.2.1.

4.10.3. Motor Carrier Support System Data Transmission

Regardless of the roadside transmission option supported by the ELD technology, the support systems of the motor carrier where electronic ELD records are maintained and retained must be able to transmit enforcement-specified historical data for their drivers using one of three methods specified under section 4.9.2. Web services option must follow the specifications described under section 4.10.1.1. Email option must follow the specifications described under section 4.10.1.3, and USB option must follow the specifications of Universal Serial Bus Specification, revision 2.0 (incorporated by reference, see § 395.38), reference (2)(a) in section 6 of this appendix, and described under section 4.10.2.1.

5. ELD—Registration-Certification

As described in § 395.22(a) of subpart B, motor carriers must only use ELDs that are listed on the FMCSA Web site. An ELD provider must register with FMCSA and certify each ELD model and version for that ELD to be listed on this Web site.

5.1. ELD Provider's Registration

5.1.1. Registering Online

An ELD provider developing an ELD technology must register online at a secure FMCSA Web site where the ELD provider can securely certify that its ELD is compliant with this appendix. Provider's registration must include the following information:

(1) Company name of the technology provider/manufacturer.

(2) Name of an individual authorized by the provider to verify that the ELD is compliant with this appendix and to certify it under section 5.2 of this appendix.

(3) Address of the registrant.

(4) Email address of the registrant.

(5) Telephone number of the registrant.

5.1.2. Keeping Information Current

The ELD provider must keep the information in section 5.1.1 current through FMCSA's Web site.

5.1.3. Authentication Information Distribution

FMCSA will provide a unique ELD registration ID, authentication key(s), authentication file(s), and formatting and configuration details required in this appendix to registered providers during the registration process.

5.2. Certification of Conformity With FMCSA Standards

A registered ELD provider must certify that each ELD model and version has been sufficiently tested to meet the functional requirements included in this appendix under the conditions in which the ELD would be used.

5.2.1. Online Certification

An ELD provider registered online as described in section 5.1.1 must disclose the following information about each ELD model and version and certify that the particular ELD is compliant with the requirements of this appendix. The online process will only allow a provider to complete certification if the provider successfully discloses all of the following required information:

(1) Name of the product.

(2) Model number of the product.

(3) Software version of the product.

(4) An ELD identifier, uniquely identifying the certified model and version of the ELD, assigned by the ELD provider in accordance with 7.1.15.

(5) Picture and/or screen shot of the product.

(6) User's manual describing how to operate the ELD.

(7) Description of the supported and certified data transfer mechanisms and step-by-step instructions for a driver to produce and transfer the ELD records to an authorized safety official.

(8) Summary description of ELD malfunctions.

(9) Procedure to validate an ELD authentication value as described in section 7.1.14.

(10) Certifying statement describing how the product was tested to comply with FMCSA regulations.

5.2.2. Procedure To Validate an ELD's Authenticity

Section 5.2.1(9) requires that the ELD provider institute an authentication process and disclose necessary details for FMCSA systems to independently verify the ELD authentication values included in the dataset of inspected ELD outputs. The authentication value must include a hash component that only uses data elements included in the ELD dataset and datafile. ELD authentication value must meet the requirements specified in section 7.1.14.

5.3. Publicly Available Information

Except for the information listed under section 5.1.1(2), (4), and (5) and section 5.2.1(9), FMCSA will make the information in sections 5.1.1 and 5.2.1 for each certified ELD publicly available on a Web site to allow motor carriers to determine which products have been properly registered and certified as ELDs compliant with this appendix.

6. References

(1) *World Wide Web Consortium (W3C).* 32 Vassar Street, Building 32–G514, Cambridge, MA 02139. Web page is *http://www.w3.org;* telephone is (617) 253–2613.

(a) ''Web Services Description Language (WSDL) 1.1, W3C Note 15, March 2001,'' Ariba, IBM Research, Microsoft. (See § 395.38, Incorporation by Reference.)

(b) ''Simple Object Access Protocol (SOAP) Version 1.2 Part 1: Messaging Framework (Second Edition), W3C Recommendation 27 April 2007,'' W3C® (MIT, ERCIM, Keio). (See § 395.38, Incorporation by Reference.)

(c) ''Extensible Markup Language (XML) 1.0 (Fifth Edition), W3C Recommendation 26 November 2008,'' W3C® (MIT, ERCIM, Keio). (See § 395.38, Incorporation by Reference.)

(d) RFC 2616 ''Hypertext Transfer Protocol—HTTP/1.1.'' (See § 395.38, Incorporation by Reference.)

(2) *Universal Serial Bus Implementers Forum (USBIF).* 3855 SW. 153rd Drive, Beaverton, Oregon 97006. Web page is *http://www.usb.org;* telephone is (503) 619–0426.

(a) ''Universal Serial Bus Specification,'' Compaq, Hewlett-Packard, Intel, Lucent, Microsoft, NEC, Philips; April 27, 2000 (Revision 2.0). (See § 395.38, Incorporation by Reference.)

(3) *American National Standards Institute (ANSI).* 11 West 42nd Street, New York, New York 10036. Web page is *http://webstore.ansi.org;* telephone is (212) 642–4900.

(a) ''ANSI INCITS 446–2008, American National Standard for Information Technology—Identifying Attributes for Named Physical and Cultural Geographic Features (Except Roads and Highways) of the United States, Its Territories, Outlying Areas, and Freely Associated Areas and the Waters of the Same to the Limit of the Twelve-Mile Statutory Zone (10/28/2008),'' (ANSI INCITS 446–2008). (For further information, see also the Geographic Names Information System (GNIS) at *http://geonames.usgs.gov/domestic/index.html.* (See § 395.38, Incorporation by Reference.)

(b) ''Information Systems—Coded Character Sets—7-Bit American National Standard Code for Information Interchange (7-Bit ASCII)'', ANSI INCITS 4–1986 (R2007). (See § 395.38, Incorporation by Reference.)

(4) *IEEE Standards Association.* 445 Hoes Lane, Piscataway, NJ 08854–4141. Web page is *http://standards.ieee.org/index.html.* Telephone is (732) 981–0060.

(a) ''Standard for Authentication in Host Attachments of Transient Storage Devices'', IEEE Standards Association: 2009 (IEEE Std. 1667–2009). (See § 395.38, Incorporation by Reference.)

(b) [Reserved]

(5) *U.S. Department of Commerce, National Institute of Standards and Technology (NIST).* 100 Bureau Drive, Stop 1070, Gaithersburg, MD 20899–1070. Web page is *http://www.nist.gov.* Telephone is (301) 975–6478.

(a) ''Federal Information Processing Standards (FIPS) Publication 197, November 26, 2001, Announcing the ADVANCED ENCRYPTION STANDARD (AES)''. (See § 395.38, Incorporation by Reference.)

(b) ''Special Publication (SP) 800–32, February 26, 2001, Introduction to Public Key Technology and the Federal PKI Infrastructure.'' (See § 395.38, Incorporation by Reference.)

(6) *International Standards Organization (ISO).* 1, ch. de la Voie-Creuse, CP 56–CH–1211, Geneva 20, Switzerland. Web page is *http://www.iso.org.* Telephone is 41 22 749 03 46.

(a) ''ISO/IEC 18004:2006 Information technology—Automatic identification and data capture techniques—QR Code 2005 bar code symbology specification''. (See § 395.38, Incorporation by Reference.)

(b) ''ISO/IEC 17568 Information technology—Telecommunications and information exchange between systems—Close proximity electric induction wireless communications.'' (See § 395.38, Incorporation by Reference.)

(7) *Internet Engineering Task Force (IETF).* C/o Association Management Solutions, LLC (AMS), 48377 Freemont Blvd., Suite 117, Freemont, CA 94538. Telephone is (510) 492–4080.

(a) RFC 5246—''The Transport Layer Security (TLS) Protocol Version 1.2'', August 2008. (See § 395.38, Incorporation by Reference.)

(b) RFC 5321—''Simple Mail Transfer Protocol,'' October 2008. (See § 395.38, Incorporation by Reference.)

(c) RFC 5322—''Internet Message Format,'' October 2008. (See § 395.38, Incorporation by Reference.)

(8) Bluetooth SIG, Inc. 5209 Lake Washington Blvd. NE., Suite 350, Kirkland, WA 98033. Web page is *https://www.bluetooth.org/Technical/Specifications/adopted.htm.* Telephone is (425) 691–3535.

(a) ''Specification of the Bluetooth System: Wireless Connections Made Easy,'' Bluetooth SIG Covered Core Package version 2.1 + EDR or a higher version. (See § 395.38, Incorporation by Reference.)

(b) [Reserved]

7. Data Elements Dictionary

7.1.1. 24-Hour Period Starting Time

Description: This data element refers to the 24-hour period starting time specified by the motor carrier for driver's home terminal.

Purpose: Identifies the bookends of the work day for the driver; Makes ELD records consistent with § 395.8 requirements which require this information to be included on the form.

Source: Motor carrier.

Used in: ELD account profile; ELD outputs.

Data Type: Programmed or populated on the ELD during account creation and maintained by the motor carrier to reflect true and accurate information for drivers.

Data Range: 0000 to 2359; first two digits 00 to 23; last two digits 00 to 59.

Data Length: 4 characters.

Data Format: <HHMM> Military time format where ''HH'' refer hours and ''MM'' refer minutes designation for start time expressed in time standard in effect at the driver's home terminal.

Disposition: Mandatory.

Examples: [0600], [0730], [1800].

7.1.2. Carrier Name

Description: This data element refers to the motor carrier's legal name for conducting commercial business.

Purpose: Provides a recognizable identifier about the motor carrier on viewable ELD outputs; Provides ability to cross check against USDOT number.

Source: FMCSA's Safety and Fitness Electronic Records (SAFER) System.

Used in: ELD account profile.

Data Type: Programmed on the ELD or entered once during the ELD account creation process.

Data Range: Any alphanumeric combination.

Data Length: Minimum: 4; Maximum: 120 characters.

Data Format: <Carrier Name> as in <CCCC> to <CCCC.....CCCC>.

Disposition: Mandatory.

Example: [CONSOLIDATED TRUCKLOAD INC.].

7.1.3. Carrier's USDOT Number

Description: This data element refers to the motor carrier's USDOT number.

Purpose: Uniquely identifies the motor carrier employing the driver using the ELD.

Source: FMCSA's Safety and Fitness Electronic Records (SAFER) System.

Used in: ELD account profiles; ELD event records; ELD output file.

Data Type: Programmed on the ELD or entered once during the ELD account creation process.

Data Range: An integer number of length 1–8 assigned to the motor carrier by FMCSA (9 position numbers reserved).

Data Length: Minimum: 1; Maximum: 9 characters.

Data Format: <Carrier's USDOT Number> as in <C> to <CCCCCCCCC>.

Disposition: Mandatory.

Examples: [1], [1000003].

7.1.4. CMV Power Unit Number

Description: This data element refers to the identifier the motor carrier uses for their CMVs in their normal course of business.

Purpose: Identifies the vehicle a driver operates while a driver's ELD records are recorded; Makes ELD records consistent with § 395.8 requirements which requires the truck or tractor number to be included on the form.

Source: Unique CMV identifiers a motor carrier's uses in their normal course of business and include on dispatch documents or the license number and the licensing State of the power unit.

Used in: ELD event records; ELD output file.

Data Type: Programmed on the ELD or populated by motor carrier's extended ELD system or entered by the driver.

Data Range: Any alphanumeric combination.

Data Length: Minimum: 1; Maximum: 10 characters.

Data Format: <CMV Power Unit Number> as in <C> to <CCCCCCCCCC>.

Disposition: Mandatory for all CMVs operated while using an ELD.

Examples: [123], [00123], [BLUEKW123], [TX12345].

7.1.5. CMV VIN

Description: This data element refers to the manufacturer assigned vehicle identification number (VIN) for the CMV powered unit.

Purpose: Uniquely identifies the operated CMV not only within a motor carrier at a given time but across all CMVs sold within a 30 year rolling period.

Source: A robust unique CMV identifier standardized in North America.

Used in: ELD event records; ELD output file.

Data Type: Retrieved from the engine ECM via the vehicle databus.

Data Range: Either blank or 17 characters long as specified by NHTSA in 49 CFR part 565, or 18 characters long with first character assigned as ''-'' (dash) followed by the 17 character long VIN. Check digit, i.e., VIN character position 9, as specified in 49 CFR part 565 must imply a valid VIN.

Data Length: Blank or 17–18 characters.

Data Format: <CMV VIN> or <''-''> <CMV VIN> or <{*blank*}> as in <CCCCCCCCCCCCCCCCC>, or <-CCCCCCCCCCCCCCCCC> or <>.

Disposition: Mandatory for all CMVs linked to the engine ECM and when VIN is

available from the engine ECM over the vehicle databus; Otherwise optional. If optionally populated and source is not the engine ECM, precede VIN with the character ''-'' in records.

Examples: [1FUJGHDV0CLBP8834], [-1FUJGHDV0CLBP8896], [ ].

7.1.6. Comment/Annotation

Description: This is a textual note related to a record, update or edit capturing the comment or annotation a driver or another authorized support personnel may input to the ELD.

Purpose: Provides ability for a driver to offer explanations to records, selections, edits or entries.

Source: Driver or another authenticated motor carrier support personnel.

Used in: ELD events; ELD outputs.

Data Type: Entered by the authenticated user via ELD's interface.

Data Range: Free form text of any alphanumeric combination.

Data Length: 0–60 characters if optionally entered;

4–60 characters if annotation is required and driver is prompted by the ELD.

Data Format: <Comment/Annotation> as in <{blank}> or <C> to <CCC ..... CCC>.

Disposition: Optional in general; Mandatory if prompted by ELD.

Examples: [ ], [Personal Conveyance. Driving to Restaurant in bobtail mode], [Forgot to switch to SB. Correcting here].

7.1.7. Data Diagnostic Event Indicator Status

Description: This is a Boolean indicator identifying whether the used ELD unit has an active data diagnostic event set for the authenticated driver at the time of event recording.

Purpose: Documents the snapshot of ELD's data diagnostic status for the authenticated driver at the time of an event recording.

Source: ELD internal monitoring functions.

Used in: ELD events; ELD outputs.

Data Type: Internally monitored and managed.

Data Range: 0 (no active data diagnostic events for the driver) or 1 (at least one active data diagnostic event set for the driver).

Data Length: 1 character.

Data Format: <Data Diagnostic Event Indicator Status> as in <C >.

Disposition: Mandatory.

Examples: [0] or [1].

7.1.8. Date

Description: In combination with the variable ''Time'', this parameter stamps records with a reference in time; Even though date and time must be captured in UTC, event records must use date and time converted to the time zone in effect at the driver's home terminal as specified in section 4.4.3.

Purpose: Provides ability to record the instance of recorded events.

Source: ELD's converted time measurement.

Used in: ELD events; ELD outputs.

Data Type: UTC date must be automatically captured by ELD; Date in effect at the driver's home terminal must be calculated as specified in section 4.4.3.

Data Range: Any valid date combination expressed in <MMDDYY> format where ''MM'' refers to months, ''DD'' refers to days of the month and ''YY'' refers to the last two digits of the calendar year.

Data Length: 6 characters.

Data Format: <MMDDYY> where <MM> must be between 01 and 12, <DD> must be between 01 and 31, and <YY> must be between 00 and 99.

Disposition: Mandatory.

Examples: [122815], [010114], [061228].

7.1.9. Distance Since Last Valid Coordinates

Description: Distance in whole miles traveled since the last valid latitude, longitude pair the ELD measured with the required accuracy.

Purpose: Provides ability to keep track of location for recorded events in cases of temporary position measurement outage.

Source: ELD internal calculations.

Used in: ELD events; ELD outputs.

Data Type: Kept track of by the ELD based on position measurement validity.

Data Range: An integer value between 0 and 6; If the distance traveled since the last valid coordinate measurement exceeds 6 miles, the ELD must enter the value as 6.

Data Length: 1 character.

Data Format: <Distance Since Last Valid Coordinates> as in <C>.

Disposition: Mandatory.

Examples: [0], [1], [5], [6].

7.1.10. Driver's License Issuing State

Description: This data element refers to the issuing State, Province or Jurisdiction of the listed Driver's License for the ELD account holder.

Purpose: In combination with ''Driver's License Number'', it links the ELD driver account holder uniquely to an individual with driving credentials; Ensures that only one driver account can be created per individual.

Source: Driver's license.

Used in: ELD account profile(s); ELD output file.

Data Type: Entered (during the creation of a new ELD account).

Data Range: To character abbreviation listed on Table 6.

Data Length: 2 characters.

<Data Format: Driver's License Issuing State> as in <CC>.

Disposition: Mandatory for all driver accounts created on the ELD; Optional for ''non-driver'' accounts.

Example: [WA].

TABLE 6—STATE AND PROVINCE ABBREVIATION CODES

State code	State	State code	State
U.S.A.			
AL	ALABAMA	MT	MONTANA.
AK	ALASKA	NC	NORTH CAROLINA.
AR	ARKANSAS	ND	NORTH DAKOTA.
AZ	ARIZONA	NE	NEBRASKA.
CA	CALIFORNIA	NH	NEW HAMPSHIRE.
CO	COLORADO	NJ	NEW JERSEY.
CT	CONNECTICUT	NM	NEW MEXICO.
DC	DISTRICT OF COLUMBIA	NV	NEVADA.
DE	DELAWARE	NY	NEW YORK.
FL	FLORIDA	OH	OHIO.
GA	GEORGIA	OK	OKLAHOMA.
HI	HAWAII	OR	OREGON.
IA	IOWA	PA	PENNSYLVANIA.
ID	IDAHO	RI	RHODE ISLAND.
IL	ILLINOIS	SC	SOUTH CAROLINA.
IN	INDIANA	SD	SOUTH DAKOTA.
KS	KANSAS	TN	TENNESSEE.
KY	KENTUCKY	TX	TEXAS.
LA	LOUISIANA	UT	UTAH.
MA	MASSACHUSETTS	VA	VIRGINIA.
MD	MARYLAND	VT	VERMONT.
ME	MAINE	WA	WASHINGTON.
MI	MICHIGAN	WI	WISCONSIN.
MN	MINNESOTA	WV	WEST VIRGINIA.

TABLE 6—STATE AND PROVINCE ABBREVIATION CODES—Continued

State code	State	State code	State
MO	MISSOURI	WY	WYOMING.
MS	MISSISSIPPI		

AMERICAN POSSESSIONS OR PROTECTORATES

AS	AMERICAN SAMOA.
GU	GUAM.
MP	NORTHERN MARIANAS.
PR	PUERTO RICO.
VI	VIRGIN ISLANDS.

CANADA

Province code	Province
AB	ALBERTA.
BC	BRITISH COLUMBIA.
MB	MANITOBA.
NB	NEW BRUNSWICK.
NF	NEWFOUNDLAND.
NS	NOVA SCOTIA.
NT	NORTHWEST TERRITORIES.
ON	ONTARIO.
PE	PRINCE EDWARD ISLAND.
QC	QUEBEC.
SK	SASKATCHEWAN.
YT	YUKON TERRITORY.

MEXICO

AG	AGUASCALIENTES	MX	MEXICO.
BN	BAJA CALIFORNIA NORTE	NA	NAYARIT.
BS	BAJA CALIFORNIA SUR	NL	NUEVO LEON.
CH	COAHUILA	OA	OAXACA.
CI	CHIHUAHUA	PU	PUEBLA.
CL	COLIMA	QE	QUERETARO.
CP	CAMPECHE	QI	QUINTANA ROO.
CS	CHIAPAS	SI	SINALOA.
DF	DISTRICTO FEDERAL	SL	SAN LUIS POTOSI.
DG	DURANGO	SO	SONORA.
GE	GUERRERO	TA	TAMAULIPAS.
GJ	GUANAJUATO	TB	TABASCO.
HD	HIDALGO	TL	TLAXCALA.
JA	JALISCO	VC	VERACRUZ.
MC	MICHOACAN	YU	YUCATAN.
MR	MORELOS	ZA	ZACATECAS.

OTHER

Province code	Province, state or country
OT	ALL OTHERS NOT COVERED ABOVE.

7.1.11. Driver's License Number

Description: This data element refers to the unique Driver's License information required for each driver account on the ELD.

Purpose: In combination with driver's license issuing State, it links the ELD driver account holder to an individual with driving credentials; Ensures that only one driver account can be created per individual.

Source: Driver's license.

Used in: ELD account profile(s); ELD output file.

Data Type: Entered (during the creation of a new ELD account).

Data Range: Any alphanumeric combination.

Data Length: Minimum: 1; Maximum: 20 characters.

Data Format: <Driver's License Number> as in <C> to <CCCCCCCCCCCCCCCCCCCC>. For ELD record keeping purposes, ELD must only retain characters in a Driver's License Number entered during an account creation process that are a number between 0–9 or a character between A–Z (non-case sensitive).

Disposition: Mandatory for all driver accounts created on the ELD; Optional for ''non-driver'' accounts.

Examples: [SAMPLMJ065LD], [D000368210361], [198], [N02632676353666].

7.1.12. Driver's Location Description

Description: This is a textual note related to the location of the CMV input by the driver upon ELD's prompt.

Purpose: Provides ability for a driver to enter location information related to entry of missing records; Provides ability to accommodate temporary positioning service interruptions or outage without setting positioning malfunctions.

Source: Driver, only when prompted by the ELD.

Used in: ELD events; ELD outputs.

Data Type: Entered by the authenticated driver when ELD solicits this information as specified in section 4.3.2.7.

Data Range: Free form text of any alphanumeric combination.
Data Length: 5–60 characters.
Data Format: <CCCCC> to <CCC.....CCC >.
Disposition: Mandatory when prompted by ELD.
Examples: [ ], [5 miles SW of Indianapolis, IN], [Reston, VA].

7.1.13. ELD Account Type

Description: An indicator designating whether an ELD account is of type driver support personnel (non-driver).
Purpose: Enables to verify account type specific requirements set forth in this document.
Source: ELD designated.
Used in: ELD outputs.
Data Type: Specified during the account creation process and recorded on ELD.
Data Range: Character ''D'' indicating of account type ''Driver'' or ''S'', indicating of account type (''motor carrier's support personnel'' i.e. non-driver); ''Unidentified Driver'' account must be designated with type ''D''.
Data Length: 1 character.
Data Format: <C>.
Disposition: Mandatory.
Examples: [D], [S].

7.1.14. ELD Authentication Value

Description: An alphanumeric value that is unique to an ELD and verifies the authenticity of the given ELD.
Purpose: Provides ability to cross-check the authenticity of an ELD used in the recording of a driver's records during inspections.
Source: ELD provider assigned value; Includes a certificate component and a hashed component; Necessary information related to authentication keys and hash procedures disclosed by the registered ELD provider during the online ELD certification process for independent verification by FMCSA systems.
Used in: ELD outputs.
Data Type: Calculated from the authentication key and calculation procedure privately distributed by the ELD provider to FMCSA during the ELD registration process.
Data Range: Alphanumeric combination.
Data Length: 16–32 characters.
Data Format: <CCCC.....CCCC>.
Disposition: Mandatory.
Example: [D3A4506EC8FF566B506EC8FF566BDFBB].

7.1.15. ELD Identifier

Description: An alphanumeric identifier assigned by the ELD provider to the ELD technology that is certified by the registered provider at FMCSA's Web site.
Purpose: Provides ability to cross-check that the ELD used in the recording of a driver's records is certified through FMCSA's registration and certification process as required.
Source: Assigned and submitted by the ELD provider during the online certification of an ELD model, and version.
Used in: ELD outputs.
Data Type: Coded on the ELD by the ELD provider and disclosed to FMCSA during the online certification process.
Data Range: A six character alphanumeric identifier using characters A–Z and number 0–9
Data Length: 6 characters.
Data Format: <ELD Identifier> as in <CCCCCC>.
Disposition: Mandatory.
Examples: [1001ZE], [GAM112], [02P3P1].

7.1.16. ELD Registration ID

Description: An alphanumeric registration identifier assigned to the ELD provider that is registered with FMCSA during the ELD registration process.
Purpose: Provides ability to cross-check that the ELD provider has registered as required.
Source: Received from FMCSA during online provider registration.
Used in: ELD outputs.
Data Type: Coded on the ELD by the Provider.
Data Range: A four character alphanumeric registration identifier using characters A–Z and numbers 0–9.
Data Length: 4 characters.
Data Format: <ELD Registration ID> as in <CCCC>.
Disposition: Mandatory.
Examples: [ZA10], [QA0C], [FAZ2].

7.1.17. ELD Username

Description: This data element refers to the unique user identifier assigned to the account holder on the ELD to authenticate the corresponding individual during an ELD login process; The individual may be a driver or a motor carrier's support personnel.
Purpose: Documents the user identifier assigned to the driver linked to the ELD account.
Source: Assigned by the motor carrier during the creation of a new ELD account.
Used in: ELD account profile; Event records; ELD login process.
Data Type: Entered (during account creation and user authentication).
Data Range: Any alphanumeric combination.
Data Length: Minimum: 4; Maximum: 60 characters.
Data Format: <ELD Username> as in <CCCC> to <CCCC ..... CCCC>.
Disposition: Mandatory for all accounts created on the ELD.
Examples: [smithj], [100384], [sj2345], [john.smith].

7.1.18. Engine Hours

Description: Engine hours refer to the time the CMV's engine in powered in decimal hours with 0.1 hr (6-minute) resolution; This parameter is a placeholder for <{Total} Engine Hours> which refers to the aggregated time of a vehicle's engine's operation since its inception and used in recording ''engine power on'' and ''engine shut down'' events, and also for <{Elapsed} Engine Hours> which refers to the elapsed time in engine's operation in the given ignition power on cycle and used in the recording of all other events.
Purpose: Provides ability to identify gaps in the operation of a CMV, when the vehicle's engine may be powered but the ELD may not; Provides ability to cross check integrity of recorded data elements in events and prevent gaps in the recording of ELD.
Source: ELD measurement or sensing.
Used in: ELD events; ELD outputs.
Data Type: Acquired from the engine ECM or a comparable other source as allowed in section 4.3.1.4.
Data Range: For <{Total} Engine Hours>, range is between 0.0 and 99,999.9;
For <{Elapsed} Engine Hours>, range is between 0.0 and 99.9.
Data Length: 3–7 characters.
Data Format: <Vehicle Miles> as in <C.C> to <CCCCC.C>.
Disposition: Mandatory.
Examples: [0.0], [9.9], [346.1], [2891.4].

7.1.19. Event Code

Description: A dependent attribute on ''Event Type'' parameter that further specifies the nature of the change indicated in ''Event Type''; This parameter indicates the new status after the change.
Purpose: Provides ability to code the specific nature of the change electronically.
Source: ELD internal calculations.
Used in: ELD event records; ELD outputs.
Data Type: ELD recorded and maintained event attribute in accordance with the type of event and nature of the new status being recorded.
Data Range: Dependent on the ''Event Type'' as indicated on Table 7.
Data Length: 1 character.
Data Format: <Event Type> as in <C>.
Disposition: Mandatory.
Examples: [0], [1], [4], [9].

TABLE 7—''EVENT TYPE'' PARAMETER CODING

Event type	Event code	Event code description
1	1	Driver's duty status changed to ''Off-duty''.
1	2	Driver's duty status changed to ''Sleeper Berth''.
1	3	Driver's duty status changed to ''Driving''.
1	4	Driver's duty status changed to ''On-duty not driving''.
2	1	Intermediate log with conventional location precision.
2	2	Intermediate log with reduced location precision.
3	1	Driver indicates ''Authorized Personal Use of CMV''.
3	2	Driver indicates ''Yard Moves''.
3	0	Driver indication for PC, YM and WT cleared.

TABLE 7—"EVENT TYPE" PARAMETER CODING—Continued

Event type	Event code	Event code description
4	1	Driver's first certification of a daily record.
4	n	Driver's n'th certification of a daily record (when recertification necessary). "n" is an integer between 1 and 9. If more than 9 certifications needed, use 9 for each new re-certification record.
5	1	Authenticated driver's ELD login activity.
5	2	Authenticated driver's ELD logout activity.
6	1	Engine power-up with conventional location precision.
6	2	Engine power-up with reduced location precision.
6	3	Engine shut down with conventional location precision.
6	4	Engine shut-down with reduced location precision.
7	1	An ELD malfunction logged.
7	2	An ELD malfunction cleared.
7	3	A data diagnostic event logged.
7	4	A data diagnostic event cleared.

7.1.20. Event Data Check Value

Description: A hexadecimal ''check'' value calculated in accordance to procedure outlined in section 4.4.5.1 and attached to each event record at the time of recording.

Purpose: Provides ability to identify cases where an ELD event record may have been inappropriately modified after its original recording.

Source: ELD internal

Used in: ELD events; ELD output file.

Data Type: Calculated by the ELD in accordance with 4.4.5.1.

Data Range: A number between hexadecimal 00 (decimal 0) and hexadecimal FF (decimal 255).

Data Length: 2 characters.

Data Format: <Event Data Check Value> as in <CC>.

Disposition: Mandatory.

Examples: [05], [CA], [F3].

7.1.21. Event Record Origin

Description: An attribute for the event record indicating whether it is automatically recorded, or edited, entered or accepted by the driver, requested by another authenticated user, or assumed from unidentified driver profile.

Purpose: Provides ability to track origin of the records.

Source: ELD internal calculations.

Used in: ELD event records; ELD outputs.

Data Type: ELD recorded and maintained event attribute in accordance with the procedures outlined in sections 4.4.4.2.2, 4.4.4.2.3, 4.4.4.2.4 and 4.4.4.2.5.

Data Range: 1, 2, 3 or 4 as described on Table 8.

Data Length: 1 character.

Data Format: <Event Record Origin> as in <C>.

Disposition: Mandatory.

Examples: [1], [2], [3], [4].

TABLE 8—"EVENT RECORD ORIGIN" PARAMETER CODING

Event record origin	Event record origin code
Automatically recorded by ELD	1
Edited or Entered by the Driver	2

TABLE 8—"EVENT RECORD ORIGIN" PARAMETER CODING—Continued

Event record origin	Event record origin code
Edit Requested by an Authenticated User other than the Driver	3
Assumed from Unidentified Driver profile	4

7.1.22. Event Record Status

Description: An attribute for the event record indicating whether an event is active or inactive and further, if inactive, whether it is due to a change or lack of confirmation by the driver or due to a driver's rejection of change request.

Purpose: Provides ability to keep track of edits and entries performed over ELD records while retaining original records.

Source: ELD internal calculations.

Used in: ELD event records; ELD outputs.

Data Type: ELD recorded and maintained event attribute in accordance with the procedures outlined in sections 4.4.4.2.2, 4.4.4.2.3, 4.4.4.2.4, 4.4.4.2.5, and 4.4.4.2.6.

Data Range: 1, 2, 3 or 4 as described on Table 9.

Data Length: 1 character.

Data Format: <Event Record Status> as in <C>.

Disposition: Mandatory.

Examples: [1], [2], [3], [4]

TABLE 9—"EVENT RECORD STATUS" PARAMETER CODING

Event record status	Event record status code
Active	1
Inactive—Changed	2
Inactive—Change Requested	3
Inactive—Change Rejected	4

7.1.23. Event Sequence ID Number

Description: This data element refers to the serial identifier assigned to each required ELD event as described in section 4.5.1.

Purpose: Provides ability to keep a continuous records keeping track on a given ELD across all users of that ELD.

Source: ELD internal calculations.

Used in: ELD event records; ELD outputs.

Data Type: ELD maintained; Incremented by 1 for each new record on the ELD; Continuous for each new event the ELD records regardless of owner of the records.

Data Range: 0 to FFFF; Initial factory value must be 0; After FFFF hexadecimal (decimal 65535), the next Event Sequence ID number must be 0.

Data Length: 1–4 characters.

Data Format: <Event Sequence ID Number> as in <C> to <CCCC>.

Disposition: Mandatory.

Examples: [1], [1F2C], [2D3], [BB], [FFFE].

7.1.24. Event Type

Description: An attribute specifying the type of the event record.

Purpose: Provides ability to code the type of the recorded event in electronic format.

Source: ELD internal calculations.

Used in: ELD event records; ELD outputs.

Data Type: ELD recorded and maintained event attribute in accordance with the type of event being recorded.

Data Range: 1–7 as described on Table 10.

Data Length: 1 character.

Data Format: <Event Type> as in <C>.

Disposition: Mandatory.

Examples: [1], [5], [4], [7].

TABLE 10—"EVENT TYPE" PARAMETER CODING

Event type	Event type code
A change in driver's duty-status	1
An intermediate log	2
A change in driver's indication of authorized personal use of CMV or yard moves	3
A driver's certification/re-certification of records	4
A driver's login/logout activity	5
CMV's engine power up/shut down activity	6
A malfunction or data diagnostic detection occurrence	7

7.1.25. Exempt Driver Configuration

Description: A parameter indicating whether the motor carrier's configured a

driver's profile to claim exemption from ELD use.

Purpose: Provides ability to code the motor carrier indicated exemption for the driver electronically.

Source: Motor carrier's configuration for a given driver.

Used in: ELD outputs.

Data Type: Motor carrier configured and maintained parameter in accordance with the qualification requirements listed in § 395.1.

Data Range: E (exempt) or 0 (number zero).

Data Length: 1 character.

Data Format: <Exempt Driver Configuration> as in <C>.

Disposition: Mandatory.

Examples: [E], [0].

7.1.26. File Data Check Value

Description: A hexadecimal ''check'' value calculated in accordance to procedure outlined in section 4.4.5.3 and attached to each ELD output file.

Purpose: Provides ability to identify cases where an ELD file may have been inappropriately modified after its original creation.

Source: ELD internal.

Used in: ELD output files.

Data Type: Calculated by the ELD in accordance with 4.4.5.3.

Data Range: A number between hexadecimal 0000 (decimal 0) and hexadecimal FFFF (decimal 65535).

Data Length: 4 characters.

Data Format: <File Data Check Value> as in <CCCC>.

Disposition: Mandatory.

Examples: [F0B5], [00CA], [523E].

7.1.27. First Name

Description: This data element refers to the given name of the individual holding an ELD account.

Purpose: Links an individual to the associated ELD account.

Source: Driver's license for driver accounts; Driver's license or government-issued ID for support personnel accounts.

Used in: ELD account profile(s); ELD outputs (display and file).

Data Type: Entered (during the creation of a new ELD account).

Data Range: Any alphanumeric combination.

Data Length: Minimum: 2; Maximum: 30 characters.

Data Format: <First Name> as in <CC> to <CC. . . . .CC> where ''C'' denotes a character.

Disposition: Mandatory for all accounts created on the ELD.

Example: [John].

7.1.28. Geo-Location

Description: A descriptive indicator of the CMV position in terms of a distance and direction to a recognizable location derived from a GNIS database at a minimum containing all cities, towns and villages with a population of 5,000 or greater.

Purpose: Provide recognizable location information on displayable outputs to users of the ELD.

Source: ELD internal calculations as specified in section 4.4.2.

Used in: ELD visual outputs (display, printout).

Data Type: Identified from the underlying latitude/longitude coordinates by the ELD.

Data Range: Contains four segments in one text field; A recognizable location driven from GNIS database containing—at a minimum—all cities, towns and villages with a population of 5,000 in text format containing a location name and the State abbreviation, distance from this location and direction from this location.

Data Length: Minimum: 5 Maximum: 60 characters.

Data Format: <Distance from {*identified*} Geo-location> <'mi'> <Direction from {*identified*} Geo-location> <' '> <State Abbreviation {*of identified*} Geo Location> <' '> <Place name of {*identified*} Geo-location> where: <Distance from {*identified*} Geo-location> must either be <{blank}> or <C> or <CC> where the—up-to two character number specifies absolute distance between identified geo-location and event location; <Direction from {*identified*} Geo-location> must either be <{blank}> or <C> or <CC> or <CCC>, must represent direction of event location with respect to the identified geo-location, and must take a value listed on Table 11;

<State Abbreviation {*of identified*} Geo Location> must take values listed on Table 6; <Place name of {*identified*} Geo-location> must be the text description of the identified reference location;

Overall length of the ''Geo-location'' parameter must not be longer than 60 characters long.

Disposition: Mandatory.

Examples: [2mi ESE IL Darien], [1mi SE TX Dallas], [11mi NNW IN West Lafayette].

TABLE 11—CONVENTIONAL COMPASS ROSE DIRECTION CODING TO BE USED IN THE GEO-LOCATION PARAMETER

Direction	Direction code
At indicated geo-location	{blank}
North of indicated geo-location	N
North-North East of indicated geo-location.	NNE
North East of indicated geo-location	NE
East-North East of indicated geo-location.	ENE
East of indicated geo-location	E
East-South East of indicated geo-location.	ESE
South East of indicated geo-location.	SE
South-South East of indicated geo-location.	SSE
South of indicated geo-location	S
South-South West of indicated geo-location.	SSW
South West of indicated geo-location.	SW
West-South West of indicated geo-location.	WSW
West of indicated geo-location	W
West-North West of indicated geo-location.	WNW
North West of indicated geo-location.	NW
North-North West of indicated geo-location.	NNW

7.1.29. Last Name

Description: This data element refers to the last name of the individual holding an ELD account.

Purpose: Links an individual to the associated ELD account.

Source: Driver's license for driver accounts; Driver's license or government-issued ID for support personnel accounts.

Used in: ELD account profile(s); ELD outputs (display and file).

Data Type: Entered (during the creation of a new ELD account).

Data Range: Any alphanumeric combination.

Data Length: Minimum: 2; Maximum: 30 characters.

Data Format: <Last Name> as in <CC> to <CC. . . . .CC>.

Disposition: Mandatory for all accounts created on the ELD.

Example: [Smith].

7.1.30. Latitude

Description: An angular distance in degrees north and south of the equator.

Purpose: In combination with the variable ''Longitude'', this parameter stamps records requiring a position attribute with a reference point on the face of the earth.

Source: ELD's position measurement.

Used in: ELD events; ELD outputs.

Data Type: Latitude and Longitude must be automatically captured by the ELD.

Data Range: −90.00 to 90.00 in decimal degrees (two decimal point resolution) in records using conventional positioning precision; −90.0 to 90.0 in decimal degrees (single decimal point resolution) in records using reduced positioning precision when allowed; Latitudes north of the equator must be specified by the absence of a minus sign (−), preceding the digits designating degrees; Latitudes south of the Equator must be designated by a minus sign (−) preceding the digits designating degrees.

Data Length: 3 to 6 characters,

Data Format: First character: [<'−'> or <{blank}>] then [<C> or <CC>]; then <'.'>; then [<C> or <CC>],

Disposition: Mandatory.

Examples: [−15.68], [38.89], [5.07], [−6.11], [−15.7], [38.9], [5.1], [−6.1].

7.1.31. Line Data Check Value

Description: A hexadecimal ''check'' value calculated in accordance to procedure outlined in section 4.4.5.2 and attached to each line of output featuring data at the time of output file being generated.

Purpose: Provides ability to identify cases where an ELD output file may have been inappropriately modified after its original generation.

Source: ELD internal.
Used in: ELD output file.
Data Type: Calculated by the ELD in accordance with 4.4.5.2.
Data Range: A number between hexadecimal 00 (decimal 0) and hexadecimal FF (decimal 255).
Data Length: 2 characters.
Data Format: <Line Data Check Value> as in <CC>.
Disposition: Mandatory.
Examples: [01], [A4], [CC].

7.1.32. Longitude

Description: An angular distance in degrees measured on a circle of reference with respect to the zero (or prime) meridian; The prime meridian runs through Greenwich, England.
Purpose: In combination with the variable ''Longitude'', this parameter stamps records requiring a position attribute with a reference point on the face of the earth.
Source: ELD's position measurement.
Used in: ELD events; ELD outputs.
Data Type: Latitude and Longitude must be automatically captured by the ELD.
Data Range: −179.99 to 180.00 in decimal degrees (two decimal point resolution) in records using conventional positioning precision; −179.9 to 180.0 in decimal degrees (single decimal point resolution) in records using reduced positioning precision when allowed; Longitudes east of the prime meridian must be specified by the absence of a minus sign (−), preceding the digits designating degrees of longitude; Longitudes west of the prime meridian must be designated by minus sign (−) preceding the digits designating degrees.
Data Length: 3 to 7 characters
Data Format: First character: [<'−'> or <{blank}>]; then [<C>, <CC> or <CCC>]; then <'.'>; then [<C> or <CC>].
Disposition: Mandatory.
Examples: [−157.81], [−77.03], [9.05], [−0.15], [−157.8], [−77.0], [9.1], [−0.2].

7.1.33. Malfunction/Diagnostic Code

Description: A code that further specifies the underlying malfunction or data diagnostic event.
Purpose: Enables coding the type of malfunction and data diagnostic event to cover the standardized set in Table 4.
Source: ELD internal monitoring.
Used in: ELD events; ELD outputs.
Data Type: Recorded by ELD when malfunctions and data diagnostic events are set or reset.
Data Range: As specified in Table 4.
Data Length: 1 character
Data Format: <C>
Disposition: Mandatory
Examples: [1], [5], [P], [L].

7.1.34. Malfunction Indicator Status

Description: This is a Boolean indicator identifying whether the used ELD unit has an active malfunction set at the time of event recording.
Purpose: Documents the snapshot of ELD's malfunction status at the time of an event recording.
Source: ELD internal monitoring functions.
Used in: ELD events; ELD outputs.
Data Type: Internally monitored and managed.
Data Range: 0 (no active malfunction) or 1 (at least one active malfunction).
Data Length: 1 character.
Data Format: <Malfunction Indicator Status> as in <C>.
Disposition: Mandatory.
Examples: [0] or [1].

7.1.35. Multiday Basis Used

Description: This data element refers to the multiday basis (7 or 8 days) used by the motor carrier to compute cumulative duty hours.
Purpose: Provides ability to apply the HOS rules accordingly.
Source: Motor carrier.
Used in: ELD account profile; ELD outputs.
Data Type: Entered by the motor carrier during account creation process.
Data Range: 7 or 8.
Data Length: 1 character.
Data Format: <Multiday basis used> as in <C>.
Disposition: Mandatory.
Examples: [7], [8].

7.1.36. Order Number

Description: A continuous integer number assigned in the forming of a list, starting at 1 and incremented by 1 for each unique item on the list.
Purpose: Allows for more compact report file output generation avoiding repetitious use of CMV identifiers and usernames affected in records.
Source: ELD internal.
Used in: ELD outputs, listing of users and CMVs referenced in ELD logs.
Data Type: Managed by ELD.
Data Range: Integer between 1 and 99.
Data Length: 1–2 characters.
Data Format: <Order Number> as in <C> or <CC>.
Disposition: Mandatory.
Examples: [1], [5], [11], [28].

7.1.37. Output File Comment

Description: A textual field that may be populated with information pertaining to the created ELD output file; An authorized safety official may provide a key phrase or code to be included in the output file comment, which may be used to link the requested data to an inspection, inquiry or other enforcement action; If provided to the driver by an authorized safety official, it must be entered into the ELD or its support system and included in the exchanged dataset as specified.
Purpose: The output file comment field provides an ability to link a submitted data to an inspection, inquiry or other enforcement action, if deemed necessary; Further, it may also serve a purpose to link a dataset to a vehicle, driver, carrier and/or ELD which may participate in voluntary future programs that may involve exchange of ELD data.
Source: Enforcement personnel or driver or motor carrier.
Used in: ELD outputs.
Data Type: If provided, output file comment is entered or appended to the ELD dataset prior to submission of ELD data to enforcement.
Data Range: Blank or any alphanumeric combination specified and provided by an authorized safety official.
Data Length: 0–60 characters.
Data Format: <{blank}>, or <C> thru <CCCC.....CCCC>.
Disposition: Mandatory.
Examples: [ ], [3BHG701015], [113G1EFW02], [7353930].

7.1.38. Shipping Document Number

Description: Shipping document number the motor carrier uses in their system and dispatch documents.
Purpose: Links ELD data to the shipping records; Makes ELD dataset consistent with § 395.8 requirements.
Source: Motor Carrier.
Used in: ELD outputs.
Data Type: Entered in the ELD by the authenticated driver or populated by motor carrier's extended ELD support system and verified by the driver.
Data Range: Any alphanumeric combination.
Data Length: 0–40 characters.
Data Format: <{blank}>, or <C> thru <CCCC .....CCCC>.
Disposition: Mandatory if a shipping number is used on motor carrier's system.
Examples: [], [B 75354], [FX334411707].

7.1.39. Time

Description: In combination with the variable ''Date'', this parameter stamps records with a reference in time; Even though date and time must be captured in UTC, event records must use date and time converted to the time zone in effect at the driver's home terminal as specified in section 4.4.3.
Purpose: Provides ability to record the instance of recorded events.
Source: ELD's converted time measurement.
Used in: ELD events; ELD outputs.
Data Type: UTC time must be automatically captured by ELD; Time in effect at the driver's home terminal must be calculated as specified in section 4.4.3.
Data Range: Any valid date combination expressed in <HHMMSS> format where ''HH'' refers to hours of the day, ''DD'' refers to minutes and ''SS'' refers to seconds.
Data Length: 6 characters.
Data Format: <HHMMSS> where <HH> must be between 00 and 23, <MM> and <SS> must be between 00 and 59.
Disposition: Mandatory.
Examples: [070111], [001259], [151522], [230945].

7.1.40. Time Zone Offset From UTC

Description: This data element refers to the offset in time between UTC time and the time standard in effect at the driver's home terminal.
Purpose: Establishes the ability to link records stamped with local time to a universal reference.
Source: Calculated from measured variable <{*UTC*} Time> and <{*Time Standard in Effect at driver's home terminal*} Time>; Maintained together with ''24-hour Period Starting Time'' parameter by the motor carrier or tracked automatically by ELD.
Used in: ELD account profile; ELD event: Driver's certification of own records.
Data Type: Programmed or populated on the ELD during account creation and

maintained by the motor carrier or ELD to reflect true and accurate information for drivers. This parameter must adjust for Daylight Saving Time changes in effect at the driver's home terminal.

Data Range: 04 to 11; Omit sign.

Data Length: 2 characters.

Data Format: <Time Zone Offset from UTC> as in <HH> where ''HH'' refer to hours in difference.

Disposition: Mandatory.

Examples: [04], [05], [10].

7.1.41. Trailer Number(s)

Description: This data element refers to the identifier(s) the motor carrier uses for the trailers in their normal course of business.

Purpose: Identifies the trailer(s) a driver operates while a driver's ELD records are recorded; Makes ELD records consistent with § 395.8 which requires the trailer number(s) to be included on the form.

Source: Unique trailer identifiers a motor carrier uses in their normal course of business and include on dispatch documents or the license number and licensing State of each towed unit; Trailer number(s) must be updated each time hauled trailers change.

Data Type: Automatically captured by the ELD or populated by motor carrier's extended ELD system or entered by the driver; Must be updated each time the hauled trailer(s) change.

Data Range: Any alphanumeric combination.

Data Length: Minimum: blank; Maximum: 32 characters (3 trailer numbers each maximum 10 characters long, separated by spaces).

Data Format: Trailer numbers; Separated by space in case of multiple trailers hauled at one time; Field to be left ''blank'' for non-combination vehicles (such as a straight truck or bobtail tractor).

<Trailer Unit Number {#1}><' '><Trailer Unit Number {#2}> <' '><Trailer Unit Number {#3}> as in <{blank}> to <CCCCCCCCCC CCCCCCCCCC CCCCCCCCCC>.

Disposition: Mandatory when operating combination vehicles.

Examples: [987], [00987 PP2345], [BX987 POP712 10567], [TX12345 LA22A21], [ ].

7.1.42. Vehicle Miles

Description: Vehicle miles refer to the distance traveled using the CMV in whole miles; This parameter is a placeholder for <{Total} Vehicle Miles> which refers to the odometer reading and used in recording ''engine power on'' and ''engine shut down'' events, and also for <{Accumulated} Vehicle Miles> which refers to the accumulated miles in the given ignition power on cycle and used in the recording of all other events.

Purpose: Provides ability to track distance traveled while operating the CMV in each duty status. Total miles traveled within a 24-hour period is a required field in § 395.8.

Source: ELD measurement or sensing.

Used in: ELD events; ELD outputs.

Data Type: Acquired from the engine ECM or a comparable other source as allowed in section 4.3.1.3.

Data Range: For <{Total} Vehicle Miles>, range is between 0 and 9,999,999;

For <{Accumulated} Vehicle Miles>, range is between 0 and 9,999.

Data Length: 1–7 characters.

Data Format: <Vehicle Miles> as in <C> to <CCCCCCC>.

Disposition: Mandatory.

Examples: [99], [1004566], [0], [422].

Issued under authority delegated in 49 CFR 1.87 on: March 11, 2014.

Anne S. Ferro,

Administrator.

[FR Doc. 2014–05827 Filed 3–27–14; 8:45 am]

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Part III

Department of Energy

10 CFR Part 431
Energy Conservation Program: Energy Conservation Standards for Commercial Refrigeration Equipment; Final Rule

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket Number EERE–2010–BT–STD–0003]

RIN 1904–AC19

Energy Conservation Program: Energy Conservation Standards for Commercial Refrigeration Equipment

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: The Energy Policy and Conservation Act of 1975 (EPCA), as amended, prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including commercial refrigeration equipment (CRE). EPCA also requires the U.S. Department of Energy (DOE) to determine whether more-stringent standards would be technologically feasible and economically justified, and would save a significant amount of energy. In this final rule, DOE is adopting more-stringent energy conservation standards for some classes of commercial refrigeration equipment. It has determined that the amended energy conservation standards for these products would result in significant conservation of energy, and are technologically feasible and economically justified.

DATES: The effective date of this rule is May 27, 2014. Compliance with the amended standards established for commercial refrigeration equipment in today's final rule is required on March 27, 2017.

The incorporation by reference of certain publications listed in this final rule were approved by the Director of the Office of the Federal Register on January 9, 2009 and February 21, 2012.

ADDRESSES: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at *www.regulations.gov*. All documents in the docket are listed in the regulations.gov index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

A link to the docket Web page can be found at: *http://www.regulations.gov/#!docketDetail;D=EERE-2010-BT=STD-0003*. The regulations.gov Web page will contain simple instructions on how to access all documents, including public comments, in the docket.

For further information on how to review the docket, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov*.

FOR FURTHER INFORMATION CONTACT:
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SUPPLEMENTARY INFORMATION:

Table of Contents

I. Summary of the Final Rule and Its Benefits

Title III, Part C [1] of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163 (42 U.S.C. 6291–6309, as codified), added by Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment.[2] Pursuant to EPCA, any new or amended energy conservation standard that DOE prescribes for certain products, such as commercial refrigeration equipment, shall be designed to achieve the maximum improvement in energy efficiency that DOE determines is both technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, the new or amended standard must result in significant conservation of energy. (42 U.S.C. 6295(o)(3)(B) and 6316(e)(1)) In accordance with these and other statutory provisions discussed in this document, DOE is adopting amended energy conservation standards for commercial refrigeration equipment. The amended standards, which consist of maximum daily energy consumption (MDEC) values as a function of either refrigerated volume or total display area (TDA), are shown in Table I.1. These amended standards apply to all equipment listed in Table I.1 and manufactured in, or imported into, the United States on or after March 27, 2017.

TABLE I.1—ENERGY CONSERVATION STANDARDS FOR COMMERCIAL REFRIGERATION EQUIPMENT

[Compliance required starting March 27, 2017]

Equipment class*	Standard level** †	Equipment class*	Standard level** †
VOP.RC.M	0.64 × TDA + 4.07	VOP.RC.I	2.79 × TDA + 8.7
VOP.RC.L	2.2 × TDA + 6.85	SVO.RC.L	2.2 × TDA + 6.85
VOP.SC.M	1.69 × TDA + 4.71	SVO.RC.I	2.79 × TDA + 8.7
VCT.RC.M	0.15 × TDA + 1.95	HZO.RC.I	0.7 × TDA + 8.74
VCT.RC.L	0.49 × TDA + 2.61	VOP.SC.L	4.25 × TDA + 11.82
VCT.SC.M	0.1 × V + 0.86	VOP.SC.I	5.4 × TDA + 15.02
VCT.SC.L	0.29 × V + 2.95	SVO.SC.L	4.26 × TDA + 11.51
VCT.SC.I	0.62 × TDA + 3.29	SVO.SC.I	5.41 × TDA + 14.63
VCS.SC.M	0.05 × V + 1.36	HZO.SC.I	2.42 × TDA + 9
VCS.SC.L	0.22 × V + 1.38	SOC.RC.L	0.93 × TDA + 0.22
VCS.SC.I	0.34 × V + 0.88	SOC.RC.I	1.09 × TDA + 0.26
SVO.RC.M	0.66 × TDA + 3.18	SOC.SC.I	1.53 × TDA + 0.36
SVO.SC.M	1.7 × TDA + 4.59	VCT.RC.I	0.58 × TDA + 3.05
SOC.RC.M	0.44 × TDA + 0.11	HCT.RC.M	0.16 × TDA + 0.13
SOC.SC.M	0.52 × TDA + 1	HCT.RC.L	0.34 × TDA + 0.26
HZO.RC.M	0.35 × TDA + 2.88	HCT.RC.I	0.4 × TDA + 0.31
HZO.RC.L	0.55 × TDA + 6.88	VCS.RC.M	0.1 × V + 0.26
HZO.SC.M	0.72 × TDA + 5.55	VCS.RC.L	0.21 × V + 0.54
HZO.SC.L	1.9 × TDA + 7.08	VCS.RC.I	0.25 × V + 0.63
HCT.SC.M	0.06 × V + 0.37	HCS.SC.I	0.34 × V + 0.88
HCT.SC.L	0.08 × V + 1.23	HCS.RC.M	0.1 × V + 0.26
HCT.SC.I	0.56 × TDA + 0.43	HCS.RC.L	0.21 × V + 0.54

[1] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A–1.

[2] All references to EPCA in this document refer to the statute as amended through the American Energy Manufacturing Technical Corrections Act (AEMTCA), Public Law 112–210 (Dec. 18, 2012).

TABLE I.1—ENERGY CONSERVATION STANDARDS FOR COMMERCIAL REFRIGERATION EQUIPMENT—Continued

[Compliance required starting March 27, 2017]

Equipment class*	Standard level** †	Equipment class*	Standard level** †
HCS.SC.M	0.05 × V + 0.91	HCS.RC.I	0.25 × V + 0.63
HCS.SC.L	0.06 × V + 1.12	SOC.SC.L	1.1 × TDA + 2.1
PD.SC.M	0.11 × V + 0.81		

* Equipment class designations consist of a combination (in sequential order separated by periods) of: (1) An equipment family code (VOP = vertical open, SVO = semivertical open, HZO = horizontal open, VCT = vertical closed with transparent doors, VCS = vertical closed with solid doors, HCT = horizontal closed with transparent doors, HCS = horizontal closed with solid doors, SOC = service over counter, or PD = pull-down); (2) an operating mode code (RC = remote condensing or SC = self-contained); and (3) a rating temperature code (M = medium temperature (38±2 °F), L = low temperature (0±2 °F), or I = ice-cream temperature (−15±2 °F)). For example, ''VOP.RC.M'' refers to the ''vertical open, remote condensing, medium temperature'' equipment class. See discussion in chapter 3 of the final rule technical support document (TSD) for a more detailed explanation of the equipment class terminology.

** ''TDA'' is the total display area of the case, as measured in the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) Standard 1200–2010, appendix D.

† ''V'' is the volume of the case, as measured in American National Standards Institute (ANSI)/Association of Home Appliance Manufacturers (AHAM) Standard HRF–1–2004.

A. Benefits and Costs to Customers

Table I.2 presents DOE's evaluation of the economic impacts of today's standards on customers of commercial refrigeration equipment, as measured by the average life-cycle cost (LCC) savings [3] and the median payback period (PBP).[4] The average LCC savings are positive for all equipment classes for which customers are impacted by the amended standards.

TABLE I.2—IMPACTS OF TODAY'S STANDARDS ON CUSTOMERS OF COMMERCIAL REFRIGERATION EQUIPMENT

Equipment class*	Average LCC savings 2012$	Median PBP years
VOP.RC.M	922	5.7
VOP.RC.L	53	6.1
VOP.SC.M	.....	.....
VCT.RC.M	542	2.1
VCT.RC.L	526	2.7
VCT.SC.M	226	5.3
VCT.SC.L	5001	1.1
VCT.SC.I	18	7.2
VCS.SC.M	363	1.4
VCS.SC.L	507	2.5
VCS.SC.I	113	5.0
SVO.RC.M	564	6.2
SVO.SC.M	.....	.....
SOC.RC.M	.....	.....
SOC.SC.M	.....	.....
HZO.RC.M	.....	.....
HZO.RC.L	.....	.....
HZO.SC.M	55	6.9
HZO.SC.L	.....	.....
HCT.SC.M	101	5.8
HCT.SC.L	293	2.5
HCT.SC.I	.....	.....
HCS.SC.M	15	5.5
HCS.SC.L	64	2.5
PD.SC.M	165	5.6

* Values have been shown only for primary equipment classes, which are equipment classes that have significant volume of shipments and, therefore, were directly analyzed. See chapter 5 of the final rule TSD, Engineering Analysis, for a detailed discussion of primary and secondary equipment classes.

* For equipment classes VOP.SC.M, SVO.SC.M, SOC. RC.M, SOC. SC.M, HZO.RC.M, HZO.RC.L, HZO.SC.L, and HCT.SC.I, no efficiency levels above the baseline were found to be economically justifiable. Therefore, the standard levels contained in today's document for these equipment classes are the same as those set in the 2009 final rule. As a result, LCC savings and PBP values for these equipment classes are not relevant.

Note: Equipment lifetimes are between 10 and 15 years for all equipment classes.

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 (2013) through the end of the analysis period (2046). Using a real discount rate of 10.0 percent, DOE estimates that the INPV for manufacturers of commercial refrigeration equipment is $2,660.0 million in 2012$.[5] Under today's standards, DOE expects the industry net present value to decrease by 3.53 percent to 6.60 percent. Total industry conversion costs are expected to total $184.0 million. Additionally, based on DOE's interviews with the manufacturers of commercial refrigeration equipment, DOE does not expect significant loss of domestic employment.

C. National Benefits and Costs

DOE's analyses indicate that today's standards would save a significant amount of energy. The lifetime savings for commercial refrigeration equipment purchased in the 30-year period that begins in the year of compliance with amended standards (2017–2046) amount to 2.89 quadrillion British thermal units (quads). The annualized energy savings (0.10 quads) are equivalent to 0.5 percent of total U.S. commercial primary energy consumption in 2014.[6]

The cumulative net present value (NPV) of total consumer costs and savings of today's standards for commercial refrigeration equipment ranges from $4.93 billion (at a 7-percent discount rate) to $11.74 billion (at a 3-percent discount rate).[7] This NPV expresses the estimated total value of future operating cost savings minus the estimated increased product costs for products purchased in 2016–2047.

In addition, today's standards are expected to have significant environmental benefits. The energy savings would result in cumulative emission reductions of approximately 142 million metric tons (Mt) [8] of carbon dioxide (CO_2), 762 thousand tons of methane, 207 thousand tons of sulfur dioxide (SO_2), 94 tons of nitrogen oxides

[3] Life-cycle cost of commercial refrigeration equipment is the cost to customers of owning and operating the equipment over the entire life of the equipment. Life-cycle cost savings are the reductions in the life-cycle costs due to amended energy conservation standards when compared to the life-cycle costs of the equipment in the absence of amended energy conservation standards.

[4] Payback period refers to the amount of time (in years) it takes customers to recover the increased installed cost of equipment associated with new or amended standards through savings in operating cost. Further discussion can be found in chapter 8 of the final rule TSD.

[5] All monetary values in this notice are expressed in 2012 dollars.

[6] Based on U.S. Department of Energy, Energy Information Administration, *Annual Energy Outlook 2013* (AEO 2013) data.

[7] All present value results reflect discounted to beginning of 2014.

[8] A metric ton is equivalent to 1.1 short tons. Results for NO_X and Hg are presented in short tons.

(NO_X) and 0.25 tons of mercury (Hg).[9] Through 2030, the estimated energy savings would result in cumulative emissions reductions of 48 Mt of CO_2.

The value of the CO_2 reductions is calculated using a range of values per metric ton of CO_2 (otherwise known as the Social Cost of Carbon, or SCC) developed by a recent Federal interagency process.[10] The derivation of the SCC values is discussed in section IV.M. Using discount rates appropriate for each set of SCC values, DOE estimates that the net present monetary value of the CO_2 emissions reductions is between $1.0 billion and $14.0 billion. DOE also estimates that the net present monetary value of the NO_X emissions reductions is $33 million at a 7-percent discount rate, and $104 million at a 3-percent discount rate.[11]

Table I.3 summarizes the national economic costs and benefits expected to result from today's standards for commercial refrigeration equipment.

TABLE I.3—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF AMENDED COMMERCIAL REFRIGERATION EQUIPMENT ENERGY CONSERVATION STANDARDS*

Category	Present value Billion 2012$	Discount rate (percent)
Benefits		
Operating Cost Savings	7.70	7
	16.63	3
CO_2 Reduction Monetized Value ($11.8/t case)**	1.01	5
CO_2 Reduction Monetized Value ($39.7/t case)**	4.55	3
CO_2 Reduction Monetized Value ($61.2/t case)**	7.20	2.5
CO_2 Reduction Monetized Value ($117/t case)**	14.05	3
NO_X Reduction Monetized Value (at $2,591/ton)**	0.03	7
	0.10	3
Total Benefits†	12.28	7
	21.28	3
Costs		
Incremental Installed Costs	2.77	7
	4.89	3
Net Benefits		
Including CO_2 and NO_X † Reduction Monetized Value	9.51	7
	16.40	3

* This table presents the costs and benefits associated with commercial refrigeration equipment shipped in 2017–2046. These results include benefits to customers which accrue after 2046 from the equipment purchased in 2017–2046. The results account for the incremental variable and fixed costs incurred by manufacturers due to the amended standard, some of which may be incurred in preparation for this final rule.

** 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 incorporates 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 standards, for equipment sold in 2017–2046, can also be expressed in terms of annualized values. The annualized monetary values are the sum of (1) the annualized national economic value of the benefits from operating the product (consisting primarily of operating cost savings from using less energy, minus increases in equipment purchase and installation costs, which is another way of representing consumer NPV, plus (2) the annualized monetary value of the benefits of emission reductions, including CO_2 emission reductions.[12]

Although adding the value of consumer savings to the values of emission reductions provides a valuable perspective, two issues should be considered. First, the national operating cost savings are domestic U.S. consumer monetary savings that occur as a result of market transactions, while the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and 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 refrigeration equipment shipped in 2017–2046. The SCC values, on the other hand, reflect the present value of all future climate-related impacts resulting from the emission of one metric ton of carbon dioxide in each

[9] DOE calculated emissions reductions relative to the *AEO 2013* Reference case, which generally represents current legislation and environmental regulations for which implementing regulations were available as of December 31, 2012.

[10] *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.*

[11] DOE is investigating the valuation of avoided Hg and SO_2 emissions.

[12] 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, as shown in Table I.3. From the present value, DOE then calculated the fixed annual payment over a 30-year period (2017 through 2046) 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.

year. These impacts continue well beyond 2100.

Estimates of annualized benefits and costs of today's standards are shown in Table I.4. The results under the primary estimate are as follows. Using a 7-percent discount rate for benefits and costs other than CO_2 reduction, for which DOE used a 3-percent discount rate along with the average SCC series that uses a 3-percent discount rate, the cost of the amended standards in today's rule is $256 million per year in increased equipment costs, while the benefits are $710 million per year in reduced equipment operating costs, $246 million in CO_2 reductions, and $3.01 million in reduced NO_X emissions. In this case, the net benefit amounts to $704 million per year. Using a 3-percent discount rate for all benefits and costs and the average SCC series, the cost of the standards in today's rule is $264 million per year in increased equipment costs, while the benefits are $900 million per year in reduced operating costs, $246 million in CO_2 reductions, and $5.64 million in reduced NO_X emissions. In this case, the net benefit amounts to $888 million per year.

TABLE I.4—ANNUALIZED BENEFITS AND COSTS OF AMENDED STANDARDS FOR COMMERCIAL REFRIGERATION EQUIPMENT*

	Discount rate	million 2012$/year		
		Primary estimate*	Low net benefits estimate*	High net benefits estimate*
Benefits				
Operating Cost Savings	7%	710	688	744.
	3%	900	865	947.
CO_2 Reduction at ($11.8/t case)**.	5%	73	73	73.
CO_2 Reduction at ($39.7/t case)**.	3%	246	246	246.
CO_2 Reduction at ($61.2/t case)**.	2.5%	361	361	361.
CO_2 Reduction at ($117.0/t case)**.	3%	760	760	760.
NO_X Reduction at ($2,591/ton)**.	7%	3.01	3.01	3.01.
	3%	5.64	5.64	5.64.
Total Benefits†	7% plus CO_2 range	786 to 1,474	764 to 1,451	820 to 1,508.
	7%	960	937	994.
	3% plus CO_2 range	978 to 1,666	943 to 1,631	1,026 to 1,713.
	3%	1,152	1,117	1,200.
Costs				
Incremental Equipment Costs.	7%	256	250	261.
	3%	264	258	271.
Net Benefits				
Total†	7% plus CO_2 range	530 to 1,218	513 to 1,201	559 to 1,246.
	7%	704	687	733.
	3% plus CO_2 range	714 to 1,402	685 to 1,373	755 to 1,442.
	3%	888	859	929.

* This table presents the annualized costs and benefits associated with commercial refrigeration equipment shipped in 2017–2046. These results include benefits to customers which accrue after 2046 from the products purchased in 2017–2046. The results account for the incremental variable and fixed costs incurred by manufacturers due to the amended standard, some of which may be incurred in preparation for the final rule. The primary, low, and high estimates utilize projections of energy prices from the *AEO 2013* Reference case, Low Estimate, and High Estimate, respectively. In addition, incremental equipment costs reflect a medium decline 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 method used to derive projected price trends are explained in section IV.H.

** 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 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.

D. Conclusion

Based on the analyses culminating in this final rule, DOE found the benefits to the nation of the amended standards (energy savings, consumer LCC savings, positive NPV of consumer benefit, and emission reductions) outweigh the burdens (loss of INPV and LCC increases for some users of this equipment). DOE has concluded that the standards in today's final rule represent the maximum improvement in energy efficiency that is both technologically feasible and economically justified, and would result in significant conservation of energy. (42 U.S.C. 6295(o), 6316(e))

II. Introduction

The following section briefly discusses the statutory authority underlying today's final rule, as well as some of the relevant historical background related to the establishment of amended standards for commercial refrigeration equipment.

A. Authority

Title III, Part C of EPCA, Public Law 94–163 (42 U.S.C. 6311–6317, as codified), added by Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment, a program covering certain industrial equipment, which includes the commercial refrigeration equipment that is the focus of this document.[13] [14] EPCA prescribes energy conservation standards for commercial refrigeration equipment (42 U.S.C. 6313(c)(2)–(4)), and directs DOE to conduct rulemakings to establish new and amended standards for commercial refrigeration equipment. (42 U.S.C. 6313(c)(4)–(6)) (DOE notes that under 42 U.S.C. 6295(m) and 6316(e)(1) the agency must periodically review its already established energy conservation standards for covered equipment. Under this requirement, the next review that DOE would need to conduct must occur no later than 6 years from the issuance of a final rule establishing or amending a standard for covered equipment.)

Pursuant to EPCA, DOE's energy conservation program for covered equipment generally consists of four parts: (1) Testing; (2) labeling; (3) the establishment of Federal energy conservation standards; and (4) certification and enforcement procedures. For commercial refrigeration equipment, DOE is responsible for the entirety of this program. Subject to certain criteria and conditions, DOE is required to develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of each type or class of covered equipment. (42 U.S.C. 6314) Manufacturers of covered equipment must use the prescribed DOE test procedure as the basis for certifying to DOE that their equipment complies with the applicable energy conservation standards adopted under EPCA and when making representations to the public regarding the energy use or efficiency of that equipment. (42 U.S.C. 6315(b), 6295(s), and 6316(e)(1)) Similarly, DOE must use these test procedures to determine whether that equipment complies with standards adopted pursuant to EPCA. The DOE test procedure for commercial refrigeration equipment currently appears at title 10 of the Code of Federal Regulations (CFR) part 431, subpart C.

DOE must follow specific statutory criteria for prescribing amended standards for covered equipment. As indicated above, any amended standard for covered equipment 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(e)(1)) 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(e)(1)) DOE also may not prescribe a standard: (1) For certain equipment, including commercial refrigeration equipment, 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(e)(1)) 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(e)(1)) 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 equipment subject to the standard;

2. The savings in operating costs throughout the estimated average life of the covered equipment in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered equipment 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 equipment likely to result from the imposition of the standard;

5. The impact of any lessening of competition, as determined in writing by the U.S. Attorney General (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 considers relevant.

(42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII) and 6316(e)(1))

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 covered equipment. (42 U.S.C. 6295(o)(1) and 6316(e)(1)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States of any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6295(o)(4) and 6316(e)(1))

Further, EPCA, as codified, establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure. (*See* 42 U.S.C. 6295(o)(2)(B)(iii) and 6316(e)(1)) Section III.D.2 presents additional discussion about the rebuttable presumption payback period.

Additionally, 42 U.S.C. 6295(q)(1) and 6316(e)(1) specify requirements when promulgating a standard for a type or class of covered equipment that has two or more subcategories that may justify different standard levels. DOE must specify a different standard level than that which applies generally to such type or class of equipment for any group of covered products that has the same function or intended use if DOE determines that products within such group (A) consume a different kind of energy from that consumed by other covered equipment within such type (or class); or (B) have a capacity or other performance-related feature that other equipment 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(e)(1)) In determining whether a performance-related feature justifies a different standard for a group of equipment, DOE must consider such factors as the utility to the consumer of the feature and other factors DOE deems appropriate. *Id.* Any rule prescribing such a standard must include an explanation of the basis on which such higher or lower level was established. (42 U.S.C. 6295(q)(2) and 6316(e)(1))

Federal energy conservation requirements generally supersede State laws or regulations concerning energy conservation testing, labeling, and

[13] For editorial reasons, upon codification in the U.S. Code, Part C was re-designated Part A–1.

[14] All references to EPCA in this document refer to the statute as amended through the American Energy Manufacturing Technical Corrections Act (AEMTCA), Public Law 112–210 (Dec. 18, 2012).

standards. (42 U.S.C. 6297(a)–(c) and 6316(e))

B. Background

1. Current Standards

The current energy conservation standards for commercial refrigeration equipment were established by two different legislative actions and one DOE final rule. EPCA, as amended by the Energy Policy Act of 2005 (EPACT 2005), established standards for self-contained commercial refrigerators and freezer with solid or transparent doors, self-contained commercial refrigerator-freezers with solid doors, and self-contained commercial refrigerators designed for pull-down applications. (42 U.S.C. 6313(c)(2)–(3)) On January 9, 2009, DOE published a final rule (January 2009 final rule) prescribing standards for commercial refrigeration equipment. 74 FR at 1092. Specifically, this final rule completed the first standards rulemaking for commercial refrigeration equipment by establishing standards for equipment types specified in 42 U.S.C. 6313(c)(5), and for which EPCA did not prescribe standards in 42 U.S.C. 6313(c)(2)–(3). These types consisted of commercial ice-cream freezers; self-contained commercial refrigerators, commercial freezers, and commercial refrigerator-freezers without doors; and remote condensing commercial refrigerators, commercial freezers, and commercial refrigerator-freezers. More recently, the American Energy Manufacturing Technical Corrections Act (AEMTCA), Public Law 112–210 (December 18, 2012), amended section 342(c) of EPCA to establish a new standard for self-contained service over counter medium temperature commercial refrigerators (this class is known as SOC.SC.M per DOE's equipment class nomenclature). (42 U.S.C. 6313(c)(4)) As a result, DOE's current energy conservation standards for commercial refrigeration equipment include the following: Standards established by EPCA for commercial refrigeration equipment manufactured on or after January 1, 2010; standards established in the January 2009 final rule for commercial refrigeration equipment manufactured on or after January 1, 2012; and standards established by AEMTCA for SOC.SC.M equipment manufactured on or after January 1, 2012.

Table II.1 and Table II.2 present DOE's current energy conservation standards for commercial refrigeration equipment set by EPCA and the January 2009 final rule, respectively. The AEMTCA standard for SOC.SC.M equipment manufactured on or after January 1, 2012 is prescribed as 0.6 × TDA + 1.0. (42 U.S.C. 6313(c)(4))

TABLE II.1—COMMERCIAL REFRIGERATION EQUIPMENT STANDARDS PRESCRIBED BY EPCA—COMPLIANCE REQUIRED BEGINNING ON JANUARY 1, 2010

Category	Maximum daily energy consumption kWh/day*
Refrigerators with solid doors	0.10 V** + 2.04.
Refrigerators with transparent doors	0.12 V + 3.34.
Freezers with solid doors	0.40 V + 1.38.
Freezers with transparent doors	0.75 V + 4.10.
Refrigerators/freezers with solid doors	the greater of 0.27 AV†—0.71 or 0.70.
Self-contained refrigerators with transparent doors designed for pull-down temperature applications.	0.126V + 3.51.

* kilowatt-hours per day.

** Where "V" means the chilled or frozen compartment volume in cubic feet as defined in the Association of Home Appliance Manufacturers Standard HRF–1–1979. 10 CFR 431.66.

† Where "AV" means that adjusted volume in cubic feet measured in accordance with the Association of Home Appliance Manufacturers Standard HRF–1–1979. 10 CFR 431.66.

TABLE II.2—COMMERCIAL REFRIGERATION EQUIPMENT STANDARDS ESTABLISHED IN THE JANUARY 2009 FINAL RULE—COMPLIANCE REQUIRED BEGINNING ON JANUARY 1, 2012

Equipment class*	Standard level** kWh/day
VOP.RC.M	0.82 × TDA + 4.07
SVO.RC.M	0.83 × TDA + 3.18
HZO.RC.M	0.35 × TDA + 2.88
VOP.RC.L	2.27 × TDA + 6.85
HZO.RC.L	0.57 × TDA + 6.88
VCT.RC.M	0.22 × TDA + 1.95
VCT.RC.L	0.56 × TDA + 2.61
SOC.RC.M	0.51 × TDA + 0.11
VOP.SC.M	1.74 × TDA + 4.71
SVO.SC.M	1.73 × TDA + 4.59
HZO.SC.M	0.77 × TDA + 5.55
HZO.SC.L	1.92 × TDA + 7.08
VCT.SC.I	0.67 × TDA + 3.29
VCS.SC.I	0.38 × V + 0.88
HCT.SC.I	0.56 × TDA + 0.43
SVO.RC.L	2.27 × TDA + 6.85
VOP.RC.I	2.89 × TDA + 8.7
SVO.RC.I	2.89 × TDA + 8.7

TABLE II.2—COMMERCIAL REFRIGERATION EQUIPMENT STANDARDS ESTABLISHED IN THE JANUARY 2009 FINAL RULE—COMPLIANCE REQUIRED BEGINNING ON JANUARY 1, 2012—Continued

Equipment class*	Standard level** kWh/day
HZO.RC.I	0.72 × TDA + 8.74
VCT.RC.I	0.66 × TDA + 3.05
HCT.RC.M	0.16 × TDA + 0.13
HCT.RC.L	0.34 × TDA + 0.26
HCT.RC.I	0.4 × TDA + 0.31
VCS.RC.M	0.11 × V + 0.26
VCS.RC.L	0.23 × V + 0.54
VCS.RC.I	0.27 × V + 0.63
HCS.RC.M	0.11 × V + 0.26
HCS.RC.L	0.23 × V + 0.54
HCS.RC.I	0.27 × V + 0.63
SOC.RC.L	1.08 × TDA + 0.22
SOC.RC.I	1.26 × TDA + 0.26
VOP.SC.L	4.37 × TDA + 11.82
VOP.SC.I	5.55 × TDA + 15.02
SVO.SC.L	4.34 × TDA + 11.51
SVO.SC.I	5.52 × TDA + 14.63
HZO.SC.I	2.44 × TDA + 9.

TABLE II.2—COMMERCIAL REFRIGERATION EQUIPMENT STANDARDS ESTABLISHED IN THE JANUARY 2009 FINAL RULE—COMPLIANCE REQUIRED BEGINNING ON JANUARY 1, 2012—Continued

Equipment class*	Standard level** kWh/day
SOC.SC.I	1.76 × TDA + 0.36
HCS.SC.I	0.38 × V + 0.88

* Equipment class designations consist of a combination (in sequential order separated by periods) of: (1) An equipment family code (VOP = vertical open, SVO = semivertical open, HZO = horizontal open, VCT = vertical closed with transparent doors, VCS = vertical closed with solid doors, HCT = horizontal closed with transparent doors, HCS = horizontal closed with solid doors, or SOC = service over counter); (2) an operating mode code (RC = remote condensing or SC = self-contained); and (3) a rating temperature code (M = medium temperature (38 °F), L = low temperature (0 °F), or I = ice-cream temperature (−15 °F)). For example, "VOP.RC.M" refers to the "vertical open, remote condensing, medium temperature" equipment class.

** TDA is the total display area of the case, as measured in ANSI/Air-Conditioning and Refrigeration Institute (ARI) Standard 1200–2006, appendix D. V is the volume of the case, as measured in AHAM Standard HRF–1–2004.

In December 2012, AEMTCA amended EPCA by establishing new standards for SOC.SC.M equipment with a compliance date of January 1, 2012. (42 U.S.C. 6313(c)(4)) The SOC.SC.M equipment had previously been classified under the category self-contained commercial refrigerators with transparent doors, for which standards were established by EPACT 2005. (42 U.S.C. 6313(c)(2)) The standard established by AEMTCA for SOC.SC.M equipment reduces the stringency of the standard applicable to this equipment.

AEMTCA also directs DOE to determine, within three years of enactment of the new SOC.SC.M standard, whether this standard should be amended. (42 U.S.C. 6313(c)(4)(B)(i)) If DOE determines that the standard should be amended, then DOE must issue a final rule establishing an amended standard within this same three-year period. (42 U.S.C. 6313(c)(4)(B)(ii))

2. History of Standards Rulemaking for Commercial Refrigeration Equipment

EPCA, as amended by EPACT 2005, prescribes energy conservation standards for certain self-contained commercial refrigeration equipment designed for holding temperatures [15] (*i.e.,* commercial refrigerators, freezers, and refrigerator-freezers with transparent and solid doors designed for holding temperature applications) and self-contained commercial refrigerators with transparent doors designed for pull-down temperature applications.[16] Compliance with these standards was required as of January 1, 2010. (42 U.S.C. 6313(c)(2)–(3)) DOE published a technical amendment final rule on October 18, 2005 codifying these standards into subpart C of part 431 under title 10 of the Code of Federal Regulations (CFR). 70 FR at 60407.

In addition, EPCA requires DOE to set standards for additional commercial refrigeration equipment that is not covered by 42 U.S.C. 6313(c)(2)–(3), namely commercial ice-cream freezers; self-contained commercial refrigerators, freezers, and refrigerator-freezers without doors; and remote condensing commercial refrigerators, freezers, and refrigerator-freezers. (42 U.S.C. 6313(c)(5)) DOE published a final rule establishing these standards on January 9, 2009 (74 FR 1092), and manufacturers must comply with these standards starting on January 1, 2012. (42 U.S.C. 6313(c)(5)(A))

EPCA requires DOE to conduct a subsequent rulemaking to determine whether to amend the standards established under 42 U.S.C. 6313(c), which includes both the standards prescribed by EPACT 2005 and those prescribed by DOE in the January 2009 final rule. (42 U.S.C. 6313(c)(6)) If DOE decides as part of this ongoing rulemaking to amend the current standards, DOE must publish a final rule establishing any such amended standards by January 1, 2013. *Id.*

To satisfy this requirement, DOE initiated the current rulemaking on April 30, 2010 by publishing on its Web site its ''Rulemaking Framework for Commercial Refrigeration Equipment.'' (The Framework document is available at: *www1.eere.energy.gov/buildings/appliance_standards/commercial/pdfs/cre_framework_04-30-10.pdf.*) DOE also published a document in the **Federal Register** announcing the availability of the Framework document, as well as a public meeting to discuss the document. The document also solicited comment on the matters raised in the document. 75 FR 24824 (May 6, 2010). The Framework document described the procedural and analytical approaches that DOE anticipated using to evaluate energy conservation standards for commercial refrigeration equipment, and identified various issues to be resolved in the rulemaking.

DOE held the Framework public meeting on May 18, 2010, at which it: (1) Presented the contents of the Framework document; (2) described the analyses it planned to conduct during the rulemaking; (3) sought comments from interested parties on these subjects; and (4) in general, sought to inform interested parties about, and facilitate their involvement in, the rulemaking. Major issues discussed at the public meeting included: (1) The scope of coverage for the rulemaking; (2) potential updates to the test procedure and appropriate test metrics (being addressed in a concurrent rulemaking); (3) manufacturer and market information, including distribution channels; (4) equipment classes, baseline units,[17] and design options to improve efficiency; (5) life-cycle costs to customer, including installation, maintenance, and repair costs; and (6) any customer subgroups DOE should consider. At the meeting and during the comment period on the Framework document, DOE received many comments that helped it identify and resolve issues pertaining to commercial refrigeration equipment relevant to this rulemaking. These are discussed in subsequent sections of this document.

DOE then gathered additional information and performed preliminary analyses to help review energy conservation standards for this equipment. This process culminated in DOE's notice of a public meeting to discuss and receive comments regarding the tools and methods DOE used in performing its preliminary analysis, as well as the analyses results. 76 FR 17573 (March 30, 2011) (the March 2011 notice). DOE also invited written comments on these subjects and announced the availability on its Web site of a preliminary analysis technical support document (preliminary analysis TSD). *Id.* (The preliminary analysis TSD is available at: *www.regulations.gov/#!documentDetail;D=EERE-2010-BT-STD-0003-0030.*)

The preliminary analysis TSD provided an overview of DOE's review of the standards for commercial refrigeration equipment, discussed the comments DOE received in response to the Framework document, and addressed issues including the scope of coverage of the rulemaking. The document also described the analytical framework that DOE used (and continues to use) in considering amended standards for commercial refrigeration equipment, including a description of the methodology, the analytical tools, and the relationships between the various analyses that are part of this rulemaking. Additionally, the preliminary analysis TSD presented in detail each analysis that DOE had performed for this equipment up to that point, including descriptions of inputs, sources, methodologies, and results. These analyses were as follows:

- A *market and technology assessment* addressed the scope of this rulemaking, identified existing and potential new equipment classes for commercial refrigeration equipment, characterized the markets for this equipment, and reviewed techniques and approaches for improving its efficiency;
- A *screening analysis* reviewed technology options to improve the

[15] EPCA defines the term ''holding temperature application'' as a use of commercial refrigeration equipment other than a pull-down temperature application, except a blast chiller or freezer. (42 U.S.C. 6311(9)(B))

[16] EPCA defines the term ''pull-down temperature application'' as a commercial refrigerator with doors that, when fully loaded with 12 ounce beverage cans at 90 °F, can cool those beverages to an average stable temperature of 38 °F in 12 hours or less. (42 U.S.C. 6311(9)(D))

[17] Baseline units consist of units possessing features and levels of efficiency consistent with the least-efficient equipment currently available and widely sold on the market.

efficiency of commercial refrigeration equipment, and weighed these options against DOE's four prescribed screening criteria;

- An *engineering analysis* estimated the manufacturer selling prices (MSPs) associated with more energy efficient commercial refrigeration equipment;
- An *energy use analysis* estimated the annual energy use of commercial refrigeration equipment;
- A *markups analysis* converted estimated MSPs derived from the engineering analysis to customer purchase prices;
- A *life-cycle cost analysis* calculated, for individual customers, the discounted savings in operating costs throughout the estimated average life of commercial refrigeration equipment, compared to any increase in installed costs likely to result directly from the imposition of a given standard;
- A *payback period analysis* estimated the amount of time it would take customers to recover the higher purchase price of more energy efficient equipment through lower operating costs;
- A *shipments analysis* estimated shipments of commercial refrigeration equipment over the time period examined in the analysis;
- A *national impact analysis* (NIA) assessed the national energy savings (NES), and the national NPV of total customer costs and savings, expected to result from specific, potential energy conservation standards for commercial refrigeration equipment; and
- A *preliminary manufacturer impact analysis* (MIA) took the initial steps in evaluating the potential effects on manufacturers of amended efficiency standards.

The public meeting announced in the March 2011 notice took place on April 19, 2011 (April 2011 preliminary analysis public meeting). At the April 2011 preliminary analysis public meeting, DOE presented the methodologies and results of the analyses set forth in the preliminary analysis TSD. Interested parties provided comments on the following issues: (1) Equipment classes; (2) technology options; (3) energy modeling; (4) installation, maintenance, and repair costs; (5) markups and distributions chains; (6) commercial refrigeration equipment shipments; and (7) test procedures.

On September 11, 2013, DOE published a notice of proposed rulemaking (NOPR) in this proceeding (September 2013 NOPR). 78 FR 55890. In the September 2013 NOPR, DOE addressed, in detail, the comments received in earlier stages of rulemaking, and proposed amended energy conservation standards for commercial refrigeration equipment. In conjunction with the September 2013 NOPR, DOE also published on its Web site the complete technical support document (TSD) for the proposed rule, which incorporated the analyses DOE conducted and technical documentation for each analysis. Also published on DOE's Web site were the engineering analysis spreadsheets, the LCC spreadsheet, and the national impact analysis standard spreadsheet. These materials are available at *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/27.*

The standards which DOE proposed for commercial refrigeration equipment at the NOPR stage of this rulemaking are shown in Table II.3. They are provided solely for background informational purposes and differ from the amended standards set forth in this final rule.

TABLE II.3—PROPOSED ENERGY CONSERVATION STANDARDS FOR COMMERCIAL REFRIGERATION EQUIPMENT

[For compliance in 2017]

Equipment class*	Proposed level** †	Equipment class*	Proposed standard level**
VCT.RC.L	0.43 × TDA + 2.03	VOP.RC.I	2.68 × TDA + 8.08
VOP.RC.M	0.61 × TDA + 3.03	SVO.RC.L	2.11 × TDA + 6.36
SVO.RC.M	0.63 × TDA + 2.41	SVO.RC.I	2.68 × TDA + 8.08
HZO.RC.L	0.57 × TDA + 6.88	HZO.RC.I	0.72 × TDA + 8.74
HZO.RC.M	0.35 × TDA + 2.88	VOP.SC.L	3.79 × TDA + 10.26
VCT.RC.M	0.08 × TDA + 0.72	VOP.SC.I	4.81 × TDA + 13.03
VOP.RC.L	2.11 × TDA + 6.36	SVO.SC.L	3.77 × TDA + 10.01
SOC.RC.M	0.39 × TDA + 0.08	SVO.SC.I	4.79 × TDA + 12.72
VOP.SC.M	1.51 × TDA + 4.09	HZO.SC.I	2.44 × TDA + 9.0
SVO.SC.M	1.5 × TDA + 3.99	SOC.RC.L	0.83 × TDA + 0.18
HZO.SC.L	1.92 × TDA + 7.08	SOC.RC.I	0.97 × TDA + 0.21
HZO.SC.M	0.75 × TDA + 5.44	SOC.SC.I	1.35 × TDA + 0.29
HCT.SC.I	0.49 × TDA + 0.37	VCT.RC.I	0.51 × TDA + 2.37
VCT.SC.I	0.52 × TDA + 2.56	HCT.RC.M	0.14 × TDA + 0.11
VCS.SC.I	0.35 × V + 0.81	HCT.RC.L	0.3 × TDA + 0.23
VCT.SC.M	0.04 × V + 1.07	HCT.RC.I	0.35 × TDA + 0.27
VCT.SC.L	0.22 × V + 1.21	VCS.RC.M	0.1 × V + 0.24
VCS.SC.M	0.03 × V + 0.53	VCS.RC.L	0.21 × V + 0.5
VCS.SC.L	0.13 × V + 0.43	VCS.RC.I	0.25 × V + 0.58
HCT.SC.M	0.02 × V + 0.51	HCS.SC.I	0.35 × V + 0.81
HCT.SC.L	0.11 × V + 0.6	HCS.RC.M	0.1 × V + 0.24
HCS.SC.M	0.02 × V + 0.37	HCS.RC.L	0.21 × V + 0.5
HCS.SC.L	0.12 × V + 0.42	HCS.RC.I	0.25 × V + 0.58
PD.SC.M	0.03 × V + 0.83	SOC.SC.L	0.67 × TDA + 1.12
SOC.SC.M	0.32 × TDA + 0.53		

* Equipment class designations consist of a combination (in sequential order separated by periods) of: (1) An equipment family code (VOP = vertical open, SVO = semivertical open, HZO = horizontal open, VCT = vertical closed with transparent doors, VCS = vertical closed with solid doors, HCT = horizontal closed with transparent doors, HCS = horizontal closed with solid doors, SOC = service over counter, or PD = pull-down); (2) an operating mode code (RC = remote condensing or SC = self-contained); and (3) a rating temperature code (M = medium temperature (38±2 °F), L = low temperature (0±2 °F), or I = ice-cream temperature (−15±2 °F)). For example, ''VOP.RC.M'' refers to the ''vertical open, remote condensing, medium temperature'' equipment class. See discussion in chapter 3 of the final rule technical support document (TSD) for a more detailed explanation of the equipment class terminology.

** ''TDA'' is the total display area of the case, as measured in the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) Standard 1200–2010, appendix D. ''V'' is the volume of the case, as measured in American National Standards Institute (ANSI)/Association of Home Appliance Manufacturers (AHAM) Standard HRF–1–2004.

In the September 2013 NOPR, DOE identified seven issues on which it was particularly interested in receiving comments and views of interested parties: light-emitting diode (LED) price projections, base case efficiency trends,

operating temperature ranges, offset factors for smaller equipment, extension of standards developed for the 25 primary classes to the remaining 24 secondary classes, standards for hybrid cases and wedges, and standard levels. 78 FR 55987 (September 11, 2013) After the publication of the September 2013 NOPR, DOE received written comments on these and other issues. DOE also held a public meeting in Washington, DC, on October 3, 2013, to hear oral comments on and solicit information relevant to the proposed rule. These comments are addressed in today's document.

III. General Discussion

A. Test Procedures and Normalization Metrics

1. Test Procedures

On December 8, 2006, DOE published a final rule in which it adopted American National Standards Institute (ANSI)/Air-Conditioning and Refrigeration Institute (ARI) Standard 1200–2006, ''Performance Rating of Commercial Refrigerated Display Merchandisers and Storage Cabinets,'' as the DOE test procedure for this equipment. 71 FR at 71340, 71369–70. ANSI/ARI Standard 1200–2006 requires performance tests to be conducted according to the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 72–2005, ''Method of Testing Commercial Refrigerators and Freezers.'' The standard also contains rating temperature specifications of 38 °F (+/ − 2 °F) for commercial refrigerators and refrigerator compartments, 0 °F (+/ − 2 °F) for commercial freezers and freezer compartments, and − 5 °F (+/ − 2 °F) for commercial ice-cream freezers. During the 2006 test procedure rulemaking, DOE determined that testing at a − 15 °F (±2 °F) rating temperature was more representative of the actual energy consumption of commercial freezers specifically designed for ice-cream application. 71 FR at 71357 (December 8, 2006). Therefore, in the test procedure final rule, DOE adopted a − 15 °F (±2 °F) rating temperature for commercial ice-cream freezers, rather than the − 5 °F (±2 °F) prescribed in the ANSI/ARI Standard 1200–2006. In addition, DOE adopted ANSI/Association of Home Appliance Manufacturers (AHAM) Standard HRF–1–2004, ''Energy, Performance, and Capacity of Household Refrigerators, Refrigerator-Freezers, and Freezers,'' for determining compartment volumes for this equipment. 71 FR at 71369–70 (December 8, 2006).

On February 21, 2012, DOE published a test procedure final rule (2012 test procedure final rule) in which it adopted several amendments to the DOE test procedure. This included an amendment to incorporate by reference ANSI/Air-Conditioning, Heating, and Refrigeration Institute (AHRI) Standard 1200–2010, ''Performance Rating of Commercial Refrigerated Display Merchandisers and Storage Cabinets,'' as the DOE test procedure for this equipment. 77 FR 10292, 10314 (February 21, 2012). The 2012 test procedure final rule also included an amendment to incorporate by reference the updated ANSI/AHAM Standard HRF–1–2008, ''Energy, Performance, and Capacity of Household Refrigerators, Refrigerator-Freezers, and Freezers,'' for determining compartment volumes for this equipment.

In addition, the 2012 test procedure final rule included several amendments designed to address certain energy efficiency features that were not accounted for by the previous DOE test procedure, including provisions for measuring the impact of night curtains [18] and lighting occupancy sensors and scheduled controls. 77 FR at 10296–98 (February 21, 2012). In the 2012 test procedure final rule, DOE also adopted amendments to allow testing of commercial refrigeration equipment at temperatures other than one of the three rating temperatures previously specified in the test procedure. Specifically, the 2012 test procedure final rule allows testing of commercial refrigeration equipment at its lowest application product temperature, for equipment that cannot be tested at the prescribed rating temperature. The 2012 test procedure final rule also allows manufacturers to test and certify equipment at the more-stringent temperatures and ambient conditions required by NSF for food safety testing.[19] 77 FR at 10305 (February 21, 2012).

The test procedure amendments established in the 2012 test procedure final rule are required to be used in conjunction with the amended standards promulgated in this energy conservation standards final rule. As such, use of the amended test procedure to show compliance with DOE energy conservation standards or make representations with respect to energy consumption of commercial refrigeration equipment is required on the compliance date of the revised energy conservation standards established by today's document. 77 FR at 10308 (February 21, 2012).

DOE has initiated a test procedure rulemaking for commercial refrigeration equipment to revise and reorganize its test procedure for commercial refrigeration equipment in order to clarify certain terms, procedures, and compliance dates. A NOPR for this rulemaking was published on October 28, 2013. 78 FR 64206 (October 28. 2013). In the NOPR, DOE addressed:

- Several inquiries received from interested parties regarding the applicability of DOE's test procedure and current Federal energy conservation standards;
- The definitions of certain terms pertinent to commercial refrigeration equipment;
- The proper configuration and use of certain components and features of commercial refrigeration equipment when testing according to the DOE test procedure;
- The proper application of certain test procedure provisions;
- The compliance date of certain provisions specified in the DOE test procedure final rule published on February 21, 2012; and
- A number of test procedure clarifications which arose as a result of the negotiated rulemaking process for certification of commercial heating, ventilation, air conditioning, refrigeration, and water heating equipment.

DOE also held a public meeting in Washington, DC, on December 5, 2013, to hear oral comments on and solicit information relevant to the proposed rule.

2. Normalization Metrics

Both the January 2009 final rule and EPACT 2005 contain energy conservation standards for respective covered types of commercial refrigeration equipment, expressed in the form of equations developed as a function of unit size. This use of normalization metrics allows for a single standard-level equation developed for an equipment class to apply to a broad range of equipment sizes offered within that class by manufacturers. In the aforementioned commercial refrigeration equipment standards, the two normalization metrics used are refrigerated compartment volume, as determined using AHAM HRF–1–2004, and TDA, as determined using ANSI/ARI 1200–2006. In particular, the EPACT 2005 standards

[18] Night curtains are devices made of an insulating material, typically insulated aluminum fabric, designed to be pulled down over the open front of the case to decrease infiltration and heat transfer into the case when the merchandizing establishment is closed.

[19] The NSF was founded in 1944 as the National Sanitation Foundation, and is now referred to simply as NSF.

utilize volume as the normalization metric for all equipment types, with the exception of refrigerator-freezers with solid doors, for which the standard specifies adjusted volume. (42 U.S.C. 6313(c)(2)) The January 2009 final rule, meanwhile, utilizes TDA as the normalization metric for all equipment with display capacity while specifying volume as the metric for solid-door (VCS and HCS) equipment. 74 FR at 1093 (January 9, 2009).

At the May 2010 Framework public meeting, interested parties raised several questions regarding the potential normalization metrics that could be used in amended standards. DOE also received stakeholder feedback pertaining to this issue following the publication of the Framework document. In the preliminary analysis, DOE suggested that it would consider retaining the normalization metrics in this rulemaking for the respective classes to which they were applied in EPCA (42 U.S.C. 6313(c)(2)–(3)) and the January 2009 final rule. 74 FR at 1093 (January 9, 2009). In chapter 2 of the preliminary analysis TSD, DOE presented its rationale for the continued use of TDA for equipment with display areas addressed in the January 2009 final rule and the continued use of volume as the metric for solid-door remote condensing equipment and ice-cream freezers, as well as for the equipment covered by EPACT 2005 standards. DOE maintained this stance in the NOPR document and TSD. DOE did not receive any significant information or data while conducting the final rule analyses that would alter this position, and thus DOE includes continued use of the existing normalization metrics in today's document.

B. Technological Feasibility

1. General

In each standards rulemaking, DOE conducts a screening analysis, which is based on information that the Department has 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 analysis, DOE develops a list of design options for consideration, in consultation with manufacturers, design engineers, and other interested parties. DOE then determines which of these options for improving efficiency are technologically feasible. DOE considers a design option to be technologically feasible if it is used by the relevant industry or if a working prototype has been developed. Technologies incorporated in commercially available equipment or in working prototypes will be considered technologically feasible. 10 CFR part 430, subpart C, appendix A, section 4(a)(4)(i) Although DOE considers technologies that are proprietary, it will not consider efficiency levels that can only be reached through the use of proprietary technologies (*i.e.,* a unique pathway), which could allow a single manufacturer to monopolize the market.

Once DOE has determined that particular design options are technologically feasible, it further evaluates each of these design options in light of the following additional screening criteria: (1) Practicability to manufacture, install, or service; (2) adverse impacts on product utility or availability; and (3) adverse impacts on health or safety. 10 CFR part 430, subpart C, appendix A, section 4(a)(4)(ii)–(iv) Chapter 4 of the final rule TSD discusses the results of the screening analyses for commercial refrigeration equipment. Specifically, it presents the designs DOE considered, those it screened out, and those that are the bases for the TSLs considered in this rulemaking.

2. Maximum Technologically Feasible Levels

When DOE adopts (or does not adopt) an amended or new energy conservation standard for a type or class of covered equipment such as commercial refrigeration equipment, it determines the maximum improvement in energy efficiency that is technologically feasible for such equipment. (*See* 42 U.S.C. 6295(p)(1) and 6316(e)(1)) Accordingly, DOE determined the maximum technologically feasible (''max-tech'') improvements in energy efficiency for commercial refrigeration equipment in the engineering analysis using the design parameters that passed the screening analysis.

As indicated previously, whether efficiency levels exist or can be achieved in commonly used equipment is not relevant to whether they are considered max-tech levels. DOE considers technologies to be technologically feasible if they are incorporated in any currently available equipment or working prototypes. Hence, a max-tech level results from the combination of design options predicted to result in the highest efficiency level possible for an equipment class, with such design options consisting of technologies already incorporated in commercial equipment or working prototypes. DOE notes that it reevaluated the efficiency levels, including the max-tech levels, when it updated its results for this final rule. See chapter 5 of the TSD for the results of the analyses and a list of technologies included in max-tech equipment. Table III.1 shows the max-tech levels determined in the engineering analysis for commercial refrigeration equipment.

TABLE III.1—''MAX-TECH'' LEVELS FOR COMMERCIAL REFRIGERATION EQUIPMENT PRIMARY CLASSES

Equipment class	''Max-Tech'' level kWh/day
VCT.RC.L	33.044
VOP.RC.M	35.652
SVO.RC.M	27.702
HZO.RC.L	31.078
HZO.RC.M	14.15
VCT.RC.M	10.988
VOP.RC.L	100.006
SOC.RC.M	21.560
VOP.SC.M	29.714
SVO.SC.M	25.400
HZO.SC.L	29.922
HZO.SC.M	13.748
HCT.SC.I	2.327
VCT.SC.I	18.106
VCS.SC.I	16.042
VCT.SC.M	5.148
VCT.SC.L	16.048
VCS.SC.M	3.028
VCS.SC.L	11.130
HCT.SC.M	0.614
HCT.SC.L	1.315
HCS.SC.M	0.981
HCS.SC.L	0.713
PD.SC.M	3.405
SOC.SC.M	26.119

C. Energy Savings

1. Determination of Savings

For each TSL, DOE projected energy savings from the products that are the subjects of this rulemaking purchased during a 30-year period that begins in the year of compliance with amended standards (2017–2046).[20] The savings are measured over the entire lifetime of products purchased in the 30-year period.[21] DOE used the NIA model to estimate the NES for equipment purchased over the period 2017–2046. The model forecasts total energy use over the analysis period for each representative equipment class at efficiency levels set by each of the considered TSLs. DOE then compares

[20] DOE also presents a sensitivity analysis that considers impacts for products shipped in a 9-year period.

[21] In the past, DOE presented energy savings results for only the 30-year period that begins in the year of compliance. In the calculation of economic impacts, however, DOE considered operating cost savings measured over the entire lifetime of products purchased during the 30-year period. DOE has chosen to modify its presentation of national energy savings to be consistent with the approach used for its national economic analysis.

the energy use at each TSL to the base-case energy use to obtain the NES. The NIA model is described in section IV.H of this document and in chapter 10 of the final rule TSD.

DOE used its NIA spreadsheet model to estimate energy savings from amended standards for the equipment that is the subject of this rulemaking. The NIA spreadsheet model (described in section IV.H of this document) 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 has begun to estimate full-fuel-cycle energy savings. 76 FR 51282 (August 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, and thus presents a more complete picture of the impacts of energy efficiency standards. DOE's evaluation of FFC savings is driven in part by the National Academy of Science's (NAS) report on FFC measurement approaches for DOE's Appliance Standards Program.[22] The NAS report discusses that FFC was primarily intended for energy efficiency standards rulemakings where multiple fuels may be used by a particular product. In the case of this rulemaking pertaining to commercial refrigeration equipment, only a single fuel—electricity—is consumed by the equipment. DOE's approach is based on the calculation of an FFC multiplier for each of the energy types used by covered equipment. Although the addition of FFC energy savings in the rulemakings is consistent with the recommendations, the methodology for estimating FFC does not project how fuel markets would respond to this particular standard rulemaking. The FFC methodology simply estimates how much additional energy, and in turn how many tons of emissions, may be displaced if the estimated fuel were not consumed by the equipment covered in this rulemaking. It is also important to note that inclusion of FFC savings does not affect DOE's choice of proposed standards. 76 FR 51282 (August 18, 2011), as amended at 77 FR 49701 (August 17, 2012). The FFC metric includes the energy consumed in extracting, processing, and transporting primary fuels (i.e., coal, natural gas, petroleum fuels), and thus presents a more complete picture of the impacts of energy efficiency standards. For more information on FFC energy savings, see section IV.H.2.

2. Significance of Savings

EPCA prohibits DOE from adopting a standard that would not result in significant additional energy savings. (42 U.S.C. 6295(o)(3)(B),(v) and 6316(e)(1)) While the term ''significant'' is not defined in EPCA, the U.S. Court of Appeals for the District of Columbia in *Natural Resources Defense Council* v. *Herrington,* 768 F.2d 1355, 1373 (D.C. Cir. 1985), indicated that Congress intended significant energy savings to be savings that were not ''genuinely trivial.''

D. Economic Justification

1. Specific Criteria

As discussed in section III.D.1, 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(e)(1)) The following sections generally discuss how DOE is addressing each of those seven factors in this rulemaking. For further details and the results of DOE's analyses pertaining to economic justification, see sections III.C and V of today's document.

a. Economic Impact on Manufacturers and Commercial Customers

In determining the impacts of a potential new or amended energy conservation standard on manufacturers, DOE first determines its quantitative impacts using an annual cash flow approach. This includes both a short-term assessment (based on the cost and capital requirements associated with new or amended standards during the period between the announcement of a regulation and the compliance date of the regulation) and a long-term assessment (based on the costs and marginal impacts over the 30-year analysis period). The impacts analyzed include INPV (which values the industry based on expected future cash flows), cash flows by year, changes in revenue and income, and other measures of impact, as appropriate. Second, DOE analyzes and reports the potential impacts on different types of manufacturers, paying particular attention to impacts on small manufacturers. Third, DOE considers the impact of new or amended standards on domestic manufacturer employment and manufacturing capacity, as well as the potential for new or amended standards to result in plant closures and loss of capital investment. Finally, DOE takes into account cumulative impacts of other DOE regulations and non-DOE regulatory requirements on manufacturers.

For individual customers, measures of economic impact include the changes in LCC and the 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(e)(1)) DOE conducts this comparison in its LCC and PBP analysis.

The LCC is the sum of the purchase price of equipment (including the cost of its installation) and the operating costs (including energy and maintenance and repair costs) discounted over the lifetime of the equipment. 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 scenario, which reflects likely trends in the absence of new or 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.

[22] ''Review of Site (Point-of-Use) and Full-Fuel-Cycle Measurement Approaches to DOE/EERE Building Appliance Energy- Efficiency Standards,'' (Academy report) was completed in May 2009 and included five recommendations. A copy of the study can be downloaded at: *http://www.nap.edu/catalog.php?record_id=12670.*

c. Energy Savings

While significant conservation of energy is a statutory requirement for imposing an energy conservation standard, EPCA also 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(e)(1)) DOE uses NIA spreadsheet results in its consideration of total projected savings. For the results of DOE's analyses related to the potential energy savings, see section I.A.3 of this document and chapter 10 of the final rule TSD.

d. Lessening of Utility or Performance of Equipment

In establishing classes of equipment, and in evaluating design options and the impact of potential standard levels, DOE seeks to develop standards that would not lessen the utility or performance of the equipment under consideration. DOE has determined that none of the TSLs presented in today's final rule would reduce the utility or performance of the equipment considered in the rulemaking. (42 U.S.C. 6295(o)(2)(B)(i)(IV) and 6316(e)(1)) During the screening analysis, DOE eliminated from consideration any technology that would adversely impact customer utility. For the results of DOE's analyses related to the potential impact of amended standards on equipment utility and performance, see section IV.C of this document and chapter 4 of the final rule TSD.

e. Impact of Any Lessening of Competition

EPCA requires DOE to consider any lessening of competition that is likely to result from setting new or amended standards for covered equipment. Consistent with its obligations under EPCA, DOE sought the views of the United States Department of Justice (DOJ). DOE asked DOJ to provide a written determination of the impact, if any, of any lessening of competition likely to result from the amended standards, together with an analysis of the nature and extent of such impact. 42 U.S.C. 6295(o)(2)(B)(i)(V) and (B)(ii).

To assist DOJ in making such a determination, DOE provided DOJ with copies of both the NOPR and NOPR TSD for review. DOJ subsequently determined that the amended standards are unlikely to have a significant adverse impact on competition.

f. Need of the Nation To Conserve Energy

Another factor that DOE must consider in determining whether a new or amended standard is economically justified is the need for national energy and water conservation. (42 U.S.C. 6295(o)(2)(B)(i)(VI) and 6316(e)(1)) The energy savings from new or amended standards are likely to provide improvements to the security and reliability of the Nation's energy system. Reductions in the demand for electricity may also result in reduced costs for maintaining the reliability of the Nation's electricity system. DOE conducts a utility impact analysis to estimate how new or amended standards may affect the Nation's needed power generation capacity.

Energy savings from amended standards for commercial refrigeration equipment are also likely to result in environmental benefits in the form of reduced emissions of air pollutants and GHGs associated with energy production (*i.e.,* from power plants). For a discussion of the results of the analyses relating to the potential environmental benefits of the amended standards, see sections IV.K, IV.L and V.B.6 of this document. DOE reports the expected environmental effects from the amended standards, as well as from each TSL it considered for commercial refrigeration equipment, in the emissions analysis contained in chapter 13 of the final rule TSD. DOE also reports estimates of the economic value of emissions reductions resulting from the considered TSLs in chapter 14 of the final rule TSD.

g. Other Factors

EPCA allows the Secretary, in determining whether a new or amended 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) and 6316(e)(1)) There were no other factors considered for today's final rule.

2. Rebuttable Presumption

As set forth in 42 U.S.C. 6295(o)(2)(B)(iii) and 6316(e)(1), EPCA provides for a rebuttable presumption that an energy conservation standard is economically justified if the additional cost to the customer of equipment that meets the new or amended standard level is less than three times the value of the first-year energy (and, as applicable, water) savings resulting from the standard, as calculated under the applicable DOE test procedure. DOE's LCC and PBP analyses generate values that calculate the PBP for customers of potential new and amended energy conservation standards. These analyses include, but are not limited to, the 3-year PBP contemplated under the rebuttable presumption test. However, DOE routinely conducts a full economic analysis that considers the full range of impacts to the customer, manufacturer, Nation, and environment, as required under 42 U.S.C. 6295(o)(2)(B)(i) and 6316(e)(1). The results of these analyses serve as the basis for DOE to evaluate the economic justification for a potential standard level definitively (thereby supporting or rebutting the results of any preliminary determination of economic justification). The rebuttable presumption payback calculation is discussed in section IV.F.12 of this document and chapter 8 of the final rule TSD.

IV. Methodology and Discussion of Comments

A. General Rulemaking Issues

During the October 2013 NOPR public meeting, and in subsequent written comments, stakeholders provided input regarding general issues pertinent to the rulemaking, including the trial standard levels and proposed standard levels presented, the rulemaking timeline, the metrics used to normalize equipment size, and other subjects. These issues are discussed in this section.

1. Trial Standard Levels

In his comment, Mr. R. Kopp (Kopp) suggested that using continuous energy-efficiency cost-curves as opposed to discrete TSLs would provide a more accurate analysis. Further, he suggested that instead of setting a single TSL standard, DOE should adopt pathways to improve efficiency. (Kopp, No. 60 at p. 5)

In its engineering analysis, DOE utilized a design-option approach, in which it began by modeling baseline units and then modeled increasingly efficient designs up to max-tech by adding design options one at a time in order of ascending payback period. This methodology reflects the options available to manufacturers in increasing the efficiency of their equipment, which consist of piecewise design improvements corresponding to the design options modeled in the engineering analysis. Therefore, the efficiency levels generated from the engineering analysis and carried through the downstream analyses to the development of TSLs correspond to specific packages of technologies and design features which could be developed and built by manufacturers. Since the stepwise increments along the

cost-efficiency curve represent tangible efficiency improvements attainable through the implementation of design options, DOE asserts that a smooth cost-efficiency curve would not be realistic, as the areas on the curve between the current efficiency levels would not correspond to any design that exists. Therefore, DOE has retained the approach used in the NOPR in developing this final rule.

2. Proposed Standard Levels

Traulsen, Structural Concepts Corp. (Structural Concepts), National Rural Electric Cooperative Association (NRECA), and the Edison Electric Institute (EEI) asserted that TSL4, the level proposed in the NOPR, was not economically viable, noting that the marginal efficiency increase over TSL 3 did not justify the increased costs of compliance. (Traulsen, No. 65 at p. 16; [23] Structural Concepts, Public Meeting Transcript, No. 62 at p. 337; NRECA, No. 88 at p. 2; EEI, No. 89 at p. 4) Traulsen opined that any TSL with a payback period longer than 3 years was not feasible for most manufacturers. (Traulsen, No. 65 at p. 21) Further, NRECA and EEI urged DOE to select TSL 3 instead of TSL 4. However, the joint comments from the American Council for an Energy-Efficient Economy (ACEEE), National Resources Defense Council (NRDC), Appliance Standards Awareness Project (ASAP), Alliance to Save Energy (ASE), and Northwest Energy Efficiency Alliance (NEEA) (hereafter referred to as the ''Joint Comment'') supported DOE's proposal to adopt TSL 4, noting that it represented maximum energy savings with a positive NPV. (Joint Comment, No. 91 at p. 1)

Several manufacturers expressed an expected inability to meet the proposed standard levels, even with the best available technology. At the October public meeting, Zero Zone Inc. (Zero Zone) noted that there had been no significant technological advancements since the previous rulemaking which would make an amended standard feasible. (Zero Zone, Public Meeting Transcript, No. 62 at p. 62) Structural Concepts raised a similar concern, noting that despite using the most efficient technology currently available, its minimum attainable daily energy consumption was 30–40% above the proposed standard level. (Structural Concepts, Public Meeting Transcript, No. 62 at p. 133) Royal Vendors Inc. (Royal Vendors), in its written comment, noted that even with the most efficient currently-available technology, the maximum possible efficiency gain was 10% over the levels contained in the ENERGY STAR [24] Version 3 specification. However, the Joint Comment opined that most of these concerns were limited to pull-down equipment, and that if the standard for that class were revised, there would be no need to revise standards for other classes. (Joint Comment, No. 91 at p. 2) Additionally, manufacturers opined that the percentage reduction in energy consumption between the existing standard and the proposed rule was not achievable. Hussmann Corp. (Hussmann), True Manufacturing Co., Inc. (True), and Hoshizaki America, Inc. (Hoshizaki) all commented that the efficiency improvements in excess of 60%, as proposed for SC equipment and the VCT.RC.M class, were neither economically feasible nor technologically possible. (Hussmann, No. 77 at p. 10) (True, No. 76 at p. 1) (Hoshizaki, No. 84 at p. 1)

Hoshizaki noted in its written comment that a large majority of currently ENERGY STAR-certified equipment would fail to meet the proposed standard. (Hoshizaki, No. 84 at p. 1) During the public meeting, Structural Concepts pointed out the relationship between the proposed standard and the ENERGY STAR Version 3.0 requirement, opining that it was impractical for a standard to be more stringent than the ENERGY STAR requirement. (Structural Concepts, Public Meeting Transcript, No. 62 at p. 305) The Joint Comment, however, noted that according to the ENERGY STAR-qualified products list, there already are products in five major self-contained equipment classes that meet or exceed the proposed standard. Further, the Joint Comment drew comparison to the 2009 final rule for residential refrigerators, noting that proceeding to be a precedent in which units on the market were not reaching the maximum technically feasible efficiency level modeled, since no product was using all the design options considered in DOE's analysis. (Joint Comment, No. 91 at p. 3) Additionally, joint comments from the California Investor Owned Utilities (CA IOUs) noted that all equipment currently listed in the CEC product database for the VOP.SC.M, SVO.SC.M, HZO.SC.M, and HZO.RC.M classes already met the proposed standard. (CA IOUs, No. 63 at p. 1)

Stakeholders noted that, in the proposed rule, the expected efficiency improvement over existing standards was more stringent for some equipment classes than for others. Lennox International Inc. (Lennox) urged DOE to set standards for VCT classes which had the same percentage reduction from existing standard levels as open-case classes, and suggested that stricter VCT standards would encourage consumers to switch from closed to open equipment. (Lennox, No. 73 at p. 4) Structural Concepts opined that the proposed change in MDEC for SOC equipment was too drastic, further noting that for SOC and VCS equipment classes, it is counterintuitive for DOE to propose a greater relationship between size and daily energy consumption for remote condensing units than for self-contained units, since SC units are inherently less efficient. (Structural Concepts, No. 85 at p. 3) Coca-Cola, Inc. (Coca-Cola) commented that the TSL 4 standard was more stringent for PD.SC.M units than for VCT.SC.M, and that this was counterintuitive. (Coca-Cola, Public Meeting Transcript, No. 62 at p. 100) The CA IOUs pointed out in its written comment that the current standards for PD.SC.M were set through a negotiated process, whereas the standards for other classes were modeled. (CA IOUs, No. 63 at p. 6) China commented that while DOE proposed stricter standards for the VCT.RC.M class since the 2009 final rule, DOE was not suggesting amended standards for the HZO class. (China, No. 92 at p. 3)

Another concern amongst manufacturers and consumers was the belief that the proposed standard levels were based on technology that was currently not available, but rather which DOE projected would be available at the time of required compliance with the proposed rule. Continental opined that it was impractical to develop standards based on currently unavailable technologies. (Continental, Public Meeting Transcript, No. 62 at p. 96) Coca-Cola commented that since the proposed standards were based on technology which was not yet available, the proposed standards, specifically TSL4 for VCT.SC.M units, were not technologically feasible. (Coca-Cola, Public Meeting Transcript, No. 62 at p. 74) True expressed agreement with Coca-Cola, stating that the proposed efficiency levels were beyond the level

[23] In the comment citation format used in this document, the citation first presents the name of the commenter, followed by the number on the docket corresponding to the document in which the comment is contained, followed by a reference to the page in that document on which the comment can be found.

[24] ENERGY STAR is a joint program of the U.S. Environmental Protection Agency (EPA) and DOE that establishes a voluntary rating, certification, and labeling program for highly energy efficient consumer products and commercial equipment. Information on the program is available at: *www.energystar.gov*.

of what industry can meet at the current time. (True, Public Meeting Transcript, No. 62 at p. 307) Lennox commented that the proposed standards for VCT units were unattainable with currently known technology and were not economically justified. Lennox further commented that under the proposed rule, only a very limited number of compliant VCT products would be produced and sold. (Lennox, No. 73 at p. 2) The North American Association of Food Equipment Manufacturers (NAFEM) noted that none of its member manufacturers were able to identify current technology options or prototype designs which met the proposed standard levels, and that using assumptions beyond what was available in the current market landscape would also improperly quantify the impact of the proposed rule on manufacturer costs. (NAFEM, No. 93 at p. 3)

Additionally, during the October public meeting Coca-Cola and True commented that food safety was of prime importance in the design of their equipment, and should take precedence over energy savings. (Coca-Cola, Public Meeting Transcript, No. 62 at p. 86) (True, Public Meeting Transcript, No. 62 at p. 350) National Restaurant Association (NRA) noted that the proposed standards had the potential to reduce cooling ability and recovery time for equipment subject to constant opening and closing, and that this reduced performance could compromise food safety. (NRA, No. 90 at p. 3) Similarly, NAFEM also noted that the implementation of the proposed standards would have potential negative effects on food safety for end-users. (NAFEM, No. 93 at p. 5)

DOE understands the concerns voiced by stakeholders regarding their future ability to meet standard levels as proposed in the NOPR. Between the NOPR and final rule stages, DOE revised and updated its analysis based on stakeholders comments received at the NOPR public meeting and in written comments. These updates included improvements to the modeling of equipment geometries, design specifications, and design option performance and costs so as to provide a more accurate model of baseline and higher-efficiency designs across the classes analyzed. After applying these updates, DOE amended its TSLs and standard level equations accordingly. With respect to the comments from Zero Zone, Structural Concepts, and Royal Vendors regarding the ability of technologies needed to meet the proposed standard level, DOE analyzed the available technologies in its market and technology assessment and screening analyses, and incorporated appropriate and available technology options in the modeling performed as part of its engineering analysis. Therefore, DOE believes that the technologies and designs included in the analysis accurately reflect what is available to industry for improving equipment efficiency.

In response to the Joint Comment, DOE notes that it evaluated equipment performance independently for each equipment class and thus did not revise standards for any one class solely based upon factors affecting another class. DOE believes that the updates and improvements to the modeling applied between the NOPR and final rule stages of this rulemaking have resulted in standard levels presented in today's final rule which address the concerns voiced by stakeholders after publication of the NOPR.

In response to stakeholder comments comparing the proposed standard levels to ENERGY STAR levels, DOE cautions against direct comparisons between its standards and those set forth by ENERGY STAR due to the different natures of the programs and how the two different sets of standard levels are set. ENERGY STAR is a voluntary program which derives its standard levels from market data based on the performance of certain models of equipment currently available for purchase. ENERGY STAR also does not model performance or include consumer economics in its standard-setting process. DOE sets its standards as applicable to all covered equipment and develops them through specific analyses of equipment performance and modeling of economic impacts and other downstream effects. Due to the different goals and methodologies of these two programs, a direct comparison may not be entirely relevant. However, during the final rule stage, for relevant equipment classes,[25] DOE did compare its engineering results to available ENERGY STAR data as a means of checking the modeled performance levels against empirical test data. With respect to the comparison by the California IOUs of performance of open cases to certified values from the CEC directory, DOE also cautions that this directory is not exhaustive. For example, a search of the directory shows that, for some equipment classes, only equipment from a single manufacturer is included. Therefore, while directory data is helpful in providing a check on DOE's results, DOE has performed independent modeling and analysis to derive its standard levels.

With respect to the concerns about the relative perceived stringencies of proposed standards for different classes, in the NOPR analyses, DOE examined each equipment class independently based on standard geometries and feature sets for representative units within the classes. DOE then conducted the engineering simulations and downstream economic analyses separately for each primary class examined. The results presented at the NOPR stage represent the suggested performance and cost values for each class based on the best available information at the time of that analysis. Therefore, DOE cautions against comparative examination of the relative stringencies of the various standard levels, as each was calculated independently and the performance and economic benefits of individual design options vary specific to each class. DOE also agrees with the California IOUs that previous standard levels should not necessarily be used as a check on current analytical results because the origins of those standards are not completely transparent, meaning that a direct comparison may be inappropriate due to differences between the methodologies used to set those standards and those used by DOE in the current rulemaking. At the final rule stage, DOE continued to examine each class independently based on the merits of the available efficiency-improving features, and has set amended standards for each class based on the results of those analyses.

In response to the assertions that DOE's standard levels were not based upon currently available technologies, but rather were dependent upon future potential technological developments, DOE maintains that all technology options and equipment configurations included in its NOPR reflect technologies currently in use in commercial refrigeration equipment or related equipment types. DOE has observed these design options and features used in current manufacturer models offered for sale. The specific inputs which it used to model these design options, such as compressor efficiency improvements over the market baseline, glass door U-factor, or heat exchanger UA, were provided to the public for comment in the NOPR TSD and engineering analysis spreadsheet, and DOE has updated those inputs according to stakeholder

[25] ENERGY STAR only maintains standard levels applying to equipment classes VCS.SC.M, VCS.SC.L, VCT.SC.M, VCT.SC.L, HCS.SC.M, HCS.SC.L, HCT.SC.M, and HCT.SC.L. Thus, these were the only classes for which a comparison between the DOE and ENERGY STAR levels could be made.

feedback and other information available during the final rule stage.

DOE understands the concerns voiced by Coca-Cola, True, NAFEM, and NRA regarding food safety. DOE realizes that food safety is of the utmost importance to the industry, and is in fact a definitional aspect of the design of equipment for food storage temperatures. In its screening analysis, DOE is compelled by sections 4(b)(4) and 5(b) of the Process Rule [26] to eliminate from consideration any technology that presents unacceptable problems with respect to a specific set of criteria, including impacts on equipment utility. Therefore, DOE removed from consideration technologies and design options which could result in such adverse impacts. Additionally, in its engineering analysis, DOE modeled medium-temperature equipment as having an average product temperature of 38°F, consistent with the rating temperature specified in the DOE test procedure and below the 41°F requirement of the NSF 7 [27] food safety rating procedure. Thus, the daily energy consumption values produced in the engineering analysis reflect a level of equipment performance which ensures preservation of the ability to maintain food safety temperatures.

3. Rulemaking Timeline

Some stakeholders felt that in light of the large number of analytical changes that could be required between the NOPR and final rule, DOE should extend the target date for publication of the final rule. Traulsen requested that DOE slow the rulemaking process down due to the aggressiveness of the final rule date. (Traulsen, Public Meeting Transcript, No. 62 at p. 347) Hillphoenix and Lennox also expressed the same concern, noting that a February 2014 deadline for publication of the final rule allowed insufficient time for the reevaluation of DOE's engineering analysis. (Hillphoenix, No. 71 at p. 3) (Lennox, No. 73 at p. 2) In contrast, the New York State Attorney General (NYSAG) commented that the delay in amending these efficiency standards not only violated Congressional mandates, but has also prolonged the time that inefficient products stay in the market. NYSAG further commented that these delays have led to avoidable pollution and waste of resources. (NYSAG, No. 92 at p. 1)

While DOE appreciates the input from commenters requesting that the timeline for this rulemaking be extended, none of the commenters has provided any details or specifics with regard to what specifically they believe would require extra time. In reviewing its analyses to date, the inputs received at the NOPR public meeting and in subsequent written comment, DOE believes that the time allotted is sufficient in order to allow for full and proper analysis required in order to develop the final rule. In fact, DOE conducted an efficient and thorough effort to promulgate the final rule within the constraints of the time allotted. With regard to NYSAG's comment, DOE notes that it has moved as efficiently as possible while conducting the thorough analysis required to set appropriate standards.

4. Normalization Metrics

Following publication of the NOPR, DOE received comment on the normalization metrics used to scale allowable daily energy consumption under the standard levels as a function of equipment size. Depending on the design and intended application of each equipment class, DOE proposed energy standard levels using either total display area or volume as a metric. Structural Concepts commented that DOE's metrics for the VCT and HCT families were inconsistent, since some proposed standards for classes within the families were based on total display area (TDA) while others were based on volume, NAFEM stated that industry participants use volume, rather than linear feet, to estimate total market size. (Structural Concepts, No. 85 at p. 3) (NAFEM, No. 93 at p. 6)

DOE understands that the selection of appropriate measures of case size is important to the standards-setting process across all covered equipment classes. For the self-contained equipment with doors for which standards were set in the EPACT 2005 legislation, volume was identified in the statute as the normalization metric. (42 U.S.C. 6313(c)(2)) For the equipment covered by the 2009 final rule, DOE selected the metrics of volume for equipment with solid doors and TDA for display-type equipment. Because radiation and conduction through doors are the primary heat transfer pathways for CRE equipment with transparent doors, DOE concluded that TDA is the metric that best quantifies this effect. Likewise, for equipment without doors, the majority of heat load occurs due to warm air infiltration, and DOE determined that TDA would also be the most appropriate metric for capturing these effects. DOE also stated its conclusion that for these equipment types, where the function is to display merchandise for sale, TDA best quantifies the ability of a piece of equipment to perform that function. On the other hand, equipment with solid doors is designed for storage, and volume was determined to be the most appropriate metric for quantifying the storage capacity of the unit. 72 FR 41177–78 (July 26, 2007).

DOE does not believe, based on its discussions with manufacturers and comments solicited over the course of this rulemaking that the fundamental concepts underlying the choices of TDA or volume as the normalization metric for any given class of equipment have changed. In line with the reasons stated above, DOE is retaining the current normalization metrics for the respective equipment classes, consisting of both the metrics set forth in the 2009 final rule and those prescribed by the EPACT 2005 standards for self-contained equipment with doors.

In response to the comment from NAFEM regarding the usage of linear feet, DOE wishes to clarify that it did not use linear feet of equipment as a measure of equipment size in its engineering analysis, nor as a metric when estimating total market size in its shipments analysis. Rather, DOE utilized linear feet as a normalization metric in the national impacts and other downstream analyses when accounting for the aggregate costs and benefits of today's final rule. DOE believes that the units used in making representations of equipment market size are accurate, and DOE did not modify them for the final rule analysis.

5. Conformance With Executive Orders and Departmental Policies

At the NOPR public meeting, and in a subsequent written comment, Traulsen opined that the proposed rule violates Executive Order 12866. Specifically, Traulsen stated that the rule failed to identify the failures of private markets or public institutions that warrant new agency action, since the industry had actively embraced voluntary efficiency goals and standards. (Traulsen, No. 65 at p.16) Section 1(b)(1) of Executive Order 12866 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. In section VI.A of today's document (and also in the NOPR), DOE has identified the problems that it has

[26] Appendix A to subpart C of 10 CFR part 430, ''Procedures, Interpretations, and Policies for Consideration of New or Revised Energy Conservation Standards for Consumer Products'' is known as ''The Process Rule.''

[27] This refers to the NSF/ANSI 7 procedure used to test equipment performance for food safety.

addressed by amending energy conservation standards for commercial refrigeration equipment. For certain segments of the companies that purchase commercial refrigeration equipment, such as small grocers, these problems may include a lack of consumer information and/or information processing capability about energy efficiency opportunities in the commercial refrigeration equipment market. In addition, the market for commercial refrigeration equipment is affected by electricity prices that do not reflect all of the social and environmental costs associated with electricity use. When such externalities are not included in the decisions made by market actors, this is considered a market failure by economists.

Traulsen asserted that the proposed rule was in violation of Executive Order 13563 and the Information Quality Act since the assumptions in DOE's analysis did not use the best available techniques to quantify the benefits of the rule. (Traulsen, No. 65 at pp.16–17) DOE believes that the analysis described in today's document is based on the best available techniques that were suited to the data available to analyze commercial refrigeration equipment. Further, Traulsen did not point to any specific techniques in its comment that would have been superior to those employed by DOE.

NAFEM expressed concern that the proposed rule was in violation of Executive Orders because it had a disproportionate negative impact on small businesses, failed to consider non-regulatory alternatives, and since DOE had made no contact with end-users in order to understand impact on users. (NAFEM, No. 93 at p. 14) Traulsen stated that DOE should consider supplementing regulatory action with other forms of non-regulatory alternatives, such as expanded collaboration with ENERGY STAR, rebates, and incentive programs. (Traulsen, No. 65 at p. 15)

As discussed in section V.B.1.b of this document, DOE believes that today's rule would not have a disproportionate negative impact on small businesses. DOE did consider non-regulatory alternatives to amended standards, as described in detail in chapter 17 of the final rule TSD. Finally, DOE requested comment from the public and held public meetings that were attended by representatives of end-users of commercial refrigeration equipment (e.g., ACCA, Coca-Cola, and NAFEM).

NAFEM also opined that the proposed rule violated the Secretarial Policy Statement of Scientific Integrity, since the analysis was not independently peer-reviewed by qualified experts, underlying assumptions were not clearly explained, and since DOE failed to accurately contextualize uncertainties pertaining to non-regulatory alternatives. (NAFEM, No. 93 at p. 14)

The Secretary's March 23, 2012 ''Secretarial Policy Statement of Scientific Integrity'' [28] sets forth a policy for DOE employees and states, in relevant part, that ''DOE will ensure that data and research used to support policy decisions are of high scientific and technical objectivity. Scientific and technical objectivity will be supported through independent peer review by qualified experts, where feasible and appropriate, and consistent with law.'' With respect to DOE's analysis underlying this final rule, DOE has solicited and thoroughly considered comment and data from expert CRE manufacturers throughout the rulemaking process. DOE does not believe that any additional expert review of its analysis is either necessary or appropriate.

Further, the assumptions used in DOE's analysis are described in detail in the NOPR TSD and in the final rule TSD. DOE is not aware of the uncertainties pertaining to non-regulatory alternatives mentioned only in a general sense by NAFEM.

6. Offset Factors

In presenting the NOPR standard levels, DOE adopted and modified the offset factors from the 2009 final rule and EPACT 2005 standard levels to define the energy consumption of a unit at zero volume or TDA, thus setting the y-intercepts of the linear standard level equations proposed at levels intended to represent ''end effects'' inherent in all equipment. Some stakeholders expressed disagreement with DOE's modeling of offset factors. Hillphoenix commented that offset factors were designed to account for factors which remained constant over a range of equipment sizes. Hillphoenix further commented that such factors as conduction end effects typically do not vary with size. (Hillphoenix, No. 71 at p. 2) Traulsen commented that DOE's modeled offset factors were not empirically determined. (Traulsen, No. 65 at p. 19) The Air-Conditioning, Heating, and Refrigeration Institute (AHRI) commented that it was impossible for stakeholders to compare the offset factors within the current rulemaking with the previous rulemaking's values. (AHRI, No. 75 at p. 14)

In developing offset factors for the NOPR, DOE scaled existing offset factors from the EPACT 2005 and 2009 final rule standard levels based on the percentage reduction in energy use modeled at the representative unit size. This allowed the NOPR standard level equations to reflect energy allowances which proposed a standard percentage reduction in allowable consumption across all equipment sizes. While DOE agrees with Traulsen that the offset factors were not empirically determined, the factors were based upon scaling proportional to modeled equipment performance and applied to the existing offset factors which have been well-established and vetted through development of and compliance with the existing standards containing them.

In response to the comment from Hillphoenix, DOE agrees that there are certain fixed effects which will be encountered by any piece of equipment, such as a minimum amount of conduction, or energy consumption attributable to the presence of a minimum of a single fan motor, for example. For the final rule, and in response to the concern of stakeholders, DOE adjusted its offset factors to account for these constant effects. In equipment for which DOE developed offset factors for use in standard level equations in its 2009 final rule, DOE retained the same offset factors in the development of the trial standard levels presented in today's document. DOE believes that the retention of these factors accurately reflects the presence of fixed end-effect behavior in this equipment, which remains independent of the design options elsewise implemented in the equipment. For the equipment for which standard levels were set by EPACT 2005, DOE had no background information as to how those offset factors were developed. Therefore, in developing trial standard levels for today's final rule, DOE adjusted those offset factors based on available data from directories of certified product performance. For more information on the development of offset factors, please see chapter 5 of the final rule TSD.

B. Market and Technology Assessment

When beginning an energy conservation standards rulemaking, DOE develops information that provides an overall picture of the market for the equipment concerned, including the purpose of the equipment, the industry structure, and market characteristics. This activity includes both quantitative and qualitative assessments based

[28] *https://www.directives.doe.gov/references/secretarial_policy_statement_on_scientific_integrity/view.*

primarily on publicly available information (*e.g.,* manufacturer specification sheets, industry publications) and data submitted by manufacturers, trade associations, and other stakeholders. The subjects addressed in the market and technology assessment for this rulemaking include: (1) Quantities and types of equipment sold and offered for sale; (2) retail market trends; (3) equipment covered by the rulemaking; (4) equipment classes; (5) manufacturers; (6) regulatory requirements and non-regulatory programs (such as rebate programs and tax credits); and (7) technologies that could improve the energy efficiency of the equipment under examination. DOE researched manufacturers of commercial refrigeration equipment and made a particular effort to identify and characterize small business manufacturers. See chapter 3 of the final rule TSD for further discussion of the market and technology assessment.

1. Equipment Classes

In evaluating and establishing energy conservation standards, DOE generally divides covered equipment into classes by the type of energy used, or by capacity or other performance-related feature that justifies a different standard for equipment having such a feature. (42 U.S.C. 6295(q) and 6316(e)(1)) In deciding whether a feature justifies a different standard, DOE must consider factors such as the utility of the feature to users. DOE normally establishes different energy conservation standards for different equipment classes based on these criteria.

Commercial refrigeration equipment can be divided into various equipment classes categorized by specific physical and design characteristics. These characteristics impact equipment efficiency, determine the kind of merchandise that the equipment can be used to display, and affect how the customer can access that merchandise. Key physical and design characteristics of commercial refrigeration equipment are the operating temperature, the presence or absence of doors (*i.e.,* closed cases or open cases), the type of doors used (transparent or solid), the angle of the door or air curtain [29] (horizontal, semivertical, or vertical), and the type of condensing unit (remote condensing or self-contained). The following list shows the key characteristics of commercial refrigeration equipment that DOE developed as part of the January 2009 final rule (74 FR at 1099–1100 (January 9, 2009)), and used during this rulemaking:

1. Operating Temperature
   - Medium temperature (38 °F, refrigerators)
   - Low temperature (0 °F, freezers)
   - Ice-cream temperature (−15 °F, ice-cream freezers)
2. Door Type
   - Equipment with transparent doors
   - Equipment with solid doors
   - Equipment without doors
3. Orientation (air-curtain or door angle)
   - Horizontal
   - Semivertical
   - Vertical
4. Type of Condensing Unit
   - Remote condensing
   - Self-contained

Additionally, because EPCA specifically sets a separate standard for refrigerators with a self-contained condensing unit designed for pull-down temperature applications and transparent doors, DOE has created a separate equipment class for this equipment. (42 U.S.C. 6313(c)(3)) DOE included this equipment in the form of a separate family with a single class (PD.SC.M). A total of 49 equipment classes were created, and these are listed in chapter 3 of the TSD using the nomenclature developed in the January 2009 final rule. 74 FR at 1100 (January 9, 2009).

During the October 2013 NOPR public meeting and in subsequent written comments, a number of stakeholders addressed issues related to proposed equipment classes and the inclusion of certain types of equipment in the analysis. These topics are discussed in this section.

a. Equipment Subcategories

In their written comments, Continental, NAFEM, True and Traulsen all expressed concern that the equipment classes defined by DOE in the proposed rule did not sufficiently encompass various sub-classifications, especially with regard to pass-through and reach-in cases. (Continental, No. 87 at p. 1) (NAFEM, No. 93 at p. 7) (True, No. 76 at p. 3) (Traulsen, No. 65 at p. 16) Further, Traulsen and True pointed out that a multitude of custom-built and niche equipment exists, which would require further analysis in order to determine a viable standard. (Traulsen, No. 65 at p. 20) (True, No. 76 at p. 1)

In response to the concerns of interested parties, DOE believes that its existing equipment class structure is sufficient to account for the majority of variation in type and combination of equipment geometry, condensing unit configuration, and operating temperature. DOE provides allowances in its standards to account for the energy needs of different equipment sizes through its use of standard level equations constructed in the form of linear equations varying with equipment size (as measured by volume or TDA) and through its use of offset factors to represent energy end-effects. DOE also accommodates variation in operating temperature outside of its three rating temperatures through the use of a lowest application product temperature provision in its test procedure. 77 FR at 10305 (February 21, 2012)

b. Floral Equipment

In the context of niche equipment classes, the Society of American Florists (SAF) noted that the floral industry uses purpose-designed refrigeration equipment, including sliding door floral display coolers (self-contained), open air access floral display coolers (reach-in), countertop floral display coolers and long door floral display coolers (swinging or sliding doors, top-mounted or remote condensing unit). SAF further added that most of these units are custom-built, since floral cooling systems are balanced to keep humidity high, and that special low-velocity coils are utilized to blow air through the unit while maintaining temperature and high humidity levels—features not available in stock equipment. (SAF, No. 74 at p. 3)

DOE believes that its division of covered equipment into numerous classes is sufficiently broad to capture the level of differentiation present within the commercial refrigeration equipment market. The equipment types described in the comment from SAF would fall into a number of existing equipment classes for which DOE has conducted analyses in this rulemaking. Additionally, DOE has recognized the temperature issues which may be present in floral cases, and has accommodated those different operating temperatures by developing and implementing a provision in its test procedure allowing equipment which cannot reach the specified DOE rating temperature to be tested at its lowest application product temperature. 77 FR at 10305 (February 21, 2012)

2. Technology Assessment

As part of the market and technology assessment performed for the final rule analysis, DOE developed a comprehensive list of technologies that would be expected to improve the

[29] An air curtain is a continuously moving stream of air, driven by fans, which exits on one side of the opening in an open refrigerated case and re-enters on the other side via an intake grille. The function of the air curtain is to cover the opening in the case with this sheet of air, which minimizes the infiltration of warmer ambient air into the refrigerated space.

energy efficiency of commercial refrigeration equipment. Chapter 3 of the TSD contains a detailed description of each technology that DOE identified. Although DOE identified a complete list of technologies that improve efficiency, DOE only considered in its analysis technologies that would impact the efficiency rating of equipment as tested under the DOE test procedure. Therefore, DOE excluded several technologies from the analysis during the technology assessment because they do not improve the rated efficiency of equipment as measured under the specified test procedure. Technologies that DOE determined impact the rated efficiency were carried through to the screening analysis and are discussed in section IV.C.

a. Technologies Applicable to All Equipment

In the NOPR analysis market and technology assessment, DOE listed the following technologies that would be expected to improve the efficiency of all equipment: higher efficiency lighting, higher efficiency lighting ballasts, remote lighting ballast location, higher efficiency expansion valves, higher efficiency evaporator fan motors, variable-speed evaporator fan motors and evaporator fan motor controllers, higher efficiency evaporator fan blades, increased evaporator surface area, low-pressure differential evaporators, increased case insulation or improvements, defrost mechanisms, defrost cycle controls, vacuum insulated panels, and occupancy sensors for lighting controls. These technologies are discussed in depth in chapter 3 of the NOPR TSD. Not all of these technologies were considered in the engineering analysis; some were screened out or removed from consideration on technical grounds. After the publication of the NOPR analysis, DOE received numerous stakeholder comments regarding these technologies, discussed below.

Low Pressure Differential Evaporators

Traulsen commented that low pressure differential evaporators would require larger spaces between fins and tubes, which could in turn reduce overall efficiency by allowing frost build-up. (Traulsen, No. 65 at p. 7) Low-pressure differential evaporators reduce energy consumption by reducing the power of evaporator fan motors, often by increasing the air gap between fins. However, as noted in chapter 5 of the NOPR TSD, in space-constrained equipment such as commercial refrigeration equipment, this reduction usually comes from a decrease in evaporator coil surface area, which generally requires a lower saturated evaporator temperature (SET) to achieve the same discharge air temperature and cooling potential. This, in turn, results in a reduction in compressor efficiency. Therefore, DOE agrees with Traulsen that low pressure differential evaporators are not a viable option for consideration in this rulemaking and did not consider them as a design option.

Defrost Mechanisms

Traulsen commented that in order for DOE to advocate for improved defrost sensors, new designs would need to be implemented, and that the compliance date suggested in the NOPR would not allow for the levels of research and development (R&D) necessary to achieve this improvement. (Traulsen, No. 65 at p. 8) DOE wishes to clarify that it did not consider advanced defrost sensors as a design option within the analyses conducted at the NOPR or final rule stages of this rulemaking. Much equipment currently manufactured already uses partial defrost cycle control in the form of cycle temperature-termination control. However, defrost cycle initiation is still scheduled at regular intervals. Full defrost cycle control would involve a method of detecting frost buildup and initiating defrost. This could be accomplished using an optical sensor or through use of a sensor to detect the temperature differential across the evaporator coil. However, DOE understands that both of these methods are currently unreliable due to fouling of the coil with dust and other surface contaminants, which becomes more of an issue as cases age. Because of these issues, DOE agrees with Traulsen's concerns and did not consider defrost cycle control as a design option at the NOPR or final rule stages. Instead, the defrost lengths modeled in the engineering analysis were based on defrost times gathered through review of manufacturer literature, manufacturer interviews, and data collected through laboratory testing of equipment currently available on the market.

Light Emitting Diode Lighting

After publication of the NOPR, Traulsen commented that DOE's assertion of consumer enthusiasm towards LEDs lacked basis in reality. Further, Traulsen commented that any weight given to this assertion in the calculations was null. (Traulsen, No. 65 at p. 4) During its analysis, DOE considered design options based on their availability on the market and on the screening criteria set forth by the Process Rule. In considering LED lighting as a design option, DOE did so after researching existing product offerings on the market and conferring with manufacturers in confidential interviews. DOE did not factor ''consumer enthusiasm'' into its decision to include LED lighting as asserted by Traulsen, but instead considered this design option based on the information available from the current equipment market and the technology's ability to reduce the measured energy consumption of covered equipment.

b. Technologies Relevant Only to Equipment With Doors

In chapter 3 of the NOPR TSD, DOE mentioned three technologies that could apply only to doored equipment: anti-fog films, anti-sweat heater controllers, and high performance doors. Not all of these technologies were considered in the NOPR engineering analysis, as some were screened out or removed from consideration on technical grounds. The following sections discuss stakeholder comments regarding these technologies.

Anti-Fog Films

Traulsen commented that while DOE called for the use of advanced hydrophobic materials in the form of anti-fog films to prevent condensation build-up, there were concerns with regard to the NSF certification of this feature. (Traulsen, No. 65 at p. 11) DOE wishes to clarify that, while it included anti-fog films for consideration in the NOPR market and technology assessment, it did not include them as a design option in the engineering analysis. For a full discussion of why DOE did not consider anti-fog films, please see chapter 5 of the NOPR TSD. DOE agrees with Traulsen's concerns, amongst others, and continued to exclude this technology from its analysis at the final rule stage.

Anti-Sweat Heater Controllers

In its statements at the NOPR public meeting, the California IOUs urged DOE to consider anti-sweat heater controllers as a design option due to their large savings potential. (CA IOUs, Public Meeting Transcript, No. 62 at p. 19) However, in its written comment, Traulsen pointed out that these may be impractical, since sensor technologies had high failure rates in kitchen environments. (Traulsen, No. 65 at p. 11)

DOE addressed consideration of this technology in chapter 4 of the NOPR TSD. Anti-sweat heater controllers modulate the operation of anti-sweat heaters by reducing heater power when

humidity is low, and operate most effectively when a constant ambient dew point cannot be maintained. However, in the context of the DOE test procedure, anti-sweat heater controllers solely serve to keep the power to the anti-sweat heaters at the levels necessary for the test conditions. These fixed conditions of 75 °F and 55 percent relative humidity are the conditions that ASHRAE has determined to be generally representative of commercial refrigeration equipment operating environments and which DOE has adopted in its test procedure. While anti-sweat heater controllers could modulate the anti-sweat power to a further extent in the field so as to account for more or less extreme ambient conditions, a system equipped with anti-sweat heater controllers will not likely exhibit significantly different performance at test procedure conditions than a unit with anti-sweat heaters tuned for constant 75/55 conditions. Because they would have no impact on measured energy consumption under the DOE test procedure, DOE did not consider anti-sweat heater controllers in the engineering analysis.

c. Technologies Applicable Only to Equipment Without Doors

In chapter 3 of the NOPR TSD, DOE mentioned two technologies, air-curtain design and night curtains, that potentially could be used to improve the efficiency of commercial refrigeration equipment without doors. Air curtain design was not considered in the NOPR engineering analysis, as it was screened out and removed from consideration because, according to the information available to DOE, advanced air curtain designs are still in research and development stages and are not yet available for use in the manufacture of commercial refrigeration equipment. The following sections address stakeholder comments regarding technologies applicable to equipment without doors.

Air-Curtain Design

In its written comment, Traulsen expressed concern over the use of advanced air curtain designs. (Traulsen, No. 65 at p. 11) DOE agrees with Traulsen that advanced air curtain designs are not currently a feasible option for use in commercial refrigeration equipment. Sections 4(a) and 5(b) of the Process Rule specifically set ''practicability to manufacture, install, and service'' as a criterion that should be satisfied for technology to be considered as a design option. In chapter 4 of the NOPR TSD, DOE explained that advanced air curtain designs are only in the research stage and, therefore, that it would be impracticable to manufacture, install, and service this technology on the scale necessary to serve the relevant market at the time an amended standard would become effective. For that reason, DOE screened out improved air curtains as a design option for improving the energy efficiency of commercial refrigeration equipment.

C. Screening Analysis

DOE uses four screening criteria to determine which design options are suitable for further consideration in a standards rulemaking. Namely, design options will be removed from consideration if they are not technologically feasible; are not practicable to manufacture, install, or service; have adverse impacts on product utility or product availability; or have adverse impacts on health or safety. 10 CFR part 430, subpart C, appendix A, sections (4)(a)(4) and (5)(b).

In comments received after the NOPR publication, Traulsen commented that, while DOE screened out certain technology options due to impacts on end-users, it was unclear why the same technology option was screened out for some equipment classes but not others. (Traulsen, No. 65 at p. 2)

During the screening analysis, DOE considered sections 4(b)(4) and 5(b) of the Process Rule, which provide guidance in determining whether to eliminate from consideration any technology that presents unacceptable problems with respect to certain criteria. These criteria include technological feasibility, practicability to manufacture, install, and service, impacts on equipment utility or equipment availability, and adverse impacts on health or safety. If DOE determines that a technology, or a combination of technologies, meet any of the criteria set forth in section 5(b) of the Process Rule, it will be eliminated from consideration. This screening process is applied to each candidate technology being considered, and is applicable across all equipment classes. Therefore, in response to the comment from Traulsen, DOE does not believe that it screened out any particular technology options for some classes but not others.

Based on all available information, DOE has concluded that: (1) All of the efficiency levels discussed in today's document are technologically feasible; (2) equipment at these efficiency levels could be manufactured, installed, and serviced on a scale needed to serve the relevant markets; (3) these efficiency levels would not force manufacturers to use technologies that would adversely affect product utility or availability; and (4) these efficiency levels would not adversely affect consumer health or safety. Thus, the efficiency levels that DOE analyzed and discusses in this document are all achievable through technology options that were ''screened in'' during the screening analysis.

D. Engineering Analysis

The engineering analysis determines the manufacturing costs of achieving increased efficiency or decreased energy consumption. DOE historically has used the following three methodologies to generate the manufacturing costs needed for its engineering analyses: (1) The design-option approach, which provides the incremental costs of adding to a baseline model design options that will improve its efficiency; (2) the efficiency-level approach, which provides the relative costs of achieving increases in energy efficiency levels, without regard to the particular design options used to achieve such increases; and (3) the cost-assessment (or reverse engineering) approach, which provides ''bottom-up'' manufacturing cost assessments for achieving various levels of increased efficiency, based on detailed data as to costs for parts and material, labor, shipping/packaging, and investment for models that operate at particular efficiency levels.

As discussed in the Framework document, preliminary analysis, and NOPR analysis, DOE conducted the engineering analyses for this rulemaking using a design-option approach for commercial refrigeration equipment. The decision to use this approach was made due to several factors, including the wide variety of equipment analyzed, the lack of numerous levels of equipment efficiency currently available in the market, and the prevalence of relatively easily implementable energy-saving technologies applicable to this equipment. More specifically, DOE identified design options for analysis, used a combination of industry research and teardown-based cost modeling to determine manufacturing costs, and employed numerical modeling to determine the energy consumption for each combination of design options used to increase equipment efficiency. DOE selected a set of 25 high-shipment classes, referred to as ''primary'' classes, to analyze directly in the engineering analysis. Additional details of the engineering analysis are available in chapter 5 of the final rule TSD.

1. Representative Equipment for Analysis

a. Representative Unit Selection

In performing its engineering analysis, DOE selected representative units for each primary equipment class to serve as analysis points in the development of cost-efficiency curves. In selecting these units, DOE researched the offerings of major manufacturers to select models that were generally representative of the typical offerings produced within the given equipment class. Unit sizes, configurations, and features were based on high-shipment-volume designs prevalent in the market. Using this data, a set of specifications was developed defining a representative unit for each primary equipment class. These specifications include geometric dimensions, quantities of components (such as fans), operating temperatures, and other case features that are necessary to calculate energy consumption. Modifications to the units modeled were made as needed to ensure that those units were representative of typical models from industry, rather than a specific unit offered by one manufacturer. This process created a representative unit for each equipment class with typical characteristics for physical parameters (*e.g.,* volume, TDA), and minimum performance of energy-consuming components (*e.g.,* fans, lighting).

b. Baseline Models

DOE created a set of baseline design specifications for each equipment class analyzed directly in the engineering model. Each set of representative baseline unit specifications, when combined with the lowest technological level of each design option applicable to the given equipment class, defines the energy consumption and cost of the lowest efficiency equipment analyzed for that class. Chapter 5 of the final rule TSD sets forth the specifications that DOE chose for each equipment class and discusses baseline models in greater detail.

One complexity involved in developing an engineering baseline was due to the variety of designs and technology options that manufacturers could utilize in order to meet the recently-implemented standards arising from EPACT 2005 and the 2009 final rule. Through its analyses, DOE determined that manufacturers were utilizing a wide variety of design paths in order to meet the necessary performance level. Therefore, in order to develop its engineering results for the current rule, DOE retained the engineering baseline and associated technologies used in its January 2009 final rule engineering analysis and expanded them to accommodate the new equipment classes covered by the standards initially established by EPCA. (42 U.S.C. 6313(c)(2)–(3)) DOE then added technologies to this baseline to develop its cost-efficiency curves, and ordered the technology options from lowest to highest payback period. The result was a set of cost-efficiency curves reflecting what DOE believes to be the most cost-effective means of meeting the existing standards, as well as that of attaining the higher levels of performance reflected in today's rule.

As a result, some of the engineering results represent levels of unit performance that are below the standard levels for equipment currently on the market and subject to DOE's existing standards. (10 CFR 431.66). However, in its LCC and other downstream analyses, DOE accounted for this fact by utilizing a standards baseline as the minimum efficiency level examined, thereby truncating the engineering design option levels so that the lowest efficiency point analyzed corresponded to the current standard level with which that particular model of equipment would have to comply. The exact procedure is described in section IV.F and additional details are provided in chapter 8 of the final rule TSD.

After publication of the NOPR and the NOPR public meeting, DOE received a number of comments from interested parties regarding its establishment of baseline models, and the features and design specifications included in those baseline models. The subsequent sections contain those comments and DOE's responses.

Composition of Baseline

Southern Store Fixtures Inc. (Southern Store Fixtures), AHRI, Hussmann and Structural Concepts expressed concern that, by keeping the baseline consistent between the previous rule and the proposed rule, DOE had failed to account for the efficiency improvement brought about by the previous standard, thereby overestimating the potential for energy savings. (Southern Store Fixtures, No. 67 at p. 2) (AHRI, No. 75 at p. 2) (Hussmann, No. 77 at p. 9) (Structural Concepts, No. 85 at p. 1) Additionally, AHRI noted that although the current rulemaking retains the baseline specifications and some related technologies from the previous rulemaking, there are differences in the baseline energy consumption across the two rulemakings. (AHRI, No. 75 at p. 4)

The Joint Comment pointed out that, for some equipment classes, many ENERGY STAR-qualified products were rated as being less efficient than the modeled baseline. Further, the Joint Comment urged DOE to re-evaluate the baseline levels for equipment classes for which the current standards were established by EPACT 2005. (Joint Comment, No. 91 at p. 5)

In response to the comments raised by interested parties regarding the modeled equipment baseline, DOE points out that there is currently no prescriptive requirement that commercial refrigeration equipment use any specific combination of features to meet the existing EPACT 2005 or 2009 final rule standard levels. For this reason, and in order to ensure a proper ordering of the implementation of efficiency-improving technologies in its engineering analysis, DOE started with an engineering baseline which was, in many cases, below the performance level mandated by the current standards. DOE then modeled equipment with increasingly higher levels of performance by implementing the applicable design options in order of ascending payback period. The result of this was a modeled configuration reflecting, based on the information available to DOE, the most cost-effective way to build a model which complies with the existing standards. Then, DOE continued to add the remaining design options until it reached the max-tech level. It was these additional efficiency levels above the performance level required by the existing standard that were considered as offering incremental efficiency improvements beyond the level required at the time of the analysis.

Energy savings and downstream impacts (such as life-cycle cost and national net present value results) were calculated based on a base case efficiency distribution in which minimum-efficiency products available today are assumed to comply with existing standards. Therefore the modeled design options up to the level of performance required by existing standards did not have any impact on the energy or cost savings attributed to the amended standards prescribed today, but rather, served only to align the engineering cost-efficiency curve with the technologies which present the shortest-payback options for reducing energy consumption. As a result, DOE believes that the assertion of some stakeholders that its methodology overstates the energy savings attributable to today's rule is inaccurate.

With regard to the specific technology modeling that was discussed by AHRI, DOE updated modeling of some baseline design options and components from the 2009 final rule to the current

rulemaking to ensure the most accurate possible depiction of components currently available on the market. In the final rule stage, DOE revisited these design option parameters based on stakeholder comments and further revised them where appropriate so as to ensure a greater degree of accuracy in the engineering model inputs. Therefore, DOE understands that there may be adjustments to the numerical outputs of the modeling of baseline units between rulemakings and rulemaking stages.

In response to the issue raised in the Joint Comment, DOE wishes to point out that the ENERGY STAR-qualified directory [30] is, by design, not necessarily an exhaustive source of information for all models available on the market. However, DOE has adjusted its modeling of baseline units in the final rule stage of the analysis and, in conducting comparisons between its engineering results and market data such as the ENERGY STAR directory, has found agreement between the performance results obtained from its engineering analysis and the data points contained in the ENERGY STAR directory.

Condensate Pan Heaters

In their written comments, manufacturers provided input on the modeling of condensate pan heaters in baseline and higher-performance units. Traulsen noted that closed door refrigerators were modeled in the NOPR engineering analysis as not requiring electric condensate pan heaters, while freezers were modeled as using this component, even though refrigerators face the same physical limitations as freezers. Further, Traulsen commented that DOE should consider the power required to bring condensate pan heaters to operating temperature and the idle power consumption of empty condensate pans when reviewing energy conservation strategies. Further, Traulsen expressed the belief that electric condensate pan heaters are an important feature which cannot be ignored. (Traulsen, No. 65 at p. 1) Similarly, Hussmann also commented that in self-contained medium-temperature units, manufacturers are required to use condensate evaporator pans, the lack of which would reduce utility to end-users. (Hussmann, No. 77 at p. 7)

In response to the comments provided by Traulsen and Hussmann, DOE revisited its engineering analysis and added condensate pan heaters for medium-temperature vertical closed-door cases to its analytical model. Additionally, in response to Traulsen's suggestion, DOE added a factor of an additional 10% pan energy consumption to its modeling of condensate pan energy use in order to account for the energy needed to bring the pan up to temperature. However, DOE did not add further energy in its engineering simulation to account for idle consumption of empty condensate pans, as DOE understands that most condensate pan heaters use float switches or other sensor devices to activate the pan heater only when the water level is sufficiently high to require it, minimizing operation of heaters with empty pans.

Defrost

In its written comment, Traulsen provided additional information to assist in DOE's modeling of defrost systems. Traulsen commented that while the DOE model assumed that all VCT.SC.M and VCS.SC.M units employ off-cycle defrost systems, this is not true in real-life applications. Traulsen further commented that, for most refrigerator models, it uses an electric defrost element. Traulsen further noted that if electric defrost were included, all theoretical models would fail to meet the proposed standard. Additionally, Traulsen commented that DOE's model seems to ignore desired features such as hot-gas defrost and electric defrost systems, even though they are widely available in the market.

Traulsen commented that defrost cycles tend to terminate when the evaporator coil reaches a predetermined temperature, but the time period required for melting all accumulated frost varies with the mass of the evaporator coil and surrounding components. Further, Traulsen noted that the DOE spreadsheet appears not to account for these accommodations, and fails to account for increased defrost length when using enhanced evaporator coils, which have a 50% higher mass than the baseline coil designs. Traulsen commented that, in the DOE NOPR engineering model, defrost heater wattage only varied in proportion to the length of the cabinet, and not with the cabinet height or volume. Furthermore, Traulsen noted that the heater wattage calculated for full-height closed door cabinets appear to be too high. (Traulsen, No. 65 at p. 11) Structural Concepts commented that the multipliers used to model defrost cycles should differ between open and closed type cases. (Structural Concepts, No. 85 at p. 3)

After the NOPR public meeting and upon receipt of comments, DOE researched defrost mechanisms applied in medium-temperature applications. Specifically, DOE investigated this subject through review of manufacturer literature such as manuals and replacement parts catalogs, as well as through testing and teardown of selected units. The results of this investigation contradicted Traulsen's assertion that electric defrost is commonly used in medium-temperature units, as DOE did not find evidence of this. Additionally, examination of public certification databases such as the ENERGY STAR directory showed equipment performance levels inconsistent with the use of substantial amounts of electric defrost. Therefore, DOE did not find sufficient evidence to warrant adding the modeling of electric defrost to its engineering analysis. With respect to the discussion of hot gas defrost, DOE understands that this feature is currently used by some manufacturers in the market, but did not explicitly model it due to concerns raised through comments and in manufacturer interviews regarding reliability issues with this feature.

In response to the comments from Traulsen and Structural Concepts regarding defrost cycle lengths, DOE based its modeling of defrost cycles for various equipment classes based on a number of sources, including manufacturer literature, manufacturer interviews, and testing of equipment currently on the market. Thus DOE agrees that the defrost length values should vary by equipment class, and has modeled them as such in its engineering analysis. With respect to Traulsen's comment on additional defrost power being needed for larger evaporator coils, DOE constrained the size of the evaporator coils modeled in the final rule analysis, thus mitigating concern over this issue. Additionally, in the final rule engineering analysis, for vertical freezers, DOE adjusted the modeled defrost heater wattages based on inputs from Traulsen's comment and other sources. DOE believes that these changes better reflects the actuality of defrost mechanisms utilized in these equipment classes.

Lighting Configurations

Hillphoenix commented that the number of shelves, and therefore shelf lights, varies greatly for SVO cases depending on the height of the case. Hillphoenix further commented that there exist ''extreme configuration differences'' among cases within the same class. (Hillphoenix, No. 71 at p. 4)

[30] Available *http://www.energystar.gov/certified-products/certified-products.*

In developing its engineering analysis for this rulemaking, DOE collected data on common designs within the industry. This information included specifications on lighting configurations and formed the basis for the representative units modeled within the engineering analysis. Based on input collected over the course of the current rulemaking and in the development of the 2009 final rule, DOE believes that its design specifications, including lighting configurations, are accurate and representative of the various covered classes, including SVO cases. Additionally, DOE notes that for SVO cases, the allowable energy consumption under the existing and amended standards is a function of TDA. Cases with greater height, such as those suggested by Hillphoenix, would have a greater measured total display area and thus would be allowed a proportionally larger amount of energy. Therefore, DOE believes that its existing analytical methodology accounts for the concerns raised by Hillphoenix.

Infiltration Loads

Manufacturers opined that DOE's modeling of air infiltration caused by door openings could be improved. Continental Refrigerator (Continental), Hussmann, and Traulsen all commented that air exchange during door openings significantly affects system energy consumption. (Hussmann, No. 77 at p. 3) (Traulsen, No. 65 at p. 10) (Continental, No. 87 at p. 2) Specifically, True commented that door openings and the resultant air exchange could account for between 15% and 25% of a unit's energy consumption. (True, Public Meeting Transcript, No. 62 at p. 151)

Traulsen commented that the energy consumption formulas for closed door models fail to account for gasket losses (heat gain or added load), and that it was concerned with the use of the air infiltration load models applied, especially with respect to closed door units, since real world conditions can vary from those experienced during the ASHRAE test procedure. (Traulsen, No. 65 at p. 10) Moreover, Continental noted that the percentage of air that is exchanged varies greatly with the configuration and type of cabinet. Continental further commented that the DOE model did not provide sufficient explanation of how air infiltration loads were calculated for different cabinet types. (Continental, Public Meeting Transcript, No. 62 at p. 123) Structural Concepts commented that the multipliers used to model infiltration should differ between open and closed type cases. (Structural Concepts, No. 85 at p. 3) ACEEE commented that tracer gas analysis, a well-established technology, could be used to analyze the actual air exchange that occurs during door openings. (ACEEE, Public Meeting Transcript, No. 62 at p. 154)

DOE understands the significance of air infiltration and is aware of its impact on the modeled energy consumption of commercial refrigeration equipment. In response to these comments, DOE reviewed its modeled infiltrated air mass values between the NOPR and final rule stages of the rulemaking. Specifically, DOE adjusted the values for a variety of classes to better align with new information presented in stakeholder comments and other sources. This included adjustments to account for the impacts of the respective air densities at the three DOE rating temperatures, and scaling to better simulate the impacts of case geometry. For full details on the infiltration levels modeled, please refer to chapter 5 and appendix 5A of the final rule TSD.

With respect to the comment from True regarding the percentage of case heat load attributable to infiltration, DOE's engineering model provides a specific breakdown of the constituent components of the case heat loads modeled in its simulation. A review of the DOE engineering model shows the contribution of infiltration to case heat load for closed-door units to be in line with the figures provided by True. In response to the comment from Traulsen, DOE believes that gasket losses are accounted for in its infiltrated air mass values. These values were derived from manufacturer literature based upon test performance under ASHRAE conditions, and thus would encapsulate all phenomena, including gasket losses, encountered by the unit which contribute to the infiltration load during operation. The engineering model simulates performance under the DOE test procedure, and thus changes which may be encountered in the field such as those noted by Traulsen are not specifically relevant to the calculated daily energy consumption values used for standards setting purposes. Therefore, DOE does not see a need to change its methodology to account for this attribute.

DOE agrees with Continental and Structural Concepts that wide variation in infiltration is observed among different equipment classes, particularly between open and closed cases. DOE believes that its updated air infiltration values better account for differences that exist in infiltration loads among cases of different configurations, geometries, sizes, and operating temperatures.

With respect to the comment from ACEEE, DOE understands that tracer gas analysis could be used in a controlled laboratory environment to possibly determine infiltration rates into commercial refrigeration equipment. However, within the scope, time frame, and resources of this rulemaking process, DOE did not pursue that method to further investigate infiltration effects. Instead, DOE continued to base its approach on infiltration load values calculated from manufacturer literature, and adjusted those values based upon comments received after publication of the NOPR. DOE believes that this is an accurate approach, consistent with methodologies employed in other past and current rulemakings, which is substantiated by the best available data as of the time of this analysis.

2. Design Options

After conducting the screening analysis and removing from consideration technologies that did not warrant inclusion on technical grounds, DOE included the remaining technologies as design options in the energy consumption model for its engineering analysis:

- Higher efficiency lighting and occupancy sensors for VOP, SVO, and SOC equipment families (horizontal fixtures);
- higher efficiency lighting and occupancy sensors for VCT and PD equipment families (vertical fixtures);
- improved evaporator coil design;
- higher efficiency evaporator fan motors;
- improved case insulation;
- improved doors for VCT equipment family, low temperature and ice-cream temperature (hinged);
- improved doors for VCT and PD equipment families, medium temperature (hinged);
- improved doors for HCT equipment family, low temperature and ice-cream temperature (sliding);
- improved doors for HCT equipment family, medium temperature (sliding);
- improved doors for SOC equipment family, medium temperature (sliding);
- improved condenser coil design (for self-contained equipment only);
- higher efficiency condenser fan motors (for self-contained equipment only);
- higher efficiency compressors (for self-contained equipment only); and
- night curtains (equipment without doors only).

After publication of the NOPR, DOE received a number of comments on its choice and implementation of certain design options within the engineering analysis. The following sections address these stakeholder comments.

a. Fluorescent Lamp Ballasts

Traulsen commented that markets have already trended towards electronic (solid-state) ballasts to modulate power provided by T8 lights. Traulsen raised concern that DOE analysis might therefore be unfairly overstating savings from the adoption of TSL4 by including electronic ballasts as a design option in its analysis. (Traulsen, No. 65 at p. 4)

DOE understands that electronic ballasts are ubiquitous in the commercial refrigeration equipment market within cases that use fluorescent lighting and agrees with the comment presented by Traulsen. In its NOPR engineering analysis, DOE modeled the baseline design option in cases with lighting as comprised of T8 fluorescent fixtures with electronic ballasts. At improved levels of efficiency, DOE implemented super-T8 fluorescent lighting, LED lighting, and LED lighting with occupancy sensors. DOE did not model magnetic ballasts within its NOPR engineering analysis. Given the comments received at the NOPR stage, DOE retained this stance in its final rule engineering analysis.

With regard to Traulsen's assertion that DOE might be overstating savings, DOE wishes to clarify that energy savings and downstream impacts (such as life-cycle cost and national net present value results) were calculated using a base case efficiency distribution in which minimum-efficiency products available today are assumed to comply with existing standards. Therefore, the modeled design options up to the level of performance required by existing standards did not have any impact on the energy or cost savings attributed to the amended standards set forth today, but rather, served only to align the engineering cost-efficiency curve with the technologies which present the shortest-payback options for reducing energy consumption.

b. Condenser Fans

Southern Store Fixtures and AHRI commented that the modeling of electronically commutated motors (ECMs) in condenser fan applications was redundant, since they believe that all equipment in compliance with the 2009 final rule are already using ECMs. (Southern Store Fixtures, No. 67 at p. 4) (AHRI, No. 75 at p. 7)

DOE understands that manufacturers may currently be choosing to utilize ECM fan motors as part of their designs on the market. However, the 2009 final rule and EPACT 2005 standards do not include prescriptive requirements, so DOE is unable to assume that manufacturers have all used any one single design path in order to achieve the necessary performance levels. Instead, DOE started its analysis with an engineering baseline representing designs less sophisticated than needed to meet the current standard levels, and added all available design options, including some previously considered in the 2009 final rule, until reaching the max tech efficiency level. This method allowed DOE to order all design options in the most cost-effective manner. However, only those modeled efficiency levels having performance above the level required by existing standards were considered as contributing to the energy and cost savings attributable to this rule. For a further explanation of this methodology, please see section IV.D.1.b, ''Baseline Models.''

c. Evaporator Fans

Southern Store Fixtures and AHRI commented that the modeling of ECM fan motors in evaporators was redundant, since they believe that all equipment in compliance with the 2009 final rule is already using ECMs. (Southern Store Fixtures, No. 67 at p. 4) (AHRI, No. 75 at p. 7) Continental commented that shutting off the fans during door-opening could cause the evaporator coil to freeze up, and thus that this should not be considered as an option. (Continental, Public Meeting Transcript, No. 62 at p. 153)

DOE understands that many manufacturers may currently be choosing to utilize ECM fan motors as part of their designs on the market at this time. However, the 2009 final rule and EPACT 2005 standards do not include prescriptive requirements, so DOE was unable to assume that manufacturers all chose any one single design path in order to achieve the necessary performance levels. Instead, DOE started with a simpler engineering baseline representing equipment performance at a lower level than that permitted by current standards, and added all design options, including some previously considered in the 2009 final rule, until reaching the max tech level. This method allowed DOE to order all design options in the most cost-effective manner. However, only those modeled efficiency levels performance above the level required by existing standards were considered as contributing to the energy and cost savings attributable to this rule. For a further explanation of this methodology, please see section IV.D.1.b, ''Baseline Models.''

DOE agrees with the concerns of Continental regarding turning off evaporator fans, and did not model evaporator fan controls as a design option in this rulemaking due to a number of issues including the integrity of the air curtain on open cases and food safety issues due to lack of air circulation arising from stopping the evaporator fans. For a full discussion of this issue, please see chapter 5 of the final rule TSD.

d. Design Options Impacting Equipment Form Factor

Some manufacturers and consumer groups urged DOE to screen out any design options which would even marginally affect the geometry of a model, either by increasing its total footprint or reducing the cooled internal space. Specifically, these comments referred to DOE's consideration of added insulation thickness as a design option. True commented that it was impractical to increase the total footprint of equipment since almost all commercial kitchen equipment has a fixed footprint and replacement units must fit into the same space as old units. (True, No. 76 at p. 1) Continental commented that a ½″ increase in insulation of walls could have a significant impact on end-users and manufacturers, since equipment is often designed for very specific footprints and layouts. Continental further commented that while an inch less inside space or an inch larger cabinet may seem insignificant, it may be important to end-users. (Continental, Public Meeting Transcript, No. 62 at p. 103) Traulsen, too, noted that both internal capacity and footprint of a unit were its key selling points. (Traulsen, No. 65 at p. 7) Hoshizaki, True, AHRI, NAFEM, SAF, Continental, Structural Concepts and Hillphoenix all opined that increasing the case insulation requirement by even ½″, would lead to a significant increase in footprint, or decrease in internal volume—both of which would detrimentally affect consumer utility, since many commercial environments have very limited floor space. (Hoshizaki, No. 84 at p. 2) (True, No. 76 at p. 3) (AHRI, No. 75 at p. 6) (NAFEM, No. 93 at p. 5) (SAF, No. 74 at p. 6) (Continental, No. 87 at p. 3) (Structural Concepts, No. 85 at p. 2) (Hillphoenix, No. 71 at p. 3)

DOE understands stakeholder concerns over unit form factor, and discussed these concerns thoroughly in its manufacturer interviews conducted at the NOPR stage of the rulemaking. At that time, manufacturers agreed that the addition of ½″ of insulation above the baseline thicknesses modeled (1.5″, 2″, and 2.5″ for refrigerators, freezers, and ice cream freezers, respectively) was feasible, albeit at the expense of equipment redesign and replacement of

foaming fixtures. DOE incorporated cost figures for these factors into the engineering and manufacturer impact analyses so as to account for the costs of additional foam as a design option. With respect to the concerns over additional foam thickness having an impact on the usefulness of the product to consumers, DOE notes that in its teardown analyses it encountered a number of models currently on the market utilizing the increased foam wall thicknesses which it modeled. Since manufacturers are already employing these wall thicknesses in currently-available models, DOE believes that this serves as a proof of concept and that the resulting changes to form factor would be of minimal impact to end users. DOE also would like to remind stakeholders that it is not setting prescriptive standards, and should manufacturers value some features over others, they are free to use different design paths in order to attain the performance levels required by today's rule.

e. Vacuum Insulated Panels (VIPs)

True, Structural Concepts, and Traulsen commented that the use of VIPs is very cost-prohibitive and can reduce the structural strength of the unit. Additionally, Traulsen recommended further discussion on the use of vacuum insulated panels, specifically on the structural integrity and associated trade-offs of this technology. (Traulsen, No. 65 at p. 10) (True, No. 76 at p. 3) (Structural Concepts, No. 85 at p. 2)

DOE considered vacuum insulated panels as a design option in its engineering analysis because they have the potential to improve equipment efficiency, are available on the market today, are currently used in refrigeration equipment, and pass the screening criteria set forth in sections 4(b)(4) and 5(b) of the Process Rule. However, DOE understands that there is a high level of cost required to implement this design option, including redesign costs, and sought to reflect that fact through appropriate cost values obtained from manufacturer interviews and other sources and included in its analyses. As a result, vacuum insulated panels appear only in max-tech designs for each equipment class, and are not included in any of the modeled configurations selected in setting the standard levels put forth in today's document.

f. Variable-Speed Fan Motors

Traulsen commented that while DOE suggested varying condenser and evaporator fan speeds to improve performance, Traulsen equipment is used in applications in which food safety concerns make this option infeasible. Traulsen further commented that NSF issues related to food safety and sanitation must be a primary consideration over energy savings. (Traulsen, No. 65 at p. 5) However, ebm-papst, Inc. (ebm-papst) noted that variable speed condenser fans have successfully been deployed in the European market. (ebm-papst, No. 70 at p. 3)

DOE agrees with Traulsen's concerns over food safety issues arising from possible implementation of evaporator fan control schemes. DOE noted in chapter 5 of its NOPR TSD that the effectiveness of the air curtain in equipment without doors is very sensitive to changes in airflow, and fan motor controllers could disrupt the air curtain. The potential of disturbance to the air curtain, which could lead to higher infiltration loads, does not warrant the use of evaporator fan motor controllers in equipment without doors, even if there were some reduction in fan energy use. With respect to equipment with doors, DOE, in its discussions with manufacturers, found that there are concerns in industry about the implementation of variable-speed fan technology due to the need to meet food safety and maximum temperature requirements. Varying the fan speed would reduce the movement of air within the case, potentially leading to the development of ''hot spots'' in some areas of the case, where temperatures could exceed the desired value. This finding aligns with the concerns raised by Traulsen. Some industry representatives also stated during interviews that the use of such controllers could have unintended consequences, in which fans would be inadvertently run at full power to attempt to overcome a frosted or dirty coil, resulting in wasted energy. Due to the uncertainties that exist with respect to these technologies, DOE did not consider variable-speed evaporator fan motors or evaporator fan motor controllers as a design option in its NOPR or final rule analyses.

In response to the comment from ebm-papst, DOE points out that it discussed condenser fan controls in chapter 4 of its NOPR TSD. Because testing under the ANSI/ASHRAE Standard 72 test procedure is conducted at a constant ambient temperature, there is little opportunity to account for the adaptive technology of varying condenser fan motor speed to reduce daily energy consumption of a given model. Moreover, DOE understands that condenser fan motor controllers function best when paired with a variable-speed modulating compressor, a technology that DOE understands to be only in the early stages of implementation in this industry. Therefore, DOE did not consider variable-speed condenser fan motors or condenser fan motor controllers as design options in its engineering analysis.

g. Improved Transparent Door Designs

In the NOPR, DOE modeled triple pane, low-e coated glass in the configuration of an advanced design option for vertical medium-temperature cases with transparent doors. Hussmann commented that low-e coatings have an inherent tint to them, which reduces the visibility of merchandise through a triple-paned, low-e coated glass door. (Hussmann, Public Meeting Transcript, No. 62 at p. 99) SAF, AHRI and NRA also expressed concern over product visibility associated with this technology. (SAF, No. 74 at p. 6) (AHRI, No. 75 at p. 6) (NRA, No. 90 at p. 5) Traulsen, NAFEM, Continental, Royal Vendors, and True noted that triple-pane glass doors are much heavier than double-paned doors, and increase the risk of the unit tipping over, especially when it is near empty. Additionally, True pointed out that triple-paned glass led to reduced thermo-break in hinge areas, reduction in internal volume of sliding doors, failure to clear the Underwriters Laboratories (UL) 471 tip-test,[31] door opening difficulties due to added mass and easier breakage. Traulsen also noted that an enhanced door would require design changes including heavier hinges, and a complete redesign of sliding doors with applications in narrow aisles. (Continental, No. 87 at p. 3) (NAFEM, No. 93 at p. 7) (True, No. 76 at p. 2) (Traulsen, No. 65 at p. 10)

Additionally, AHRI commented that, for HCT equipment, the NOPR TSD considered two extra panes of glass for high-performance doors that were used in low and ice-cream temperatures, whereas only a single extra pane of glass was used for medium temperature high-performance doors. (AHRI, No. 75 at p. 7)

The CA IOUs disagreed with the comments from many manufacturers and trade associations, and in a written comment opined that triple-pane, low-e transparent doors were feasible in medium temperature applications and were already found in existing

[31] UL standard 471, ''Commercial Refrigerators and Freezers,'' is a safety standard applicable to this equipment. Part of this procedure includes a test of the ability of the unit to avoid tipping over under certain conditions. This is the ''tip test'' referenced by the commenter.

equipment. (CA IOUs, No. 63 at p. 6) The Joint Comment suggested that if the use of triple-pane, low-e doors were to reduce product visibility, then increased lighting levels may be more energy-efficient than reverting to double-pane glass. (Joint Comment, No. 91 at p. 4)

DOE understands the concern of manufacturers and other interested parties regarding the applicability and appropriateness of triple-pane, low-e doors in medium temperature equipment. The range of concerns suggests that manufacturers may encounter significant issues of redesign, recertification, consumer choice, and possible loss of some functionality were this feature to be implemented across all medium-temperature glass-door units. Therefore, in its final rule modeling of glass doors, DOE restricted its high-performance design to consider only two panes of glass for medium-temperature cases.

In response to AHRI's comments regarding HCT doors, DOE asserts that HCT doors as modeled in its engineering analysis for the NOPR featured the same number of panes of glass in both low/ice cream and medium temperature designs. For these equipment types, the baseline door featured a single pane of glass, while the high-performance door featured a second pane of glass. These designs are consistent with what DOE has observed on the market and in the design of similar equipment. Therefore, DOE retained these designs, with respect to the number of panes of glass modeled, in its final rule engineering analysis.

DOE agrees with the CA IOUs that some equipment currently on the market for medium-temperature applications does feature triple-pane, low-e glass doors. However, this is not a standard design and DOE understands the concerns of manufacturers in applying this feature to the entirety of their product lines. Due to concerns over applicability and implementation of triple-pane, low-e doors in all medium-temperature products, DOE retained a double-pane design in its final rule engineering analysis simulation of improved glass door performance. However, DOE wishes to point out again that it is not setting prescriptive design requirements, and thus manufacturers are free to use only those designs and technologies they see fit in order to attain the level of performance specified in today's final rule.

h. High-Performance Coil Designs

In order to model improved performance, DOE considered the use of improved evaporator and condenser coils as design options. However, many manufacturers felt that while these design options provided theoretical efficiency gain, there are several practical issues which mitigated these gains in the field. Heatcraft commented that the phrase ''improved evaporator coil design'' was a very generic term, and that coils that can be designed for high efficiency in a laboratory environment may not serve the purpose of the equipment functionally in the field. (Heatcraft, Public Meeting Transcript, No. 62 at p. 77) Danfoss, Traulsen, Southern Store Fixtures, Royal Vendors and True commented that higher fin density for evaporators and condensers would lead to frequent clogging and freezing, which could not only cause an increase in energy use, but also cause the unit to not maintain temperature levels required for safe storage of food. (Danfoss, No. 61 at p. 4) (Traulsen, No. 65 at p. 6) (Southern Store Fixtures, No. 67 at p. 3) (Royal, No. 68 at p. 1) (True, Public Meeting Transcript, No. 62 at p. 67)

At the NOPR stage, DOE modeled an improved evaporator coil with a larger number of tube passes than the baseline design; however, Traulsen commented that if an evaporator with a larger number of tube passes is selected, there is an increased risk of refrigerant pressure drop through the coils. Traulsen further commented that, with multiple tubing circuits, this drop could be so substantial that the refrigerant could fail to make its way back to the compressor. (Traulsen, No. 65 at p. 6)

DOE also modeled rifled evaporator tubes to improve coil performance in its NOPR analyses. Southern Store Fixtures commented that the use of rifled tubing for evaporator coils may have no significant improvement in coil performance for commercial refrigeration systems. (Southern Store Fixtures, No. 67 at p. 3) AHRI commented that rifling of evaporator coil tubes is common in the industry, but that in practical applications, lower evaporation temperatures and lower flow rates result in no significant efficiency improvement attributable to internally enhanced tubing. (AHRI, No. 75 at p. 3) Continental commented that rifled tubing for evaporator coils causes turbulence in refrigerant flow, leading to slugging and stress concentrations, which lead to increased maintenance costs and failure possibilities. (Continental, No. 87 at p. 2)

Another concern amongst manufacturers was the effect of incorporating larger evaporator and condenser coils into a unit. AHRI noted that there had been drastic reductions in the overall width and depth of the modeled evaporator coils since the last rulemaking. Further, AHRI noted that while DOE relied on its contractors for details on coil construction, it did not provide any references to studies that justify changes in coil dimensions. (AHRI, No. 75 at p. 5) Traulsen commented that larger coils would require equipment redesign, resulting in possible obsolescence of smaller lines and custom applications. (Traulsen, No. 65 at p. 6) Hillphoenix commented that the use of taller coils would decrease the amount of product that could be put in the case, or would move the product further away from consumers, and that this would be unacceptable to retailers. (Hillphoenix, No. 71 at p. 4) Hussmann commented that increasing evaporator and condenser coil dimensions would involve engineering costs associated with redesigning parts of the case that interface with the coil. (Hussmann, No. 77 at p. 2) Structural Concepts commented that changing the overall height of heat exchangers would require that either the display capacity to be reduced, or the overall height of a unit be increased, which would impact utility negatively. (Structural Concepts, No. 85 at p. 2) Continental commented that in under-counter and worktop units, limited space is available for a condensing unit, and increasing the size of the condenser coil is not practical. (Continental, No. 87 at p 2)

In response to the comment from Heatcraft regarding DOE's reference to ''improved evaporator coil design,'' DOE points to chapter 5 of its TSD, where it specifically outlines the geometries and features included in this coil design. With respect to the concerns of Heatcraft, Danfoss, Traulsen, Southern Store Fixtures, Royal Vendors, and True that coil designs must remain functional in the field, DOE only considered features which were proven through field use in current coil designs. In a review of the coil designs at the final rule stage, DOE removed from consideration designs featuring increased fin pitch, and instead retained the modeled fin pitches at levels seen in teardown units. DOE believes that this action addresses the concerns of these stakeholders over the issues of clogging and freezing that could be encountered with higher-fin-pitch coils.

When modeling coil configurations at baseline and improved levels of efficiency, DOE evaluated the overall performance of the coils within the context of specific refrigeration systems in which they would be used. This included numerical simulation of coil performance accounting for pressure drops. DOE excluded from consideration coil designs which proved

impractical, or which had negative energy impacts. Therefore, DOE believes Traulsen's concern regarding pressure drops over larger numbers of tube passes to be unsubstantiated. Additionally, DOE re-evaluated its coil designs at the final rule stage based on stakeholder comments and additional data from teardowns, incorporating many of the concerns expressed in these comments during coil modeling at the final rule stage.

Based on stakeholder comments including those of Southern Store Fixtures, AHRI, and Continental, DOE removed consideration of coil tube rifling from its analysis of improved heat exchanger performance at the final rule stage of this rulemaking. DOE believes that this action addresses the concerns voiced by stakeholders over the inapplicability of rifled tubing to some commercial refrigeration designs and issues with reduced refrigerant flow, slugging, and other negative effects.

During the final rule stage, DOE revised its modeling of evaporator and condenser coils based on new information gained through stakeholder comments and additional teardowns. In this analysis, it addressed the concerns expressed by manufacturers and other parties regarding the size constraints imposed upon heat exchangers in commercial refrigeration applications. With respect to the comments from AHRI, DOE notes that it did re-evaluate its coil designs from the 2009 rulemaking to produce designs that better approximate the configurations and performance attributes of coils found in the market. In response to the concerns of Hillphoenix, Hussmann, Structural Concepts, and Continental, during its final rule engineering modeling, DOE kept the size of modeled evaporator coils constant based on geometries seen in teardown units, and instead modified only features which could improve coil performance without growing the footprint of the coil. When modeling condenser coils, DOE allowed for a modest inclusion of an additional coil row in the direction of airflow. This was consistent with advanced designs seen in production units today, and DOE believes that this added coil size would not be sufficient to cause major impacts on unit form factor.

i. Higher-Efficiency Fan Blades

Traulsen commented that DOE modeling of higher efficiency fan blades did include specific details pertaining to the implementation of this design option, including energy savings, method of cost modeling, and other attributes. (Traulsen, No. 65 at p. 5) ebm-papst commented that fan selection should be based on airflow at the operating point and should not be limited to axial and tangential fans. (ebm-papst, No. 70 at p. 3)

In response to Traulsen's comment, DOE wishes to clarify that DOE did not consider higher-efficiency fan blades as a design option within its NOPR or final rule engineering analyses. Most commercial refrigeration equipment currently uses stamped sheet metal or plastic axial fan blades. DOE was not able to identify any axial fan blade technology that is significantly more efficient than what is currently used, but did identify tangential fan blades as an alternative fan blade technology that might improve efficiency. However, tangential fan blades in small sizes are themselves less efficient at moving air, and thus require greater motor shaft power. Because of these competing effects, DOE did not consider tangential fan blades as a design option in its analyses. Additionally, with regard to ebm-papst's comment, DOE did not encounter any other fan blade technologies aside from axial and tangential fans which were available for application in commercial refrigeration equipment. Consistent with the comment from ebm-papst, DOE modeled fan motor and blade combinations so as to provide needed airflow across the heat exchangers consistent with what is used in designs currently available on the market.

j. ECM Fan Motors

ebm-papst, in its written comment, noted that a variety of fans with electronically commutated (EC) motors (ECMs) were available on the market which provided wire-to-air efficiency of 65–70%. ebm-papst further commented that EC motors are compact and easily integrated into all levels of refrigeration systems. Also, ebm-papst commented that EC fans compatible with alternative refrigerants are now available on the market. (ebm-papst, No. 70 at p. 4)

DOE agrees with ebm-papst regarding the performance and availability of ECM fan motors for commercial refrigeration applications. In its preliminary and NOPR analyses, DOE considered EC motors as a design option for evaporator and condenser fan applications in all equipment classes where such fans were present. Additionally, DOE modeled an overall efficiency of 66% for EC motors, which is consistent with the figure provided by ebm-papst. DOE retained this modeling of EC motors in the final rule analyses.

k. Lighting Occupancy Sensors and Controls

In its analysis, DOE considered lighting occupancy sensors as a design option with the potential to reduce unit energy consumption. However, Traulsen commented that the study of occupancy sensors which DOE cited did not account for different traffic patterns, and only covered 30 days of data collection with LEDs at full power and 60 days with LEDs dimmed. Traulsen expressed concern that this analysis used insufficient data to support the savings assumed by TSL4. (Traulsen, No. 65 at p. 12) Hillphoenix commented that the occupancy sensor credit for VOP.RC.L was higher than for all other classes. (Hillphoenix, No. 71 at p. 7)

Some manufacturers questioned the need for occupancy sensors. AHRI commented that since manual night curtains are modeled, it could be assumed that when the curtains are deployed, the CRE lighting systems can also be manually turned off during periods of inactivity. (AHRI, No. 75 at p. 4) Structural Concepts commented that requiring occupancy sensors on cases that will be going to twenty-four hour stores would be a cost-burden with no associated energy savings. (Structural Concepts, No. 85 at p. 2) However, the Joint Comment suggested that the use of lighting sensors could further reduce the energy consumption of max-tech options for self-contained vertical closed transparent door units. (Joint Comment, No. 91 at p. 4)

DOE based its modeling of lighting occupancy sensors and scheduled controls on the provisions of the DOE test procedure as amended by the 2012 final rule. 77 FR at 10292 (February 21, 2012). These provisions allow for cases featuring these technologies to be tested with the lights turned off for a fixed period of time. DOE applied these provisions specifically across all classes in which occupancy sensors and scheduled controls were considered as a design option. Therefore, DOE believes Traulsen's assertions regarding DOE's modeled savings levels to be incorrect, as DOE did not model savings potential based on field studies, but rather on the specific provisions of the DOE test procedure. In response to the comment from Hillphoenix, DOE wishes to clarify that occupancy sensors were not given an absolute credit in the form of a kWh/day reduction, but instead were modeled as they are treated under the DOE test procedure, where they are given an allowance for lighting off time. This modified lighting run time was incorporated into DOE's engineering analysis model for cases including

lighting occupancy sensors, and the model was run for the particular case configuration being examined. Therefore, due to differences in case geometries, features, and design options, DOE cautions against direct comparisons of the absolute merits of specific technologies across different equipment classes, as such comparisons may be misleading.

With respect to the comment from AHRI, DOE does not consider a manual light switch to be a lighting controller under the provisions of its test procedure, since this device does not have the inherent ability to reduce energy consumption and since the method of test included in the procedure requires that all lighting be activated during the test. In its 2012 test procedure final rule, DOE added a provision specifically to allow for the testing of units including occupancy sensors and scheduled controls, but this does not include manual light switches. 77 FR at 10292 (February 21, 2012). Therefore, DOE maintains that a manual light switch is not a lighting control and shall not be treated as such during the conduct of the DOE test procedure.

In response to the concerns of Structural Concepts, occupancy sensors have the potential to operate at all times, turning off lighting to save energy during periods of inactivity, then reactivating the lights when shoppers are present. DOE understands that, even in 24-hour stores, there are periods when a high density of shoppers may not be present, and thus when lighting occupancy sensors would present the potential to save energy. DOE agrees with the Joint Comment that lighting occupancy sensors offer the potential to reduce the energy consumption of equipment in classes to which they are applicable, including the particular class noted in the comment. Therefore, DOE retained its modeling of this design option in its final rule engineering analysis.

l. Night Curtains

DOE analyzed night curtains as a design option with the potential to reduce equipment energy consumption. However, Southern Store Fixtures commented that, while DOE modeled a reduction in heat load when night curtains were employed, there was no cost analysis presented to justify this option. Furthermore, Southern Store Fixtures referred to a Pacific Gas and Electric Company (PG&E) report which asserted that night curtains were not cost effective due to poor economics, and a study funded by the California Energy Commission which reported a minimum 6.63 year and maximum 21.56 year payback period on night curtains. (Southern Store Fixtures, No. 67 at p. 6) Structural Concepts commented that night curtains should be excluded from the analysis since they were deemed by DOE as not ''required.'' Structural Concepts further commented that twenty-four-hour stores would not be able to use night curtains. (Structural Concepts, No. 85 at p. 2)

Regarding the types of night curtains that were modeled by DOE, AHRI commented that DOE did not explore automatic night curtains and Southern Store Fixtures commented that there were no night curtains currently available that are suited for curved display cases. (Southern Store Fixtures, No. 67 at p. 5) (AHRI, No. 75 at p. 3)

In response to the comment from Southern Store Fixtures on cost analysis, DOE wishes to clarify that it did include a cost analysis of night curtains in its engineering analysis. Costs per foot of night curtain were included in DOE's engineering spreadsheet model as released to the public, and served as the basis of DOE's placement of night curtains in the engineering cost-efficiency curves, as design options were ordered from lowest to highest calculated payback period. Regarding the mention of the PG&E report as presented to CEC, DOE understands that that report focused largely on time-variant economic factors such as the savings at peak-load conditions, rather than the overall life cycle cost savings and payback periods calculated by DOE. Therefore, due to a different focus and methodology, that organization may have reached a different conclusion than that attained by DOE. DOE plans to retain its analytical methodology as used across a variety of rulemaking efforts and believes that that methodology is appropriate and soundly evaluates the economic and energy savings benefits of design options including night curtains.

With respect to the comments from Structural Concepts, DOE agrees that use of night curtains is not required since DOE is setting a performance standard based on daily energy consumption under the DOE test procedure, rather than a prescriptive standard mandating the use of specific features. However, DOE is charged with exploring all avenues of reducing measured energy consumption, and the ability of the DOE test procedure to quantify savings attributed to night curtains justifies DOE's inclusion of this technology in its analysis. In addition, DOE notes that night curtains may be used in 24-hour stores during periods of low customer traffic, and that consideration of this feature in equipment offered for sale would provide store operators with the availability of an additional mechanism for attaining energy savings.

DOE agrees with AHRI that it did not explore automatic night curtains, as it did not find a readily available automatic night curtain technology that was applicable to the relevant case designs, including vertical and semivertical open cases. With respect to the comment from Southern Store Fixtures on case geometries, DOE believes that night curtains are available that apply to the vast majority of open case designs. Further, DOE is not setting a prescriptive standard; night curtains are one design option, but not required under the amended standard.

3. Refrigerants

For the preliminary and NOPR analyses, DOE considered two refrigerants, hydrofluorocarbons (HFCs) R–134a and R–404a, because these are the industry-standard choices for use in the vast majority of commercial refrigeration equipment covered by this rulemaking. This selection was consistent with the modeling performed in the January 2009 final rule, which was based on industry research and stakeholder feedback at that time. After the publication of the NOPR, DOE received a number of comments on potential future issues relating to refrigerants for this equipment.

ACEEE commented that the DOE had not taken into consideration the use of propane and other hydrocarbon refrigerants, which are in use internationally and are now allowed in limited quantities by the U.S. Environmental Protection Agency (EPA). ACEEE further commented that it has manufacturer statements to show that these refrigerants considerably improve equipment efficiency. (ACEEE, Public Meeting Transcript, No. 62 at p. 40) Danfoss commented that Montreal Protocol [32] amendments requiring the phasing out of HFCs would likely come into effect before this standard's compliance date. Additionally, Danfoss commented that this action would make DOE's ''refrigerant neutral'' stance flawed, and that DOE must consider the increased uncertainty and regulatory burden from the use of low-global warming potential (GWP) refrigerants in its analysis. (Danfoss, No. 61 at p. 2) Coca-Cola, too, opined that by not directly analyzing alternative refrigerants, DOE was showing a bias

[32] The Montreal Protocol is an international agreement, first signed in 1987, in which signatories pledged to phase out the production and use of ozone depleting substances.

towards HFCs. (Coca-Cola, Public Meeting Transcript, No. 62 at p. 121) The CA IOUs commented that alternative refrigerants are being used both internationally and in the United States. The CA IOUs further commented that, given the potential for EPA regulations on HFC usage, DOE should be prepared to adopt the levels of performance included in its proposed standards to reflect the performance abilities of other refrigerants. (CA IOUs, No. 63 at p. 8)

AHRI commented that the potential for changes in Federal refrigerant policy over the next few years will require the industry to use refrigerants with low GWP, putting into question the applicability of the proposed standard over extended time periods. AHRI further stated that there was a possibility of refrigerant switching having adverse impacts on equipment performance. (AHRI, No. 75 at p. 10) True commented that the refrigerants modeled in the analysis, R404 and R134a, are both currently being reviewed by the EPA Significant New Alternatives Policy (SNAP) program [33] for possible removal from commercial refrigeration applications. (True, Public Meeting Transcript, No. 62 at p. 123) Lennox, too, noted that non-HFC refrigerants might become a growing part of the CRE market in the foreseeable future. (Lennox, No. 73 at p. 5) Additionally, Hillphoenix commented that manufacturers are being pushed towards low GWP refrigerants which will have an impact on coil and evaporator designs, as well as efficiency curves for compressors. (Hillphoenix, No. 71 at p. 2)

ACEEE asserted that the market already has begun to move away from HFC refrigerants. (ACEEE, Public Meeting Transcript, No. 62 at p. 185) Coca-Cola commented that it was seeking to stop using HFCs and switch over to R744, R290 and R600A, not only to improve energy efficiency, but also to make the units environmentally benign. (Coca-Cola, Public Meeting Transcript, No. 62 at p. 88) Further, Coca-Cola commented that it is already purchasing a large number (28% in the United States) of R744 cabinets, and aim to be using only R744 within three years. (Coca-Cola, Public Meeting Transcript, No. 62 at p. 128) Continental commented that refrigerants such as propane and CO2 have been approved by EPA and are actively being evaluated and tested in products. Continental further commented that alternative refrigerants have the potential to affect the performance of equipment. (Continental, No. 87 at p. 1) AHRI also commented that a change in refrigerant policy would impact refrigerants which are used as blowing agents for foams, possibly resulting in lower insulation performance values. (AHRI, No. 75 at p. 10) Providing an additional view, the Joint Comment noted that the use of propane as a refrigerant could improve efficiency of units by 7–11%. Additionally, the Joint Comment pointed out that while DOE did not model non-HFC refrigerants, manufacturers have the option of using more efficient refrigerants. (Joint Comment, No. 91 at p. 4)

Specifically, many stakeholders wished for DOE to consider propane (R290) as a viable alternative refrigerant. Danfoss commented that the inclusion of natural refrigerants in the analysis was a critical issue, since, unlike higher-efficiency compressors, the technology is already available. Danfoss urged DOE to consider propane, isobutane and carbon dioxide as viable refrigerants. (Danfoss, Public Meeting Transcript, No. 62 at p. 126) ACEEE commented that DOE's decision to screen out propane refrigerant as a design option had seriously impacted the downstream analyses. (ACEEE, Public Meeting Transcript, No. 62 at p. 127) However, both Structural Concepts and True noted that they could consider propane as a refrigerant for some, but not all, of their products, since the 150 gram SNAP limit restricted total compressor capacity. (Structural Concepts, Public Meeting Transcript, No. 62 at p. 127) (True, Public Meeting Transcript, No. 62 at p. 127)

In its written comment, however, Traulsen commented that, while alternative refrigerants were discussed in the public meeting, DOE should remain technology neutral with regard to those refrigerants at this time, since there was a risk of conflict with other programs such as EPA SNAP and UL, and since the costs to switch over to alternative refrigerants is high. (Traulsen, No. 65 at p. 18)

While DOE appreciates the input from stakeholders at the public meeting and in subsequent written comment, DOE does not believe that there is sufficient specific, actionable data presented at this juncture to warrant a change in its analysis and assumptions regarding the refrigerants used in commercial refrigeration applications. As of now, there is inadequate publicly-available data on the design, construction, and operation of equipment featuring alternative refrigerants to facilitate the level of analysis of equipment performance which would be needed for standard-setting purposes. DOE is aware that many low-GWP refrigerants are being introduced to the market, and wishes to ensure that this rule is consistent with the phase-down of HFCs proposed by the United States under the Montreal Protocol. DOE continues to welcome comments on experience within the industry with the use of low-GWP alternative refrigerants. Moreover, there are currently no mandatory initiatives such as refrigerant phase-outs driving a change to alternative refrigerants. Absent such action, DOE will continue to analyze the most commonly-used, industry-standard refrigerants in its analysis.

DOE wishes to clarify that it will continue to consider CRE models meeting the definition of commercial refrigeration equipment to be part of their applicable covered equipment class, regardless of the refrigerant that the equipment uses. If a manufacturer believes that its design is subjected to undue hardship by regulations, the manufacturer may petition DOE's Office of Hearing and Appeals (OHA) for exception relief or exemption from the standard pursuant to OHA's authority under section 504 of the DOE Organization Act (42 U.S.C. 7194), as implemented at subpart B of 10 CFR part 1003. OHA has the authority to grant such relief on a case-by-case basis if it determines that a manufacturer has demonstrated that meeting the standard would cause hardship, inequity, or unfair distribution of burdens.

4. Cost Assessment Methodology

During the preliminary analysis, DOE developed costs for the core case structure of the representative units it modeled, based on cost estimates performed in the analysis for the January 2009 final rule. For more information, see chapter 5 of the preliminary analysis TSD, pp. 5–3 to 5–8. DOE also developed costs for the design option levels implemented, based on publicly available information and price quotes provided during manufacturer interviews. These costs were combined in the engineering cost model based on the specifications of a given modeled unit in order to yield manufacturer production cost (MPC) estimates for each representative unit at each configuration modeled. At the preliminary analysis rulemaking stage, DOE's component cost estimates were based on data developed from manufacturer interviews, estimates from the January 2009 final rule, and publicly available cost information. During the NOPR analysis, DOE augmented this

[33] EPA SNAP is the U.S. government regulatory program responsible for maintaining the list of alternatives to ozone depleting substances allowed for use within specific applications, including refrigeration, in the United States.

information with data from physical teardowns of commercial refrigeration equipment currently on the market.

During the development of the engineering analysis for the NOPR, DOE interviewed manufacturers to gain insight into the commercial refrigeration industry, and to request feedback on the engineering analysis methodology, data, and assumptions that DOE used. Based on the information gathered from these interviews, along with the information obtained through a teardown analysis and public comments, DOE refined the engineering cost model. Next, DOE derived manufacturer markups using publicly available commercial refrigeration industry financial data, in conjunction with manufacturer feedback. The markups were used to convert the MPCs into MSPs. These results were used as the basis for the downstream calculations at the NOPR stage of the rulemaking.

At the NOPR public meeting and in subsequent written comments, DOE received further input from stakeholders regarding the methodologies and inputs used in DOE's cost assessment. DOE incorporated this input in updating its modeling at the final rule stage. Further discussion of the comments received and the analytical methodology used is presented in the following subsections. For additional detail, see chapter 5 of the final rule TSD.

a. Teardown Analysis

In the preliminary analysis TSD, DOE expressed its intent to update its core case cost estimates, which were at that time developed based on estimates from the January 2009 final rule, through performing physical teardowns of selected units. These core case costs consist of the costs to manufacture the structural members, insulation, shelving, wiring, etc., but not the costs associated with the components that could directly affect energy consumption, which were considered collectively as design options and served as one of many inputs to the engineering cost model. DOE first selected representative units for physical teardown based on available offerings from the catalogs of major manufacturers. DOE selected units that had sizes and feature sets similar to those of the representative units modeled in the engineering analytical model. DOE selected units for teardown representing each of the equipment families, with the exception of the HZO family.[34] The units were then disassembled into their base components, and DOE estimated the materials, processes, and labor required for the manufacture of each individual component. This process is referred to as a ''physical teardown.'' Using the data gathered from the physical teardowns, DOE characterized each component according to its weight, dimensions, material, quantity, and the manufacturing processes used to fabricate and assemble it. These component data were then entered into a spreadsheet and organized by system and subsystem levels to produce a comprehensive bill of materials (BOM) for each unit analyzed through the physical teardown process.

The physical teardowns allowed DOE to identify the technologies, designs, and manufacturing techniques that manufacturers incorporated into the equipment that DOE analyzed. The result of each teardown was a structured BOM, incorporating all materials, components, and fasteners, classified as either raw materials or purchased parts and assemblies, and characterizing the materials and components by weight, manufacturing processes used, dimensions, material, and quantity. The BOMs from the teardown analysis were then modified, and the results used as one of the inputs to the cost model to calculate the MPC for each representative unit modeled. The MPCs resulting from the teardowns were then used to develop an industry average MPC for each equipment class analyzed.

At the final rule stage of the rulemaking, in response to comments regarding the technologies incorporated into commercial refrigeration equipment at various levels of performance, DOE procured additional models of equipment on the market and performed further teardown assessment of the construction and componentry featured in these models. The data from these supplemental teardowns, coupled with known performance of the purchased units from independent testing or ENERGY STAR certification, allowed DOE to compare the performance of models currently on the market to the results of modeling of the same equipment configurations using its engineering simulation. This comparison provided a validation check on the results of the simulations. See chapter 5 of the final rule TSD for more details on the teardown analysis.

b. Cost Model

The cost model for this rulemaking was divided into two parts. The first of these was a standalone core case cost model, based on physical teardowns, that was used for developing the core case costs for the 25 directly analyzed equipment classes. This cost model is a spreadsheet that converts the materials and components in the BOMs from the teardowns units into MPC dollar values based on the price of materials, average labor rates associated with manufacturing and assembling, and the cost of overhead and depreciation, as determined based on manufacturer interviews and DOE expertise. To convert the information in the BOMs to dollar values, DOE collected information on labor rates, tooling costs, raw material prices, and other factors. For purchased parts, the cost model estimates the purchase price based on volume-variable price quotations and detailed discussions with manufacturers and component suppliers. For fabricated parts, the prices of raw metal materials (*e.g.,* tube, sheet metal) are estimated based on 5-year averages calculated from cost estimates obtained from sources including the *American Metal Market* and manufacturer interviews. The cost of transforming the intermediate materials into finished parts is estimated based on current industry pricing.

The function of the cost model described above is solely to convert the results of the physical teardown analysis into core case costs. To achieve this, components immaterial to the core case cost (lighting, compressors, fans, etc.) were removed from the BOMs, leaving the cost model to generate values for the core case costs for each of the teardown points. Then, these teardown-based core case BOMs were used to develop a ''parameterized'' computational cost model, which allows a user to virtually manipulate case parameters such as height, length, insulation thickness, and number of doors by inputting different numerical values for these features to produce new cost estimates. For example, a user could start with the teardown data for a two-door case and expand the model of the case computationally to produce a cost estimate for a three-door case by changing the parameter representing the number of doors, which would in turn cause the model to scale other geometric and cost parameters defining the overall size of the case. This parameterized model, coupled with the design specifications chosen for each representative unit modeled in the engineering analysis, was used to

[34] The reason why no HZO units were torn down was that the HZO family is the least complex of the equipment classes with respect to its construction. DOE felt that there was no additional data which could be gained from teardown of this equipment which would not have already been captured by the teardowns of other units.

develop core case MPC cost estimates for each of the 25 directly analyzed representative units. These values served as one of several inputs to the engineering cost model.

The engineering analytical model, as implemented by DOE in a Microsoft Excel spreadsheet, also incorporated the engineering cost model, the second cost modeling tool used in this analysis. In the engineering cost model, core case costs developed based on physical teardowns were one input, and costs of the additional components required for a complete piece of equipment (those components treated as design options) were another input. The two inputs were added together to arrive at an overall MPC value for each equipment class. Based on the configuration of the system at a given design option level, the appropriate design option costs were added to the core case cost to reflect the cost of the entire system. Costs for design options were calculated based on price quotes from publicly available sources and discussions with commercial refrigeration equipment manufacturers. Chapter 5 of the final rule TSD describes DOE's cost model and definitions, assumptions, data sources, and estimates.

c. Manufacturer Production Cost

Once the cost estimates for all the components of each representative unit, including the core case cost and design option costs, were finalized, DOE totaled the costs in the engineering cost model to calculate the MPC. DOE estimated the MPC at each efficiency level considered for each directly analyzed equipment class, from the baseline through the max-tech. After incorporating all of the assumptions into the cost model, DOE calculated the percentages attributable to each element of total production cost (*i.e.,* materials, labor, depreciation, and overhead). DOE used these production cost percentages in the MIA (see section IV.J). At the NOPR stage of the rulemaking, DOE revised the cost model assumptions used for the preliminary analysis based on teardown analysis, updated pricing, and additional manufacturer feedback, which resulted in refined MPCs and production cost percentages. DOE once again updated the analysis at the final rule stage based on input from the NOPR public meeting and subsequent written comments. DOE calculated the average equipment cost percentages by equipment class. Chapter 5 of the TSD presents DOE's estimates of the MPCs for this rulemaking, along with the different percentages attributable to each element of the production costs that comprise the total MPC.

d. Cost-Efficiency Relationship

The result of the engineering analysis is a cost-efficiency relationship. DOE created a separate relationship for each input capacity associated with each commercial refrigeration equipment class examined for this rule. DOE also created 25 cost-efficiency curves, representing the cost-efficiency relationship for each commercial refrigeration equipment class.

To develop cost-efficiency relationships for commercial refrigeration equipment, DOE examined the cost differential to move from one design option to the next for manufacturers. DOE used the results of teardowns to develop core case costs for the equipment classes modeled, and added those results to costs for design options developed from publicly available pricing information and manufacturer interviews. Additional details on how DOE developed the cost-efficiency relationships and related results are available in the chapter 5 of the final rule TSD. Chapter 5 of the final rule TSD also presents these cost-efficiency curves in the form of energy efficiency versus MPC. After the publication of the NOPR analysis, several stakeholders provided input and feedback regarding DOE's cost modeling methodology and costs used for specific components and design options. Specifically, DOE received comments regarding core case costs, LED cost specifications, component sourcing and cost information, and coil costs. The following sections address these stakeholder comments and concerns.

Core Case Costs

Traulsen commented that DOE's assumption of core costs not changing for more efficient design option levels is flawed. Traulsen further pointed out that costs for shelving, wiring, air curtain grills, trim, etc. do change in all cases when internal or external product footprint is altered. (Traulsen, No. 65 at p. 15)

DOE understands that changes to design requiring adjustment to a unit's form factor would have an impact on the cost of production of the unit, and would result in the manufacturer incurring redesign costs. Of the design options considered, most would not have a significant impact in these areas, as they consist largely of component swaps or bolt-on component additions. However, for the design options which would affect unit format, DOE considered incremental materials costs and redesign costs, as well as capital expenditures, in its engineering and MIA analyses. Therefore, DOE believes that it has sufficiently addressed the concerns raised by Traulsen.

Light-Emitting Diode Cost Specifications

Several stakeholders expressed reservations over DOE's use of LED price projections, opining that DOE had likely underestimated the price of LEDs. Traulsen commented that according to DOE's Solid State Lighting Multi-Year Program Plan (MYPP), there is a breakthrough in LED performance required in 2015 that would decrease the life-cycle energy of LED lamps. Traulsen asserted that these projections were based on the assumption of continued governmental R&D support, and that there is evidence of declining R&D support for LEDs. Traulsen further commented that this lack of certainty made some assumptions in DOE analysis questionable. (Traulsen, No. 65 at p. 3) Hussmann noted that, typically, LED fixtures cost twice as much as T8 fluorescent ballasts. (Hussmann, No. 77 at p. 2) Structural Concepts commented that the prices of LED fixtures would likely be 37–40% higher than DOE predictions for 2017. (Structural Concepts, No. 85 at p. 2) Similarly, Hillphoenix commented that DOE had modeled a zero cost for drivers and that current LED prices are on the order of three times that estimated in the model. (Hillphoenix, No. 71 at p. 1) Traulsen noted that for VCT.SC systems, the added cost of using LED systems was greater than $120 per unit. (Traulsen, No. 65 at p. 3) True commented that it was unlikely for LED prices to continue to drop. (True, No. 76 at p. 1) Hillphoenix commented that LED lighting for the VCT.RC.M and VCT.RC.L classes had experienced an 83% reduction in cost from the previous rulemaking to the current rulemaking analysis. (Hillphoenix, No. 71 at p. 7) Conversely, the Joint Comment concurred with DOE's analysis, noting that the incorporation of LED price projections significantly improved the analysis by reflecting a realistic estimate of LED costs. (Joint Comment, No. 91 at p. 5)

In its NOPR analysis, DOE incorporated price projections from its Solid-State Lighting Program [35] into its MPC values for the primary equipment classes. The price projections for LED case lighting were developed from projections developed for the DOE Solid-State Lighting Program 2012 report, *Energy Savings Potential of*

[35] The DOE Solid-State Lighting Program is a program within DOE's Office of Energy Efficiency & Renewable Energy. More information on the program is available at *http://www1.eere.energy.gov/buildings/ssl/.*

Solid-State Lighting in General Illumination Applications (''the energy savings report'').[36] In the appendix to this report, price projections from 2010 to 2030 were provided in ($/klm) for LED lamps and LED luminaires. DOE analyzed the models used in the Solid-State Lighting Program work and determined that the LED luminaire projection would serve as an appropriate proxy for a cost projection to apply to refrigerated case LEDs. The price projections presented in the Solid-State Lighting Program's energy savings report are based on the DOE's 2011 Multi-Year Program Plan (MYPP). The MYPP is developed based on input from manufacturers, researchers, and other industry experts. Table IV.1 shows the normalized LED price deflators used in the final rule analysis.

TABLE IV.1—LED PRICE DEFLATORS USED IN THE FINAL RULE ANALYSIS

Year	Normalized to 2013	Normalized to 2017	Year	Normalized to 2013	Normalized to 2017
2010	2.998	5.652	2021	0.361	0.681
2011	1.799	3.392	2022	0.335	0.631
2012	1.285	2.423	2023	0.312	0.588
2013	1.000	1.885	2024	0.292	0.550
2014	0.819	1.543	2025	0.274	0.517
2015	0.693	1.306	2026	0.259	0.488
2016	0.601	1.133	2027	0.245	0.462
2017	0.530	1.000	2028	0.232	0.438
2018	0.475	0.895	2029	0.221	0.417
2019	0.430	0.810	2030	0.211	0.398
2020	0.393	0.740	*2031–2046	0.211	0.398

During the NOPR stage, DOE incorporated the price projection trends from the energy savings report into its engineering analysis by using the data to develop a curve of decreasing LED prices normalized to a base year. That base year corresponded to the year when LED price data was collected for the NOPR analyses of this rulemaking from catalogs, manufacturer interviews, and other sources. DOE started with this commercial refrigeration equipment-specific LED cost data and then applied the anticipated trend from the energy savings report to forecast the projected cost of LED fixtures for commercial refrigeration equipment at the time of required compliance with the proposed rule (2017). These 2017 cost figures were incorporated into the engineering analysis as comprising the LED cost portions of the MPCs for the primary equipment classes.

The LCC analysis (section IV.F) was carried out with the engineering numbers that account for the 2017 prices of LED luminaires. The reduction in price of LED luminaires from 2018 through 2030 was taken into account in the NIA (section IV.H). The cost reductions were calculated for each year from 2018 through 2030 and subtracted from the equipment costs in the NIA. The reduction in lighting maintenance costs [37] due to reduction in LED prices for equipment installed in 2018 to 2030 were also calculated and appropriately deducted from the lighting maintenance costs.

While DOE understands the concerns of manufacturers over projections of LED prices in the future, DOE made the decision to incorporate these projections based on stakeholder input, past market trends, and DOE research within the lighting field, which includes regular interaction with manufacturers and suppliers of LED lighting technologies. With respect to the comments from Traulsen, DOE does not see any specific hurdles in the market that indicate that levels predicted in the MYPP will fail to be realized. DOE appreciates the comments from Hussmann, Structural Concepts, Hillphoenix, Traulsen, and True regarding present and future LED prices. However, based on past market trends and the current research supporting the MYPP, DOE continued to utilize these LED price projections in the modeling underlying today's final rule. As a point of clarification to the comment presented by Hillphoenix, DOE wishes to mention that the modeled costs include all components of the LED fixture, including drivers, emitters, housing, and wiring. DOE agrees with the assertion of the Joint Comment that incorporation of LED price projections allow the analysis to better depict market conditions which will be encountered by manufacturers at the time of their compliance with the amended standard set forth in today's rule.

Component Sourcing and Cost Information

In its written comment following publication of the NOPR, Hoshizaki commented that the engineering cost analysis was unrealistic and incomplete since specific parts suppliers, part numbers, and parts costs were not listed. (Hoshizaki, No. 84 at p. 1)

In developing its engineering cost model, DOE gathered a wide variety of input information, including component and material costs, to serve as the basis for this model. Much of this information was collected under nondisclosure agreement by DOE's contractors, or from sources which are not publicly available. Therefore, in order to protect the sensitive nature of this information, DOE is unable to disclose the information in its notice or technical support document. However, in developing its engineering performance and cost models, DOE ensured that the components and features being modeled did not present any intellectual property issues with respect to sourcing or implementation. That is, DOE ensured that the features modeled were consistent with designs and components available on the open market to the entire range of CRE manufacturers.

Coil Costs

Some manufacturers opined that DOE had underestimated the cost of manufacturing improved evaporator and condenser coils. Southern Store Fixtures commented that using smaller tubes in

[36] Navigant Consulting, Inc., *Energy Savings Potential for Solid-State Lighting in General Illumination Applications.* 2012. Prepared for the U.S. Department of Energy—Office of Energy Efficiency and Renewable Energy Building Technologies Office, Washington, DC.

[37] Discussion related to lighting maintenance costs for commercial refrigeration equipment can be found in section 0, and a more detailed explanation can be found in chapter 8 of the final rule TSD.

a fixed size evaporator was found through their internal studies to allow for only 8% performance improvement, while incurring a 290% cost increase. Southern Store Fixtures noted that making changes to a condensing unit would make the cost 80% higher than the standard catalog price. (Southern Store Fixtures, No. 67 at p. 3) AHRI commented that DOE had underestimated the added costs associated with the implementation of higher efficiency evaporator coils. (AHRI, No. 75 at p. 5) Traulsen, too, commented that DOE estimated values of the cost to manufacture improved coils was much lower than a cost figure provided to it by the largest provider of CRE coils in the U.S. (Traulsen, No. 65 at p. 6) Hillphoenix concurred with DOE on the modeled price of condenser coils, but noted that evaporator coils cost nearly three to four times as much as condenser coils. Hillphoenix qualified this assertion by pointing out that the necessary customization, as well as the increased assembly cost (labor) of a lower fin density and longer width coil, contributed to the increased price of the evaporator coil. (Hillphoenix, No. 71 at p. 1)

In response to the comment from Southern Store Fixtures, DOE did not consider smaller-diameter tubes in its evaporator coil designs as modeled in the final rule engineering analysis. Additionally, DOE modeled the components of the condensing unit—coil, fans, compressor, and cost to assemble—independently, rather than modeling the cost of a single prepackaged assembly. DOE believes that this modeling accurately reflects the costs incurred by manufacturers when producing the condensing units of self-contained equipment.

Regarding the concerns of AHRI, Traulsen and Hillphoenix on the modeled costs of condenser and evaporator coils, DOE revisited this modeling for the final rule. DOE based its modeling of coil costs on information gathered from teardowns of coils present in units currently available on the market, and then used these inputs in conjunction with an internal cost model to develop costs to manufacture for these components. These costs factor in the prices of raw materials, the costs of processing, forming, and assembly operations, and other key costs integral to the development of the components. DOE updated its coil costs for the final rule taking into account the design changes to the form factors of its modeled coils and the information provided in stakeholder comments regarding the relative costs of different coil types. DOE is confident in its use of this methodology, which has been implemented and vetted through use in a number of other past and ongoing rulemaking analyses. For further information regarding coil modeling, please see chapter 5 of the final rule TSD.

e. Manufacturer Markup

To account for manufacturers' non-production costs and profit margin, DOE applies a non-production cost multiplier (the manufacturer markup) to the full MPC. The resulting MSP is the price at which the manufacturer can recover all production and non-production costs and earn a profit. To meet new or amended energy conservation standards, manufacturers often introduce design changes to their product lines that result in increased MPCs. Depending on the competitive environment for this equipment, some or all of the increased production costs may be passed from manufacturers to retailers and eventually to customers in the form of higher purchase prices. The MSP should be high enough to recover the full cost of the equipment (*i.e.,* full production and non-production costs) and yield a profit. The manufacturer markup has an important bearing on profitability. A high markup under a standards scenario suggests manufacturers can readily pass along the increased variable costs and some of the capital and equipment conversion costs (one-time expenditures) to customers. A low markup suggests that manufacturers will not be able to recover as much of the necessary investment in plant and equipment.

To calculate the manufacturer markups, DOE used 10–K reports submitted to the SEC by the six publicly owned commercial refrigeration equipment companies in the United States. (SEC 10–K reports can be found using the search database available at *www.sec.gov/edgar/searchedgar/webusers.htm.*) The financial figures necessary for calculating the manufacturer markup are net sales, costs of sales, and gross profit. DOE averaged the financial figures spanning the years from 2004 to 2010 [38] to calculate the markups. For commercial refrigeration equipment, to calculate the average gross profit margin for the periods analyzed for each firm, DOE summed the gross profit earned during all of the aforementioned years and then divided the result by the sum of the net sales for those years. DOE presented the calculated markups to manufacturers during the manufacturer interviews for the NOPR (see section IV.D.4.g). DOE considered manufacturer feedback to supplement the calculated markup, and refined the markup to better reflect the commercial refrigeration market. DOE developed the manufacturer markup by weighting the feedback from manufacturers on a market share basis because manufacturers with larger market shares more significantly affect the market average. DOE used a constant markup to reflect the MSPs of both the baseline equipment and higher efficiency equipment. DOE used this approach because amended standards may transform high-efficiency equipment, which currently is considered to be premium equipment, into baseline equipment. See chapter 5 of the final rule TSD for more details about the manufacturer markup calculation.

f. Shipping Costs

The final component of the MSP after the MPC and manufacturer markup is the shipping cost associated with moving the equipment from the factory to the first point on the distribution chain. During interviews, manufacturers stated that the specific party (manufacturer or buyer) that incurs that cost for a given shipment may vary based on the terms of the sale, the type of account, the manufacturer's own business practices, and other factors. However, for consistency, DOE includes shipping costs as a component of MSP. In calculating the shipping costs for use in its analysis, DOE first gathered estimates of the cost to ship a full trailer of manufactured equipment an average distance in the United States, generally representative of the distance from a typical manufacturing facility to the first point on the distribution chain. DOE then used representative unit sizes to calculate a volume for each unit. Along with the dimensions of a shipping trailer and a loading factor to account for inefficiencies in packing, DOE used this cost and volume information to develop an average shipping cost for each equipment class directly analyzed.

g. Manufacturer Interviews

Throughout the rulemaking process, DOE has sought and continues to seek feedback and insight from interested parties that would improve the information used in its analyses. DOE interviewed manufacturers as a part of the NOPR MIA (see section IV.J). During the interviews, DOE sought feedback on all aspects of its analyses for commercial refrigeration equipment. For the engineering analysis, DOE discussed

[38] Typically, DOE uses the data for the 5 years preceding the year of analysis. However, in this case additional data were available up to 2004. Hence, data from 2004 to 2010 were used for these calculations.

the analytical assumptions and estimates, cost model, and cost-efficiency curves with manufacturers. DOE considered all of the information learned from manufacturers when refining the cost model and assumptions. However, DOE incorporated equipment and manufacturing process figures into the analysis as averages to avoid disclosing sensitive information about individual manufacturers' equipment or manufacturing processes. The results of the manufacturer interview process conducted before the release of the NOPR were augmented with additional information provided in written comments after the NOPR and at the NOPR public meeting. More details about the manufacturer interviews are contained in chapter 12 of the final rule TSD.

5. Energy Consumption Model

The energy consumption model is the second key analytical model used in constructing cost-efficiency curves. This model estimates the daily energy consumption, calculated using the DOE test procedure, of commercial refrigeration equipment in kilowatt-hours at various performance levels using a design-option approach. In this methodology, a unit is initially modeled at a baseline level of performance, and higher-efficiency technologies, referred to as design options, are then implemented and modeled to produce incrementally more-efficient equipment designs. The model is specific to the types of equipment covered under this rulemaking, but is sufficiently generalized to model the energy consumption of all covered equipment classes. DOE developed the energy consumption model as a Microsoft Excel spreadsheet.[39]

For a given equipment class, the model estimates the daily energy consumption for the baseline, as well as the energy consumption of subsequent levels of performance above the baseline. The model calculates each performance level separately. For the baseline level, a corresponding cost is calculated using the cost model, which is described in section IV.D.4.b. For each level above the baseline, the changes in system cost due to the implementation of various design options are used to recalculate the cost. Collectively, the data from the energy consumption model are paired with the cost model data to produce points on cost-efficiency curves corresponding to specific equipment configurations. After the publication of the NOPR analysis, DOE received numerous stakeholder comments regarding the methodology and results of the energy consumption model.

a. Release of Engineering Model for Review

At the NOPR public meeting, Zero Zone and ACEEE urged DOE to make its engineering spreadsheet model publicly available. (Zero Zone, Public Meeting Transcript, No. 62 at p. 70) (ACEEE, Public Meeting Transcript, No. 62 at p. 125) DOE agreed with Zero Zone and ACEEE and released the engineering spreadsheet model for public review shortly after the NOPR public meeting. Stakeholder review of the model served as the basis for many of the specific comments and suggestions discussed in today's document and incorporated into DOE's final rule analysis.

b. Anti-Sweat Heater Power

Some stakeholders opined that the DOE model did not fully consider some equipment classes and components which used anti-sweat heat. Traulsen noted that, due to gasket and breaker strip inefficiencies, VCS.SC.L and VCS.SC.M equipment will require some auxiliary heat around door perimeters to prevent condensation, even at ambient conditions of 75 °F and 55% RH. (Traulsen, No. 65 at p. 11) Hussmann noted that no-heat doors for VCT.RC.M were not suitable in high-humidity conditions, since they could lead to condensation on the doors and the risk of water dripping onto the floor. (Hussmann, No. 77 at p. 9) AHRI commented that there was no clear justification provided for why certain doors were modeled with anti-sweat heat power and others were modeled without it, further pointing out, that anti-sweat heat is not limited only to doors, but often also applies to frames and mullions too. (AHRI, No. 75 at p. 8)

DOE appreciates the input from commenters regarding the use of anti-sweat heat and has updated its engineering model for the final rule stage to better reflect the needs of different equipment classes in this respect. In response to the comment from Traulsen and based on additional investigational teardowns performed at the final rule stage, DOE added anti-sweat heater power to some solid-door classes in order to account for inefficiencies in gasketing which could otherwise result in condensation or frost issues. The magnitude of the power of these heaters was developed based on figures included in stakeholder comments applicable to classes VCS.SC.M and VCS.SC.L, as well as from measurements taken during teardown analysis performed at the final rule stage.

During manufacturer interviews and in investigations of the current offerings of commercial refrigeration equipment manufacturers and door suppliers, DOE encountered a number of ''energy-free'' transparent door designs for medium-temperature applications. This served as the basis for the modeling of some doors without anti-sweat heat in the NOPR analysis, as referenced by AHRI and Hussmann. However, in response to the concerns of stakeholders over an assumption of zero energy doors being too strict for field applications, DOE added a modest amount of anti-sweat heat to its modeling of transparent doors for medium-temperature applications in the final rule engineering analysis. DOE believes that this modeled design provides energy savings benefits over standard designs while maintaining the ability to utilize some anti-sweat heat to prevent condensation issues during use.

In response to the concerns of AHRI, DOE wishes to clarify that for transparent door classes, the modeled ''door'' anti-sweat heat includes all anti-sweat heat on the face of the unit, including frame, mullion, and glass heat. This anti-sweat heat is included with the modeling of the door because generally, the display case manufacturer purchases the doors and frames as a single item, inclusive of the anti-sweat heaters, which is then installed in an opening in the case body. For cases with solid doors, as well as open cases, the perimeter, gasket, mullion, and/or face heater power is included under the category of ''non-door anti-sweat power'' in the design specifications tab of the engineering analysis spreadsheet model. Therefore, while the needed power may be accounted for differently among the different classes, the appropriate heater types are modeled for each class. DOE believes that its efforts in updating anti-sweat heater powers modeled in the engineering analysis for the final rule sufficiently and directly address the concerns voiced by stakeholders at the NOPR stage.

c. Coil Performance Modeling

Stakeholders offered feedback to DOE on how the simulation of coil performance could be improved to better reflect the performance of evaporator and condenser coils in the field. Traulsen commented that while DOE states that evaporators can be designed to have a discharge air temperature that is a minimum of 10 degrees F colder than the product temperature, the baseline model in the

[39] Available at *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/27.*

analysis shows a product-to-refrigerant temperature difference of 11 degrees F. Traulsen further sought clarification on where the improvement in evaporator performance could be attained since the temperature differential at the baseline was already low. (Traulsen, No. 65 at p. 5) Hussmann commented that the gap between discharge air temperature and saturated evaporator temperature was unrealistically low for certain equipment classes. (Hussmann, No. 77 at p. 10)

Hillphoenix and AHRI noted that, conventionally, coil UA [40] is calculated using log-mean temperature difference (LMTD) and inlet temperature. Further, Hillphoenix commented that the use of what it perceived to be incorrect formulae had led to over-estimation of UA for condensers and evaporators, and that different methods were used to calculate UA for condensers than were used for evaporators. (AHRI, No. 75 at p. 5) (Hillphoenix, No. 71 at p. 5).

AHRI commented that since both the previous and current rulemakings included rifled tubing and increased fin pitch, the total prototype energy consumption should have been the same across rulemakings. Further, AHRI commented that the prototype condenser coil scenario is not fully representative of all condensers for SC equipment. (AHRI, No. 75 at p. 8)

In response to the concerns of Traulsen and Hussmann, DOE re-evaluated its parameters for modeling of coil temperature performance. Specifically, it adjusted the temperature differential between product temperature and saturated evaporator temperature to be 15 °F for certain classes under the baseline configuration. DOE believes that this is a more accurate representation of evaporator performance based on the feedback that it has received from comments and data from testing and equipment literature. The result is that the temperature differential at the baseline and high-performance level is higher, reflecting the adjustments to this parameter suggested by stakeholders.

In the engineering model, evaporator coil UA is calculated as a function of case heat load and a log mean temperature difference based on the saturated evaporator temperature, discharge air temperature, and return air temperature. This is the same methodology that was used in the 2009 final rule engineering analysis, which underwent rigorous examination by stakeholders. Therefore, DOE believes that Hillphoenix and AHRI are misinterpreting DOE's methodology when discussing evaporator performance. Additionally, with respect to the comment that different formulae were applied to the modeling of evaporators and condensers, DOE agrees with this fact, but does not believe that this is an incorrect methodology. The modeling of the evaporator reflects the fact that chilled case air is being recirculated, whereas modeling of the condenser reflects the fact that the condenser is rejecting heat to an ambient environment which functions as an effectively infinite thermal sink. Therefore, DOE believes that these different performance environments warrant different modeling, and maintains its methodology for conducting this modeling in the final rule.

With regard to the concern of AHRI over disparities between the coil performance levels modeled in the 2009 final rule and the current rulemaking, DOE performed new analysis for the current rulemaking based on teardowns and simulation conducted at the NOPR stage. At the final rule stage, based on further input from stakeholder comments, DOE again updated this performance and cost modeling. Therefore, due to the fact that the analysis was conducted anew at each of these stages and is not directly related to the analysis conducted for the 2009 final rule, DOE believes that the differences in modeled performance are reasonable and reflect improvements to DOE's understanding of baseline and high-performance coil designs.

In reference to AHRI's mention of the applicability of DOE's condenser coil design to a variety of commercial refrigeration equipment, DOE modeled a baseline coil based upon geometries and features measured from teardowns of representative models for sale on the market today, and then implemented further design improvements based on the inputs of outside subject matter experts and within the guidance provided by stakeholder comments and feedback. The engineering model then expands the cost and capacity of the modeled coil to adjust to the needs of different equipment sizes being simulated. Thus, DOE believes that the modeled coil design accurately reflects the real-world needs of condenser heat exchangers for this equipment.

d. Compressor Performance Modeling

Manufacturers and consumers expressed concern over DOE's assumptions regarding the advances in compressor technology anticipated before the compliance date. Danfoss, Traulsen, AHRI, True, Structural Concepts, Continental, NAFEM and Hoshizaki commented that if a 10% compressor efficiency improvement were possible for a 5% cost increase, then it is most likely that manufacturers would have already adopted this technology. (Traulsen, No. 65 at p. 12) (AHRI, No. 75 at p. 9) (True, No. 76 at p. 2) (Structural Concepts, No. 85 at p. 2) (Continental, No. 87 at p. 2) (NAFEM, No. 93 at p. 3) (Hoshizaki, No. 84 at p. 2) Further, Danfoss stated that, at most, a 1–2% increase in efficiency could be gained for a 5% cost increase. (Danfoss, No. 61 at p. 2)

DOE appreciates the specific and detailed input which it received from manufacturers and suppliers regarding its previous assumptions of potential improvements in compressor efficiency and the corresponding costs to attain these performance increases. In light of these comments, DOE updated its performance and cost modeling of compressors for the final rule analysis. Specifically, DOE implemented the suggestion of Danfoss, a major supplier, which stated that a 2% increase in performance over today's standard offerings, with a corresponding cost increase of 5%, is attainable. DOE believes that these parameters better reflect the options available to manufacturers of commercial refrigeration equipment.

e. Insulation Modeling

Some stakeholders felt that DOE's analytical model of case insulation had failed to sufficiently capture its effect on manufacturing processes and field performance. Continental and Structural Concepts commented that the actual R-value of urethane foam insulation is significantly lower than the value modeled. (Structural Concepts, No. 85 at p. 2) (Continental, No. 87 at p. 3) AHRI and True suggested that an R-Value of 6 per inch was more realistic for insulation than the currently modeled 8 per inch. (AHRI, No. 75 at p. 5) (True, No. 76 at p. 3) Concurrently, NAFEM commented that 1.25 inches of added insulation would actually be required to meet the level of insulating performance included in the proposed standard. (NAFEM, No. 93 at p. 5) True commented that there was a loss of insulation value over time using urethane insulation and plastic liners. (True, No. 76 at p. 3)

Traulsen commented that the DOE assumption that increased insulation would not affect cabinet structure was incorrect. Traulsen further noted that some aspects of cabinet geometry and features where the highest level of heat

[40] Coil UA is a lumped parameter describing the heat transfer capability of a heat exchanger, accounting for the thermal transmittance (U) and surface area (A) of the specific heat exchanger design.

leakage occur appear to be beyond the scope of DOE's model. (Traulsen, No. 65 at p. 7) Continental, too, commented that cabinet geometry would lead to low in-place insulation values, requiring much thicker insulation in some areas than others, to achieve the proposed standards. (Continental, No. 87 at p. 3)

Traulsen commented that since the 2009 rule noted that a ½″ insulation increase was not viable for some classes, and since no significant changes in technology have occurred, DOE should exclude this design option from a proposed standard level. (Traulsen, No. 65 at p. 8)

In response to the comments from Structural Concepts, Continental, AHRI, True, and NAFEM, DOE believes that an R-value of 8 per inch is accurate for foamed-in-place polyurethane insulation as used in commercial refrigeration equipment. DOE has corroborated this value in past and ongoing rulemakings against product literature, supplier and academic studies, and discussions in manufacturer interviews. Therefore DOE believes that this is an accurate value and has maintained it for the modeling of foam performance in its final rule engineering analysis. With regard to the comment from True on changes in insulative value of foam over time, DOE notes that certification of equipment is conducted at or shortly after the time of manufacture, and thus equipment in that state is modeled in DOE's engineering analysis. DOE did not model the performance of equipment at points long after the time of manufacture.

DOE based its modeling of case heat loads on measured geometries as seen in units purchased and torn down over the course of the rulemaking, as well as on product literature for designs currently on the market. DOE notes that these geometries in some cases included the level of increased foam thicknesses modeled as a design option, meaning that manufacturers were already including these increases and accounting for their effects. Thus, since proof of concept is already being presented in today's equipment market, DOE does not believe that there are inaccuracies in its levels of modeled foam thickness. In response to the comment from Traulsen, DOE believes that its model sufficiently accounts for the thermal effects of conduction, infiltration, and other heat loads incident upon the refrigerated case. With respect to Continental's concerns, DOE has examined a wide variety of case designs on the market, but generally has not encountered instances in which low in-place insulation thicknesses have been observed. In most instances that DOE has examined, manufacturers have maintained a standard thickness throughout the body of the case. Therefore, DOE believes that its insulation modeling is accurate and consistent with designs currently produced by the industry.

DOE conducted its current analysis based on the latest available information regarding equipment designs, cost and performance of design options and components, and downstream factors such as electricity price forecasts. This information was updated entirely from the 2009 rule. Therefore, in response to Traulsen's comment that DOE should not consider a design option in this analysis just because it was not included in the analytical levels corresponding to standards set for some classes in 2009, DOE cautions that a direct comparison between the two rulemakings may not be accurate. Changes in prices, market factors, and other inputs since 2009 mean that outcomes between the two analyses could be different. Therefore, DOE has conducted the current analysis in isolation based on the best currently available data, and has set the standard levels included in today's rule using the results of that analysis.

f. Lighting Performance

Several manufacturers opined that DOE had modeled LED performance too aggressively. Southern Store Fixtures commented that even with more directional light from LED systems, higher wattage LEDs with higher number of diodes than those modeled by DOE would be required to provide illumination comparable to a fluorescent system. (Southern Store Fixtures, No. 67 at p. 2) Traulsen, in agreement with other commenters, noted that LEDs require more watts per lumen than high efficiency T8 lighting which uses reflectors. (Traulsen, No. 65 at p. 3) Continental commented that, while LEDs are significantly more directional than fluorescent lights, the efficacy modeled by DOE was overestimated. (Continental, No. 87 at p. 2) More specifically, AHRI commented that although LEDs are directional, the DOE assumption that the output of 4-ft & 5-ft LEDs is only 29% of that associated with T8 lighting is flawed, since the directional nature of LEDs cannot fully compensate for such a large differential. (AHRI, No. 75 at p. 3) Additionally, True commented that due to the varied nature of illumination needs across products, many models require higher wattages if LEDs are used. (True, No. 76 at p. 1) AHRI added that reducing the light output into cases through use of LEDs would affect consumer utility. (AHRI, No. 75 at p. 4) Traulsen commented that CRE applications, especially those requiring low temperature settings, could experience degradation in LED color quality and shorter lifespans. Traulsen further commented that the variety of displayed packaging or product types may need special light colors, and that one size fits all approach to LED lighting could lead to loss of utility. (Traulsen, No. 65 at p. 4)

Providing an additional viewpoint, the CA IOUs commented that the assumed level of efficacy for LED technology (54 lumens per watt) was very conservative. The CA IOUs further noted that using the DesignLights Consortium online database, the current simple average for all vertical refrigerated case lighting was 59 lumens per watt, with the average for products added in 2013 being 66 lumens per watt. (CA IOUs, No. 63 at p. 7)

AHRI commented that comparisons between T8, super T8, and LED lighting systems as modeled in the previous and current rulemakings suggest that no significant improvements have been made in lighting since the last rulemaking cycle. (AHRI, No. 75 at p. 2)

With regard to specific equipment classes, Hillphoenix commented that the savings from SVO.RC.M due to LED lighting was the same as for VOP.RC.M even though the semi-vertical cases would have fewer shelf lights than the vertical open cases. (Hillphoenix, No. 71 at p. 6) Further, AHRI commented that in the case of VCT.RC.M and VCT.RC.L equipment, the LED lighting design option provides about an 80–83% increased energy consumption reduction for the current rulemaking as compared to the previous rulemaking. (AHRI, No. 75 at p. 9)

DOE agrees with the comments from Southern Store Fixtures, Continental, and Traulsen that, in absolute terms, LED lighting produces fewer output lumens per watt than T8 fluorescent lighting. However, DOE understands that due to the directionality of LED lighting, a much greater percentage of the lighting is incident upon the product, rather than being diffused into the cabinet. With respect to the concerns of AHRI and Continental that this directionality is still not sufficient to compensate for the levels of lighting modeled in the engineering analysis, DOE asserts that it based its modeling directly on the specific configurations of equipment being shipped on the market at the time of the analysis. When selecting LED lighting specifications to model, DOE performed research through manufacturer literature and catalogs,

studies of lighting manufacturer product literature, and physical teardowns of existing units on the market. Developed based on this data, DOE believes that its lighting specifications reflect the current needs of customers and designs produced by manufacturers to satisfy those needs.

In addition, based on new information provided by stakeholder comments at the final rule stage, DOE has increased the modeled lumen output of its LED fixtures by roughly 20% across all classes. DOE believes that this added modeled light output serves to address the concerns presented by stakeholders in their comments. Additionally, DOE understands that manufacturers have concerns over the applicability of LED lighting to the wide variety of models merchandised within commercial refrigeration equipment. During its manufacturer interviews, DOE specifically addressed this subject, speaking to manufacturers of a broad range of equipment about their use of LEDs. Generally, manufacturers stated that LED technology has advanced sufficiently that issues with color matching and product color illumination are no longer as significant as in the past. DOE's research into current manufacturer designs aligns with this finding, as manufacturers are using LED lighting in all applicable equipment families. With respect to concerns over LED lifetimes, based on its discussions with manufacturers, DOE does understand that there still remain variations in quality and durability of LED products based on the chosen supplier, but that LED reliability has improved significantly to its current state. Additionally, DOE has accounted for the need for replacement of LED lighting fixtures as part of the maintenance costs analyzed in its life-cycle cost and payback period analysis.

After receiving the comment from the CA IOUs regarding standard efficacies of LED fixtures produced today, DOE researched the referenced DesignLights Consortium online database and found that the listed data agreed with the performance levels stated in the comment from the CA IOUs. In response to this new data, DOE updated its efficacy figures for the modeled LED fixtures in line with those levels depicted for models currently on the market per the database. This resulted in an approximate 20% increase in modeled lumen output for all LED fixtures modeled. DOE believes that this adjustment allows its LED modeling to better reflect the level of technology currently available on the market, while simultaneously addressing concerns from manufacturers and other stakeholder about low levels of product illumination using LED lighting.

DOE agrees with AHRI that no major new lighting technologies have come onto the market since the conduct of the 2009 rulemaking; that is, that the options currently available to manufacturers consist largely of T8 fluorescent and LED lighting. Therefore, in building up engineering cost-efficiency curves depicting the price and performance of equipment from baseline to max-tech levels, DOE included these technologies in the baseline and higher-efficiency scenarios and implemented energy-saving lighting features alongside other design options in order of ascending payback period. With respect to AHRI's assertion of significant new improvements to lighting technologies since the modeling for the 2009 final rule was performed, DOE points out that it updated the prices and performance levels of the various lighting technologies to reflect new information since the 2009 rulemaking, and reordered its design options and cost-efficiency curves correspondingly.

In response to the comments from AHRI and Hillphoenix comparing the perceived relative efficacies of specific design options in the engineering analysis to the incremental performance changes associated with them in the 2009 rule, DOE cautions against making such comparisons since many other factors were not held constant. Updates to the baseline configuration, improved pricing and performance modeling, inclusion of new design options, and updated design option ordering all mean that the modeled order of implementation of design options, and the effects of those design options being implemented, has in many instances changed since the 2009 final rule analysis. Therefore, a direct comparison would be inaccurate and unfair. Similarly, DOE cautions against direct comparisons of specific incremental results across different equipment classes. Engineering results for each equipment class were calculated independently based upon the best available data on equipment configuration, design option performance, and costs. Therefore, the results of each class should be examined independently, and there was no interrelation to other classes built into the model.

g. Transparent Door Performance

Stakeholders expressed concern over the modeled improvements in transparent door performance between the current and previous rulemaking analyses. AHRI commented that there was a decrease of over 60% in the U-factors for transparent doors between the previous final rule and the current NOPR, even though both results were arrived at using the Lawrence Berkeley National Laboratory (LBNL) WINDOW[41] software. Further, AHRI noted that the U-factor associated with high-performance doors for VCT.M equipment in 2009 did not even meet the level of performance suggested by the U-factor that is listed in the current TSD for standard doors. (AHRI, No. 75 at p. 9) Similarly, Hussmann commented that the U-factors and anti-sweat heat values for transparent doors in various classes were significantly lower than in the 2009 final rule, and that base cases in the current NOPR analysis did not meet the definition of high-performance from the previous analysis. (Hussmann, No. 77 at p. 2) Hillphoenix commented that the U-factor and heater power varied for identical classes from the previous rulemaking to the current. (Hillphoenix, No. 71 at p. 7) AHRI commented that for HCT.M equipment, while the overall U-Factor specified for standard doors seems appropriate, the U-factor for high-performance doors seems very low. (AHRI, No. 75 at p. 10)

In response to the stakeholder concerns regarding the modeled performance of transparent doors, DOE revisited its modeling of this feature as part of its final rule engineering analysis. In doing so, it incorporated comments and suggestions from stakeholders received during the NOPR public meeting and in written comments after the publication of the NOPR regarding design attributes such as the number of panes of glass modeled, the use of low-e coatings, and appropriate levels of anti-sweat heat. DOE also gathered additional information through physical inspection and teardown of several additional glass-door models procured during the final rule stage. Based on these inputs, DOE modeled the various types of glass doors using the latest version of the LBL WINDOW software to develop new, more accurate whole-door U-factors. In response to the comments on alignment of the previous and current baseline door designs, DOE did in some cases, where appropriate, retain the U-factors and anti-sweat powers used at the baseline in the 2009 final rule. However, in other instances where DOE found evidence that the market baseline and

[41] This software is an industry-accepted, publicly-available software tool used to model the performance of various fenestration components such as windows. More information is available at *http://windows.lbl.gov/software/window/window.html.*

features included in standard door offerings had evolved since that time, DOE sought to include in its baseline designs features which reflect the current offerings of major door manufacturers. For full details on the modeled performance attributes of transparent doors, please see chapter 5 of the final rule TSD.

h. Validation of Engineering Results

DOE's engineering results as presented in the NOPR were based on the results of analytical modeling. Several stakeholders, however, felt that the analysis was purely theoretical and did not account for factors affecting field performance. Hoshizaki commented that DOE's engineering analysis considers a theoretical base case with no experimental or physical data to support the model. (Hoshizaki, No. 84 at p. 1) Traulsen commented that the MDEC targets were evaluated by using a theoretical prototype based on market trends and assumptions, and contrasted that with DOE's statement in the NOPR TSD that design options comprising the maximum technologically feasible level must have been physically demonstrated. Further, Traulsen noted that the engineering analysis was only an academic exercise based on computer simulations rather than physical results. (Traulsen, No. 65 at p. 2)

Hoshizaki, ACEEE and Lennox urged DOE to perform validation testing and physically demonstrate the achievement of the proposed efficiency improvement levels. (Hoshizaki, No. 84 at p. 2) (ACEEE, Public Meeting Transcript, No. 62 at p. 351) (Lennox, No. 73 at p. 2) Similarly, NAFEM noted that the modeled maximum-technology designs were not backed by tests or prototypes. (NAFEM, No. 93 at p. 3) The CA IOUs strongly urged DOE to calibrate and validate its model with test and prototype data, asserting that while many of the assumptions made by DOE might hold true in theory, they may not be physically possible to realize. (CA IOUs, No. 63 at p. 6)

Traulsen commented that the success of the 2009 final rule standard could have been reviewed using voluntary databases containing empirical data of commonly-produced units. Traulsen further commented that DOE should base its future MDEC targets on data regarding best practices and technologies available in the market, as indicated by these databases. (Traulsen, No. 65 at p. 2)

The Joint Comment noted that DOE utilized a theoretical engineering model approach for the 2011 residential refrigerators final rule. 76 FR 57516 (Sept. 15, 2011) Further, the Joint Comment noted that the 2011 residential refrigeration model's max-tech levels were 59% more efficient than the existing standard, even though the most efficient model available at the time was only 27% more efficient. (Joint Comment, No. 91 at p. 2)

DOE agrees that its results are based on analytical modeling, but disagrees with the assertions from Hoshizaki and Traulsen that the simulation and modeling were purely theoretical in nature. DOE based its analysis on a model which was developed for the 2009 final rule and updated to accommodate the needs of this current rulemaking. Inputs to the model included data from tangible sources such as manufacturer literature, manufacturer interviews, production facility tours, reverse engineering and teardown of existing products on the market, and tests of commercial refrigeration equipment and components. DOE maintains its assertion, contrary to Traulsen's comment, that all design options modeled have been physically demonstrated in the commercial refrigeration market or in comparable products.

In agreement with the Joint Comment, DOE points to the 2011 residential refrigerators final rule, the 2009 commercial refrigeration equipment final rule, and the 2009 refrigerated beverage vending machine final rule as examples of cases where analytical tools and simulation have been used to develop effective energy efficiency standards. 76 FR 57516 (Sept. 15, 2011); 74 FR 1092 (Jan. 9, 2009); 74 FR 44914 (Aug. 31, 2009) Additionally, DOE notes that it recently issued a rule, strongly supported by industry, which will allow manufacturers to use alternative energy determination methods (AEDMs), which are non-testing methodologies and analytical tools, to certify the performance of their equipment. 78 FR 79579 (December 31, 2013)

In response to the comments from Traulsen, Hoshizaki, ACEEE, the CA IOUs, Lennox, and NAFEM that DOE perform validation testing to confirm the veracity of its model, at the final rule stage DOE procured a number of commercial refrigeration units currently on the market, including high-performance units featuring advanced designs. It gathered physical test data on each unit from certification directories and, in some cases, from independent laboratory tests conducted by DOE on the units. DOE then performed physical teardowns and inspection of the units to quantify the features and design attributes included in each model. Then, DOE used this empirically-determined data as inputs into its engineering model, allowing the model to simulate these specific manufacturer models as closely as possible. The results showed good alignment between the model outputs and the physical test results across a range of equipment classes and efficiencies, validating the abilities of the model. For further information on this validation exercise, please see chapter 5 of the final rule TSD.

With regard to the suggestion from Traulsen that DOE reference existing equipment performance databases, at the final rule stage of this rulemaking, DOE utilized information from the ENERGY STAR [42] and California Energy Commission [43] appliance databases as a point of comparison to its engineering analysis results. This allowed DOE to compare its analytical results to existing directories of certified data and ensure that the results fell within a reasonable range of performance values. However, DOE notes that neither of these databases is necessarily comprehensive and exhaustive of all models offered for sale in the United States, and that market data only capture those designs which are currently being built, not all of those which may be feasible. For these reasons, while DOE compared its results against those databases as a check, it continued to use a design option approach and simulation as the basis for developing its engineering analysis results, rather than developing standard levels solely from existing market data.

E. Markups Analysis

DOE applies multipliers called ''markups'' to the MSP to calculate the customer purchase price of the analyzed equipment. These markups are in addition to the manufacturer markup (discussed in section IV.D.4.e) and are intended to reflect the cost and profit margins associated with the distribution and sales of the equipment. DOE identified three major distribution channels for commercial refrigeration equipment, and markup values were calculated for each distribution channel based on industry financial data. The overall markup values were then calculated by weighted-averaging the individual markups with market share values of the distribution channels.

In estimating markups for CRE and other products, DOE develops separate markups for the cost of baseline

[42] *http://www.energystar.gov/certified-products/certified-products.*

[43] *http://www.appliances.energy.ca.gov/Default.aspx.*

equipment and the incremental cost of higher-efficiency equipment. Incremental markups are applied as multipliers only to the MSP increments of higher-efficiency equipment compared to baseline, and not to the entire MSP.

Traulsen stated that, in its experience, the initial markup on equipment will be consistent with production costs, and that the incremental markups will increase with higher levels of product efficiency due to product differentiation. (Traulsen, No. 65 at p. 18) DOE agrees that manufacturer markups are often larger on higher-efficiency equipment due to product differentiation strategies. However, DOE's approach considers a situation in which products at any given efficiency level may be the baseline products under new or amended standards (*i.e.,* they just meet the standard). In that situation, a typical markup would apply. DOE uses average values for manufacturer markups.

Traulsen also stated that it did not believe that wholesalers differentiate markups based on the technologies inherently present in this equipment and that, in its experience, wholesalers/resellers will use traditional markup rates regardless of equipment's energy efficiency. (Traulsen, No. 65 at p. 18)

DOE's approach for wholesaler markups does not imply that wholesalers differentiate markups based on the technologies inherently present in the equipment. It assumes that the average markup declines as the wholesalers' cost of goods sold increases due to the higher cost of more-efficient equipment. If the markup remains constant while the cost of goods sold increases, as Traulsen's comment suggests, the wholesalers' profits would also increase. While this might happen in the short run, DOE believes that the wholesale market is sufficiently competitive such that there would be pressure on margins. DOE recognizes that attempting to capture the market response to changing cost conditions is difficult. However, DOE's approach is consistent with the mainstream understanding of firm behavior in competitive markets.

See chapter 6 of the final rule TSD for more details on DOE's markups analysis.

F. Life-Cycle Cost and Payback Period Analysis

DOE conducts LCC analysis to evaluate the economic impacts of potential amended energy conservation standards on individual commercial customers—that is, buyers of the equipment. LCC is defined as the total customer cost over the life of the equipment, and consists of purchase price, installation costs, and operating costs (maintenance, repair, and energy costs). DOE discounts future operating costs to the time of purchase and sums them over the expected lifetime of the piece of equipment. PBP is defined as the estimated amount of time it takes customers to recover the higher installed costs of more-efficient equipment through savings in operating costs. DOE calculates the PBP by dividing the increase in installed costs by the average savings in annual operating costs.

As part of the engineering analysis, design option levels were ordered based on increasing efficiency (i.e., decreasing energy consumption) and increasing MSP. For the LCC analysis, DOE chose a maximum of eight levels, henceforth referred to as ''efficiency levels,'' from the list of engineering design option levels. For equipment classes for which fewer than eight design option levels were defined in the engineering analysis, all design option levels were used. However, for equipment classes where more than eight design option levels were defined, DOE selected specific levels to analyze in the following manner:

1. The lowest and highest energy consumption levels provided in the engineering analysis were preserved.

2. If the difference in reported energy consumptions and reported manufacturer price between sequential levels was minimal, only the higher efficiency level was selected.

3. If the energy consumption savings benefit between efficiency levels relative to the increased cost was very similar across multiple sequential levels, an intermediate level was not selected as an efficiency level.

The first efficiency level (Level 0) in each equipment class is the least efficient and the least expensive equipment configuration in that class. The higher efficiency levels (Level 1 and higher) exhibit progressive increases in efficiency and cost from Level 0. The highest efficiency level in each equipment class corresponds to the max-tech level. Each higher efficiency level represents a potential new standard level.

The installed cost of equipment to a customer is the sum of the equipment purchase price and installation costs. The purchase price includes MPC, to which a manufacturer markup and outbound freight cost are applied to obtain the MSP. This value is calculated as part of the engineering analysis (chapter 5 of the final rule TSD). DOE then applies additional markups to the equipment to account for the markups associated with the distribution channels for the particular type of equipment (chapter 6 of the final rule TSD). Installation costs were varied by state, depending on the prevailing labor rates.

Operating costs for commercial refrigeration equipment are the sum of maintenance costs, repair costs, and energy costs. These costs are incurred over the life of the equipment and therefore are discounted to the base year (2017, which is the compliance date of any amended standards that are established as part of this rulemaking).

The sum of the installed cost and the operating cost, discounted to reflect the present value, is termed the life-cycle cost or LCC. Generally, customers incur higher installed costs when they purchase higher efficiency equipment, and these cost increments will be partially or wholly offset by savings in the operating costs over the lifetime of the equipment. LCC savings are calculated for each efficiency level of each equipment class.

The PBP of higher efficiency equipment is obtained by dividing the increase in the installed cost by the decrease in annual operating cost. In addition to energy costs (calculated using the electricity price forecast for the first year), the annual operating cost includes annualized maintenance and repair costs. PBP is calculated for each efficiency level of each equipment class.

Apart from MSP, installation costs, and maintenance and repair costs, other important inputs for the LCC analysis are markups and sales tax, equipment energy consumption, electricity prices and future price trends, expected equipment lifetime, and discount rates.

Many inputs for the LCC analysis are estimated from the best available data in the market, and in some cases the inputs are generally accepted values within the industry. In general, each input value has a range of values associated with it. While single representative values for each input may yield an output that is the most probable value for that output, such an analysis does not provide the general range of values that can be attributed to a particular output value. Therefore, DOE carried out the LCC analysis in the form of Monte Carlo simulations,[44] in which certain inputs

[44] Monte Carlo simulation is, generally, a computerized mathematical technique that allows for computation of the outputs from a mathematical model based on multiple simulations using different input values. The input values are varied based on the uncertainties inherent to those inputs. The combination of the input values of different inputs is carried out in a random fashion to simulate the different probable input combinations.

were expressed as a range of values and probability distributions to account for the ranges of values that may be typically associated with the respective input values. The results, or outputs, of the LCC analysis are presented in the form of mean and median LCC savings; percentages of customers experiencing net savings, net cost and no impact in LCC; and median PBP. For each equipment class, 10,000 Monte Carlo simulations were carried out. The simulations were conducted using Microsoft Excel and Crystal Ball, a commercially available Excel add-in used to carry out Monte Carlo simulations.

LCC savings and PBP are calculated by comparing the installed costs and LCC values of standards-case scenarios against those of base-case scenarios. The base-case scenario is the scenario in which equipment is assumed to be purchased by customers in the absence of the amended energy conservation standards. Standards-case scenarios are scenarios in which equipment is assumed to be purchased by customers after the amended energy conservation standards, determined as part of the current rulemaking, go into effect. The number of standards-case scenarios for an equipment class is equal to one less than the total number of efficiency levels in that equipment class, since each efficiency level above Efficiency Level 0 represents a potential amended standard. Usually, the equipment available in the market will have a distribution of efficiencies. Therefore, for both base-case and standards-case scenarios, in the LCC analysis, DOE assumed a distribution of efficiencies in the market (see section IV.F.10).

Recognizing that each building that uses commercial refrigeration equipment is unique, DOE analyzed variability in the LCC and PBP results by performing the LCC and PBP calculations for seven types of businesses: (1) Supermarkets; (2) wholesaler/multi-line retail stores, such as ''big-box stores,'' ''warehouses,'' and ''supercenters''; (3) convenience and small specialty stores, such as meat markets and wine, beer, and liquor stores; (4) convenience stores associated with gasoline stations; (5) full-service restaurants; (6) limited service restaurants; and (7) other foodservice businesses, such as caterers and cafeterias. Different types of businesses face different energy prices and also exhibit differing discount rates that they apply to purchase decisions.

The outputs of the Monte Carlo simulations reflect the various outputs that are possible due to the variations in the inputs.

Expected equipment lifetime is another input whose value varies over a range. Therefore, DOE assumed a distribution of equipment lifetimes that are defined by Weibull survival functions.[45]

Another important factor influencing the LCC analysis is the State in which the commercial refrigeration equipment is installed. Inputs that vary based on this factor include energy prices and sales tax. At the national level, the spreadsheets explicitly modeled variability in the inputs for electricity price and markups, using probability distributions based on the relative shipments of units to different States and business types.

Detailed descriptions of the methodology used for the LCC analysis, along with a discussion of inputs and results, are presented in chapter 8 and appendices 8A and 8B of the final rule TSD.

1. Equipment Cost

To calculate customer equipment costs, DOE multiplied the MSPs developed in the engineering analysis by the distribution channel markups, described in section IV.D.5. DOE applied baseline markups to baseline MSPs, and incremental markups to the MSP increments associated with higher efficiency levels.

DOE developed an equipment price trend for CRE based on the inflation-adjusted index of the producer price index (PPI) for air conditioning, refrigeration, and forced air heating from 1978 to 2012.[46] A linear regression of the inflation-adjusted PPI shows a slight downward trend (see appendix 10D of the final rule TSD). To project a future trend, DOE extrapolated the historic trend using the regression results. For the LCC and PBP analysis, this default trend was applied between the present and the first year of compliance with amended standards, 2017.

2. Installation Costs

Installation cost includes labor, overhead, and any miscellaneous materials and parts needed to install the equipment. The installation costs may vary from one equipment class to another, but they do not vary with efficiency levels within an equipment class. DOE retained the nationally representative installation cost values from the January 2009 final rule and simply escalated the values from 2007$ to 2012$, resulting in installation costs of $2,299 for all remote condensing equipment and $862 for all self-contained equipment.

Hussmann opined that as equipment becomes more expensive, it will also become more difficult to install, which will result in higher installation labor costs. (Hussmann, No. 77 at p. 5) DOE has found no evidence to support the notion that higher-efficiency (and more expensive) commercial refrigeration equipment lead to an increase in installations costs. The installation costs derived for the NOPR and final rule are based on a detailed list of installation and commissioning procedures, which DOE believes to be representative of current industry practice. These installation and commissioning details can be found in chapter 8 of the final rule TSD.

NAFEM asserted that DOE failed to take into account the ramifications of the proposed standard on a variety of end-uses, such as restaurants, grocery stores, and convenience stores. For these end-users floor space is limited, and increasing efficiency may increase the equipment size to store the same amount of goods. NAFEM suggests that increasing the thickness of foam insulation would decrease storage and display capacity of equipment and will likely result in a limitation of the products offered for sale by these users. (NAFEM, No. 93 at pp. 3–4)

As described in detail in section IV.D.2.d of today's rule, DOE, in its teardown analyses, encountered a number of models currently on the market utilizing the increased foam wall thicknesses which it modeled. Since manufacturers are already employing these wall thicknesses in currently-available models, DOE believes that this serves as a proof of concept and that the resulting changes to form factor would be of minimal impact to end users. DOE also would like to remind stakeholders that it is not setting prescriptive standards, and should manufacturers value some features over others, they are free to use different design paths in order to attain the performance levels required by today's rule.

3. Maintenance and Repair Costs

Maintenance costs are associated with maintaining the operation of the equipment. DOE split the maintenance costs into regular maintenance costs and lighting maintenance costs. Regular maintenance activities, which include cleaning evaporator and condenser coils, drain pans, fans, and intake screens; inspecting door gaskets and seals; lubricating hinges; and checking

[45] A Weibull survival function is a continuous probability distribution function that is used to approximate the distribution of equipment lifetimes of commercial refrigeration equipment.

[46] Bureau of Labor Statistics, Producer Price Index Industry Data, Series: *PCU3334153334153.*

starter panel, control, and defrost system operation, were considered to be equivalent for equipment at all efficiency levels. Lighting maintenance costs are the costs incurred to replace display case lighting at regular intervals in a preventative fashion. Because lights and lighting configuration change with efficiency levels, lighting maintenance costs vary with efficiency levels. As stated in chapter 5 of the TSD, for efficiency levels that incorporate LED lights as a design option, the expected reduction in LED costs beyond 2017 was taken into account when calculating the lighting maintenance costs.

Repair cost is the cost to the customer of replacing or repairing failed components. DOE calculated repair costs based on the typical failure rate of refrigeration system components, original equipment manufacturer (OEM) cost of the components, and an assumed markup value to account for labor cost.

Several stakeholders stated that DOE's estimated repair and maintenance costs were too low. The National Restaurant Association commented that, in general, maintenance costs would be much higher. (NRA, No. 90 at p. 3) Hussmann asserted that the condensate evaporator pan, which is often present in self-contained equipment, must be periodically cleaned and serviced, which increases the maintenance costs for such equipment, and that self-contained equipment that utilizes enhanced condenser coils needs to be cleaned more frequently due to the greater density of fins on the condenser. (Hussmann, No. 77 at p. 4) Hussmann further commented that equipment using ECM has higher repair costs. (Hussmann, No. 77 at p. 5) True commented that fluorescent lamps in low temperature applications fail more commonly, so there is a substantial increase in the cost of lighting for freezers compared to refrigerators. LEDs do not have this problem. (True, Public Meeting Transcript, No. 62 at p. 186) Continental commented that smaller refrigeration systems have higher maintenance costs due to tighter tolerances. (Continental, Public Meeting Transcript, No. 62 at p. 186)

DOE requested information from stakeholders regarding maintenance and repair costs specifically related to any of the design options used for this rulemaking. DOE believes its maintenance costs per linear foot are consistent with current industry practices and are sufficient to account for the additional time required to clean closely placed condenser coils and other considerations related to tight space. DOE does not believe that any design option used in the higher efficiency equipment considered in this rulemaking would lead to higher costs for regular maintenance activities. Therefore, DOE retained its approach of using the same costs for regular maintenance for all efficiency levels. However, repair costs have been modeled to be proportional to the OEM cost of the components and, consequently, are higher for higher efficiency equipment.

4. Annual Energy Consumption

Typical annual energy consumption of commercial refrigeration equipment at each considered efficiency level is obtained from the engineering analysis results (see chapter 5 of the final rule TSD).

5. Energy Prices

DOE calculated state average commercial electricity prices using the U.S. Energy Information Administration's (EIA's) ''Database of Monthly Electric Utility Sales and Revenue Data.'' [47] DOE calculated an average national commercial price by (1) estimating an average commercial price for each utility company by dividing the commercial revenues by commercial sales; and (2) weighting each utility by the number of commercial customers it served by state.

6. Energy Price Projections

To estimate energy prices in future years, DOE extrapolated the average state electricity prices described above using the forecast of annual average commercial electricity prices developed in the Reference Case from *AEO2013*.[48] *AEO2013* forecasted prices through 2040. To estimate the price trends after 2040, DOE assumed the same average annual rate of change in prices as from 2031 to 2040.

7. Equipment Lifetime

DOE defines lifetime as the age at which a commercial refrigeration equipment unit is retired from service. DOE based expected equipment lifetime on discussions with industry experts, and concluded that a typical lifetime of 10 years is appropriate for most commercial refrigeration equipment in large grocery/multi-line stores and restaurants. Industry experts believe that operators of small food retail stores, on the other hand, tend to use CRE longer. In the NOPR, DOE used 15 years as the average equipment lifetime for remote condensing equipment in small food retail stores. DOE reflects the uncertainty of equipment lifetimes in the LCC analysis for both equipment markets as probability distributions, as discussed in section 8.2.3.5 of the final rule TSD.

Several commenters responded on the subject of equipment lifetimes. NAFEM asserted that DOE had overestimated the lifetime of commercial refrigeration equipment, and suggested that DOE reach out to end-users and manufacturers for a more accurate estimate. (NAFEM, No. 93 at p. 7) Traulsen commented that commercial refrigeration equipment is too diverse to be lumped into categories of different lifetimes, as the lifetime of a unit depends on how it is used by a customer in each environment. Traulsen added that without including the time spent in the used equipment market, the estimate of equipment life is too low. (Traulsen, No. 65 at p. 21) The National Restaurant Association also commented that DOE's assumption of a 10 to 15 year lifetime is too low. (NRA, No. 90 at p. 3) Hussmann and Hoshizaki both commented that DOE's equipment lifetime estimates are reasonable at 10 and 15 years. (Hussmann, No. 77 at p. 7) (Hoshizaki, No. 84 at p. 1)

DOE recognizes that the lifetime of commercial refrigeration equipment is dependent on customer type and usage environment. In the NOPR, DOE used an average lifetime of 15 years for remote condensing equipment for small retail stores, and 10 years for all other business types. These lifetimes are the averages of distributions with a maximum lifetime of 20 and 15 years, respectively, for remote condensing equipment for small retail stores, and all other business types. DOE received comments indicating that the lifetimes for small businesses aside from small retail were too low in the NOPR, and that equipment used in small businesses of other types were likely to have increased lifetimes as well. DOE agrees with these statements, and adopted figures for the average and maximum lifetime of 15 and 20 years, respectively, for equipment operated by small businesses of all types. The equipment lifetimes for all other business types remains unchanged from the NOPR with an average and maximum lifetime of 10 and 15 years, respectively. Equipment lifetimes are described in detail in chapter 8 of the TSD.

[47] U.S. Energy Information Administration. *EIA–826 Sales and Revenue Spreadsheets.* (Last accessed May 16, 2012). *www.eia.doe.gov/cneaf/electricity/page/eia826.html.*

[48] The spreadsheet tool that DOE used to conduct the LCC and PBP analyses allows users to select price forecasts from either *AEO*'s High Economic Growth or Low Economic Growth Cases. Users can thereby estimate the sensitivity of the LCC and PBP results to different energy price forecasts.

8. Discount Rates

In calculating the LCC, DOE applies discount rates to estimate the present value of future operating costs to the customers of commercial refrigeration equipment.[49] DOE derived the discount rates for the commercial refrigeration equipment analysis by estimating the average cost of capital for a large number of companies similar to those that could purchase commercial refrigeration equipment. This resulted in a distribution of potential customer discount rates from which DOE sampled in the LCC analysis. Most companies use both debt and equity capital to fund investments, so their cost of capital is the weighted average of the cost to the company of equity and debt financing.

DOE estimated the cost of equity financing by using the Capital Asset Pricing Model (CAPM).[50] The CAPM assumes that the cost of equity is proportional to the amount of systematic risk associated with a company.

Mercatus Center, George Mason University (Mercatus) commented that the CAPM includes the risk associated with a firm's failure, but it does not estimate the risk associated with any individual item used in by the firm, nor does it estimate the failure risk associated with a particular site of operation. (Mercatus, No. 72 at p. 3)

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, and the CAPM is among the most widely used models to estimate the cost of equity financing. The types of risk mentioned by Mercatus may exist, but the cost of equity financing tends to be high when a company faces a large degree of systematic risk, and it tends to be low when the company faces a small degree of systematic risk. DOE's approach estimates this risk for the set of companies that could purchase commercial refrigeration equipment. See chapter 8 of the final rule TSD for further discussion.

9. Compliance Date of Standards

EPCA requires that any amended standards established in this rulemaking must apply to equipment that is manufactured on or after 3 years after the final rule is published in the **Federal Register** unless DOE determines, by rule, that a 3-year period is inadequate, in which case DOE may extend the compliance date for that standard by an additional 2 years. (42 U.S.C. 6313(c)(6)(C)) Based on these criteria, DOE assumed that the most likely compliance date for standards set by this rulemaking would be in 2017. Therefore, DOE calculated the LCC and PBP for commercial refrigeration equipment under the assumption that compliant equipment would be purchased in 2017.

Continental and Lennox commented that an extension of compliance dates of the amended standards may not be required so long as the standards are based on whatever technology was currently available. (Continental, Public Meeting Transcript, No. 62 at p. 334; Lennox, No. 73 at p. 2) Traulsen noted that, should the compliance date be extended by a further three years, then it was possible, albeit unlikely, that the proposed standards could be realized. (Traulsen, No. 65 at p. 24) Providing a contrary view, the Joint Comment asserted that a three year compliance time period appeared feasible for the proposed standard. In addition, the Joint Comment pointed out that the initial statutory deadline for the final rule was January 2013. (Joint Comment, No. 91 at p. 13) Earthjustice noted that if the compliance date were extended, this may have an impact on how alternative refrigerants feature in the next round of analysis. (Earthjustice, Public Meeting Transcript, No. 62 at p. 334)

In response to the inputs of stakeholders during the NOPR public meeting and in written comment, DOE believes that a compliance date three years after issuance of the final rule is reasonable and appropriate. A three-year period is the standard length of time given between final rule issuance and required compliance, with exceptions generally being made only in circumstances specifically warranting them. Additionally, the commercial refrigeration industry and related industries have proven in the past that a three-year period is adequate to produce equipment meeting updated standards. Therefore, DOE is not including an extension of the period to comply with standards in today's final rule document.

In their written and verbal comments after publication of the NOPR, stakeholders noted that in ascertaining the compliance date for the CRE standards rule, DOE should take into account other, currently open rulemakings, which could affect or be affected by the proposed rule. True commented that the new timeline for this rulemaking, alongside the recent negotiated settlements regarding the certification of commercial equipment, could lead to a situation where the new standards could be enforced, but not the certification requirement. (True, Public Meeting Transcript, No. 62 at p. 28) Traulsen requested that DOE refrain from issuing new CRE standards until the CRE test procedure is finalized. (Traulsen, No. 65 at p. 16) The final rule for the CRE test procedure was issued prior to today's rule for CRE standards. Therefore, DOE sees no conflict between the issuance of the two rules.

Additionally, Structural Concepts commented that in order to have a product line ready by 2017, the design phase would need to start at least three years prior, and therefore new standards should only be based on existing technologies. (Structural Concepts, Public Meeting Transcript, No. 62 at p. 72)

DOE agrees with Structural Concepts that existing technologies should be the basis of its engineering analysis, and has considered only currently-available technologies in that analysis. Additionally, the three-year compliance period required by EPCA in most circumstances is consistent with the required length of design time suggested by Structural Concepts.

10. Base-Case Efficiency Distributions

To accurately estimate the share of affected customers who would likely be impacted by a standard at a particular efficiency level, DOE's LCC analysis considers the projected distribution of efficiencies of equipment that customers purchase under the base case (that is, the case without new or amended energy efficiency standards). DOE refers to this distribution of equipment efficiencies as a base-case efficiency distribution.

In the NOPR, DOE's methodology to estimate market shares of each efficiency level within each equipment class is a cost-based method consistent with the approaches that were used in the EIA's National Energy Modeling System (NEMS) [51] and in the Canadian Integrated Modeling System (CIMS)[52] [53]

[49] The LCC analysis estimates the economic impact on the individual customer from that customer's own economic perspective in the year of purchase and therefore needs to reflect that individual's own perceived cost of capital. By way of contrast DOE's analysis of national impact requires a societal discount rate. These rates used in that analysis are 7 percent and 3 percent, as required by OMB Circular A–4, September 17, 2003.

[50] Harris, R.S. *Applying the Capital Asset Pricing Model.* UVA–F–1456. Available at SSRN: *http://ssrn.com/abstract=909893.*

[51] U.S. Energy Information Administration. National Energy Modeling System Commercial Model (2004 Version). 2004. Washington, DC.

[52] The CIMS Model was originally known as the Canadian Integrated Modeling System, but as the model is now being applied to other countries, the acronym is now used as its proper name.

[53] Energy Research Group/M.K. Jaccard & Associates. *Integration of GHG Emission Reduction Options using CIMS.* 2000. Vancouver, B.C. *www.emrg.sfu.ca/media/publications/Reports%20*

Continued

for estimating efficiency choices within each equipment class.

At the NOPR public meeting, True stated that 62 percent of the commercial refrigeration equipment sold in the United States is certified under ENERGY STAR. (True, Public Meeting Transcript, No. 62 at p. 302)

For today's final rule, DOE revised its approach for determining the base case efficiency distribution to better account for market data from the ENERGY STAR program. DOE's understanding of the CRE market is that consumers of commercial refrigeration equipment fall into two categories: Those that purchase equipment at the lowest available first cost (also lowest efficiency) and those that purchase equipment at a somewhat higher first cost with higher efficiency. Thus, for the final rule DOE developed a base case efficiency distribution consisting of two categories: Purchases at the baseline and purchases at higher efficiency.

For equipment classes that are covered by ENERGY STAR,[54] DOE assumed that baseline equipment accounts for all products that are not ENERGY STAR certified. The ENERGY STAR share is divided between the ENERGY STAR 2.1 level and the more recent ENERGY STAR 3.0 level, which will become effective in October 2014. For CRE classes that are not covered by ENERGY STAR, DOE estimated the share of equipment at the baseline based on the output from the customer choice model for commercial refrigeration used for EIA's *Annual Energy Outlook 2013* (*AEO 2013).*[55] For the higher efficiency equipment, DOE included all efficiency levels for which the retail price is not more than 10 percent above the baseline price, and divided the equipment between the baseline and the higher-efficiency market. Table IV.2 shows the shipment-weighted market shares by efficiency level in the base-case scenario. The method for developing the base-case efficiency distribution is explained in detail in chapter 8 of the final rule TSD.

TABLE IV.2—MARKET SHARES BY EFFICIENCY LEVEL, BASE CASE IN 2017

Equipment class	Base-case efficiency distribution (%)							
	Base	EL 1	EL 2	EL 3	EL 4	EL 5	EL 6	EL 7
VOP.RC.M	60	40	0	0	0	0	0	0
VOP.RC.L	60	20	20	0	0	0	0	0
VOP.SC.M	60	40	0	0	0	0	0	0
VCT.RC.M	60	14	13	13	0	0	0	0
VCT.RC.L	60	20	20	0	0	0	0	0
VCT.SC.M	90	0	10	0	0	0	0	0
VCT.SC.L	90	0	10	0	0	0	0	0
VCT.SC.I	60	8	8	8	8	8	0	0
VCS.SC.M	60	0	30	0	0	0	10	0
VCS.SC.L	60	30	0	0	10	0	0	0
VCS.SC.I	60	8	8	8	8	8	0	0
SVO.RC.M	60	40	0	0	0	0	0	0
SVO.SC.M	60	40	0	0	0	0	0	0
SOC.RC.M	60	40	0	0	0	0	0	0
SOC.SC.M	60	40	0	0	0	0	0	0
HZO.RC.M	60	40	0	0	0	0	0	0
HZO.RC.L	60	20	20	0	0	0	0	0
HZO.SC.M	60	20	20	0	0	0	0	0
HZO.SC.L	60	20	20	0	0	0	0	0
HCT.SC.M	60	0	0	40	0	0	0	0
HCT.SC.L	60	0	0	30	0	0	0	10
HCT.SC.I	60	40	0	0	0	0	0	0
HCS.SC.M	90	0	0	0	0	0	10	0
HCS.SC.L	90	0	0	0	0	0	10	0
PD.SC.M	60	40	0	0	0	0	0	0

11. Inputs to Payback Period Analysis

Payback period is the amount of time it takes the customer to recover the higher purchase cost of more energy efficient equipment as a result of lower operating costs. Numerically, the PBP is the ratio of the increase in purchase cost to the decrease in annual operating expenditures. This type of calculation is known as a ''simple'' PBP because it does not take into account changes in operating cost over time or the time value of money; that is, the calculation is done at an effective discount rate of zero percent. PBPs are expressed in years. PBPs greater than the life of the equipment mean that the increased total installed cost of the more-efficient equipment is not recovered in reduced operating costs over the life of the equipment.

The inputs to the PBP calculation are the total installed cost to the customer of the equipment for each efficiency level and the average annual operating expenditures for each efficiency level in the first year. The PBP calculation uses the same inputs as the LCC analysis, except that electricity price trends and discount rates are not used.

12. Rebuttable-Presumption Payback Period

Sections 325(o)(2)(B)(iii) and 345(e)(1)(A) of EPCA, (42 U.S.C. 6295(o)(2)(B)(iii) and 42 U.S.C. 6316(e)(1)(A)), establish a rebuttable presumption applicable to commercial refrigeration equipment. The rebuttable presumption states that a new or amended 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

for%20Natural%20Resources%20Canada/Rollup.pdf.

[54] These classes consist of VCT.SC.M, VCT.SC.L, VCS.SC.M, VCS.SC.L, HCT.SC.M, HCT.SC.L, HCS.SC.M., and HCS.SC.L

[55] U.S. Energy Information Administration. *Annual Energy Outlook 2013.* 2013. Washington, DC. DOE/EIA–0383(2013).

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. This rebuttable presumption test is an alternative way of establishing economic justification.

To evaluate the rebuttable presumption, DOE estimated the additional cost of purchasing more-efficient, standards-compliant equipment, and compared this cost to the value of the energy saved during the first year of operation of the equipment. DOE interprets that the increased cost of purchasing standards-compliant equipment includes the cost of installing the equipment for use by the purchaser. DOE calculated the rebuttable presumption PBP, or the ratio of the value of the increased installed price above the baseline efficiency level to the first year's energy cost savings. When the rebuttable presumption PBP is less than 3 years, the rebuttable presumption is satisfied; when the rebuttable presumption PBP is equal to or more than 3 years, the rebuttable presumption is not satisfied. Note that this PBP calculation does not include other components of the annual operating cost of the equipment (*i.e.,* maintenance costs and repair costs).

While DOE examined the rebuttable presumption, it also considered whether the standard levels considered are economically justified through a more detailed analysis of the economic impacts of these levels pursuant to 42 U.S.C. 6295(o)(2)(B)(i). The results of this analysis served as the basis for DOE to evaluate the economic justification for a potential standard level definitively (thereby supporting or rebutting the results of any preliminary determination of economic justification).

G. Shipments

Complete historical shipments data for commercial refrigeration equipment could not be obtained from any one single source. Therefore, for the NOPR DOE used data from multiple sources to estimate historical shipments. The major sources were 2005 shipments data provided by ARI as part of its comments submitted in response to the January 2009 final rule Framework document, ARI 2005 Report (Docket No. EERE–2006–BT–STD–0126, ARI, No. 7, Exhibit B at p. 1); *Commercial Refrigeration Equipment to 2014* by Freedonia Group, Inc.[56]; *2008, and 2012 Size and Shape of Industry* by the North American Association of Food Equipment Manufacturers;[57] [58] and *Energy Savings Potential and R&D Opportunities for Commercial Refrigeration* prepared by Navigant Consulting, Inc. for DOE.[59]

Historical linear feet of shipped units is the figure used to depict the annual amount of commercial refrigeration equipment capacity shipped, and is an alternative way to express shipments data. DOE determined the linear feet shipped for any given year by multiplying each unit shipped by its associated average length, and then summing all the linear footage values. Chapter 9 of the final rule TSD presents the representative equipment class lengths used for the conversion of per-unit shipments to linear footage within each equipment class.

DOE divided historical annual shipments into new and replacement categories by building type. First, equipment types were identified by the type of business they generally serve. For example, vertical open cases with remote condensing units are associated with large grocers and multi-line retail stores. When there was no strong association between the building type and equipment class, equipment was distributed across broader building types. Second, a ratio of new versus replacement equipment was developed based on commercial floor space estimates. Using the expected useful life of commercial refrigeration equipment and commercial floor space stock, additions, and retirements, ratios were developed of new versus replacement stock. Using these and related factors (*e.g.,* the division of foodservice into the three building types—limited service restaurants, full-service restaurants, and other), DOE distributed commercial refrigeration equipment shipments among building types and new versus replacement shipments.

DOE then estimated the annual linear footage shipped for each of the 25 primary equipment classes used to represent the commercial refrigeration equipment market. The fractions shown in Table IV.3 were held constant over the analysis period.

TABLE IV.3—PERCENT OF SHIPPED LINEAR FEET OF COMMERCIAL REFRIGERATION EQUIPMENT

Equipment class	Percentage of linear feet shipped *
VOP.RC.M	10.3
VOP.RC.L	0.5
VOP.SC.M	1.3
VCT.RC.M	0.8
VCT.RC.L	10.7
VCT.SC.M	4.8
VCT.SC.L	0.2
VCT.SC.I	0.3
VCS.SC.M	25.4
VCS.SC.L	15.0
VCS.SC.I	0.1
SVO.RC.M	8.2
SVO.SC.M	1.1
SOC.RC.M	2.1
SOC.SC.M	0.2
HZO.RC.M	1.3
HZO.RC.L	4.0
HZO.SC.M	0.1
HZO.SC.L	0.2
HCT.SC.M	0.1
HCT.SC.L	0.4
HCT.SC.I	0.4
HCS.SC.M	4.4
HCS.SC.L	0.6
PD.SC.M	7.6

* The percentages in this column do not sum to 100 percent because shipments of secondary equipment classes and certain other equipment classes that were not analyzed in this rulemaking were not included.

The amount of new and existing commercial floor space is the main driver for future commercial refrigeration equipment shipments. The model divides commercial floor space into new construction floor space and existing floor space.

DOE projected square footage of new construction as a driver of CRE demand to scale annual new commercial refrigeration equipment shipments. DOE took the projected floor space construction after the year 2009 from the NEMS projection underlying *AEO 2013.* The new construction growth rates over the last 10 years of the *AEO 2013* forecast (2031 through 2040) were used to extend the *AEO* forecast out until 2046 to develop the full 30-year forecast needed for the NIA.

True stated during the NOPR public meeting that DOE's shipments estimates for the VCT.SC.M equipment class were 20 to 30 percent of actual shipments. (True, Public Meeting Transcript, No. 62 at pp. 240–242) This statement was supported by Coca-Cola, which asserted that it alone purchased 180,000 linear feet of VCT.SC.M equipment domestically compared to the 155,000 linear feet of VCT.SC.M equipment presented in the NOPR. (Coca-Cola, Public Meeting Transcript, No. 62 at p.

[56] Freedonia Group, Inc. *Commercial Refrigeration Equipment to 2014.* 2010. Cleveland, OH. Study 2261. *www.freedoniagroup.com/Commercial-Refrigeration-Equipment.html.*

[57] North American Association of Food Equipment Manufacturers. *2008 Size and Shape of Industry.* 2008. Chicago, IL.

[58] North American Association of Food Equipment Manufacturers. *20012 Size and Shape of Industry.* 2012. Chicago, IL.

[59] Navigant Consulting, Inc. *Energy Savings Potential and R&D Opportunities for Commercial Refrigeration.* 2009. Prepared by Navigant Consulting, Inc. for the U.S. Department of Energy, Washington, DC.

242) True followed up its public meeting statements with written comment stating that its estimate of the self-contained market was four to six times larger than what was stated in the proposed rule. (True, No. 76 at p. 1) Traulsen suggested that DOE use newer data, such as those in the NAFEM 2012 ''Size and Shape of the Industry'' study to improve the accuracy of its shipments analysis. (Traulsen, No. 65 at p. 15)

Although neither True nor Coca-Cola provided DOE with shipments data to support their assertions, the magnitude of the discrepancy in shipments identified by these comments led DOE to revise its shipments estimates for the final rule. DOE reviewed three sources of data in developing the revision. First, DOE reviewed the most recent data published by the EPA's ENERGY STAR Program.[60] These EPA data include both an estimate of total units shipped, and an estimate of the fraction that are ENERGY STAR compliant, from 2003 to 2012. The ENERGY STAR estimates of total unit shipments show somewhat slow growth from 2003 to 2010, and a significant increase between 2010 and 2011, with shipments increasing by a factor of two. Second, DOE reviewed the most recent *North American Association of Food Equipment Manufacturers Size and Shape of the Industry*[61] report published in 2012. This report provides industry total estimates of sales in dollar values. These data show an increase of approximately 60 percent in sales of the relevant covered equipment between 2008 and 2011. Third, DOE reviewed equipment saturation estimates calculated from data in the Energy Information Agency's (EIA) Commercial Buildings Energy Consumption Survey (CBECS) for 1999 and 2003. The CBECS surveys include a count of the number of refrigerated cases in a building, which was be converted to a saturation value that represents the average number of cases per building. These data indicate a growth in saturation between 1999 and 2003, particularly for closed refrigeration cases. The existence of a trend in equipment saturations was not accounted for in the NOPR analyses. Taken together, all three data sources support the claims made by stakeholders that DOE's shipments published in the NOPR were substantially underestimated.

For the final rule, DOE modified the shipments analysis to include a trend in equipment saturations between 2003 and 2012. The trend was calculated by (1) smoothing the growth in shipments in the ENERGY STAR data to a constant annual growth rate, (2) correcting to account for the growth in total new and existing commercial floor space, and (3) applying the resulting trend in saturations for the years 2004 to 2012. Before 2003 and after 2012 equipment saturations are held constant. The net result is a doubling of equipment saturations between 2003 and 2012, with corresponding increases in the shipments estimates, which are generally consistent in magnitude with stakeholder comments. These corrections were applied uniformly to all equipment types and applications, and thus do not affect the distribution of equipment by building type or by equipment class.

Detailed description of the procedure to calculate future shipments is presented in chapter 9 of the final rule TSD.

1. Impact of Standards on Shipments

Several stakeholders stated that customer purchase behavior would change in response to an increase in equipment prices due to more stringent standards. At the NOPR public meeting, Hussmann commented that it had noticed a shift from the open VOP.RC.M to the closed VCT.RC.M equipment class, possibly due to energy savings being valued by customers (primarily supermarkets). (Hussmann, Public Meeting Transcript, No. 62 at pp. 236–37) However, Hussmann noted that the shift could be reversed if closed equipment diminished in its utility as a merchandising platform. (Hussmann, Public Meeting Transcript, No. 62 at p. 237) Hillphoenix and Danfoss stated that if standards require the use of triple-pane coated glass, reduction in visibility will result in users shifting back to less-efficient open cases. (Danfoss, No. 61 at p. 4; Hillphoenix, No. 71 at p. 2) Hussmann noted that it had not observed a reversal of the trend toward closed units in response to previous efficiency standards. (Hussmann, Public Meeting Transcript, No. 62 at p. 235)

DOE recognizes that increased cost for closed equipment meeting the amended standards in today's final rule has the potential to influence a shift from more efficient closed equipment to open equipment. However, DOE did not have sufficient information on customer behavior to model the degree of such equipment switching as part of the NIA. Further, DOE has concluded that the amended standards in today's final rule will not diminish the utility of commercial refrigeration equipment, and they do not require triple-pane coated glass.

Several stakeholders commented that, in response to a possible price increase due to standards, CRE customers may prolong the life of existing equipment through refurbishment. Danfoss asserted that a 15 to 20 percent increase in prices will reduce demand for new units and increase sales of used of refurbished units. (Danfoss, No. 61 at p. 3) NAFEM commented that any standard where the payback on new equipment is longer than 2 years will likely steer users into the refurbished market. (NAFEM, No. 93 at pp. 7–8) Traulsen commented that the impact of refurbishing equipment was not fully represented by DOE, especially in the small business environment where customers are likely to hold onto equipment longer. (Traulsen, No. 65 at p. 19) Hussmann stated that due to price increases resulting from higher efficiency, the refurbishment of old equipment will reduce the market for new equipment. (Hussmann, No. 77 at p. 5)

DOE acknowledges that increases in price due to amended standards could lead to more refurbishing of equipment (or purchase of used equipment), which would have the effect of deferring the shipment of new equipment for a period of time. DOE did not have enough information on CRE customer behavior to explicitly model the extent of refurbishing at each TSL. However, DOE believes that the extent of refurbishing would not be so significant as to change the ranking of the TSLs considered for today's rule.

H. National Impact Analysis—National Energy Savings and Net Present Value

The NIA assesses the NES and the NPV of total customer costs and savings that would be expected as a result of amended energy conservation standards. The NES and NPV are analyzed at specific efficiency levels for each equipment class of commercial refrigeration equipment. DOE calculates the NES and NPV based on projections of annual equipment shipments, along with the annual energy consumption and total installed cost data from the LCC analysis. For the final rule analysis, DOE forecasted the energy savings, operating cost savings, equipment costs, and NPV of customer benefits over the lifetime of equipment sold from 2017 through 2046.

DOE evaluated the impacts of the amended standards by comparing base-case projections with standards-case projections. The base-case projections

[60] Energy Star. Unit Shipment and Sales Data Archives. Available at: *http://www.energystar.gov/index.cfm?c=partners.unit_shipment_data_archives* (Last accessed 12/5/2013).

[61] North American Association of Food Equipment Manufacturers. *2012 Size and Shape of Industry*. 2012. Chicago, IL.

characterize energy use and customer costs for each equipment class in the absence of any amended energy conservation standards. DOE compares these projections with projections characterizing the market for each equipment class if DOE were to adopt an amended standard at specific energy efficiency levels for that equipment class.

DOE uses a Microsoft Excel spreadsheet model to calculate the energy savings and the national customer costs and savings from each TSL. The final rule 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 interacting with these spreadsheets. The NIA spreadsheet model uses average values as inputs (as opposed to probability distributions of key input parameters from a set of possible values).

For the final rule analysis, the NIA used projections of energy prices and commercial building starts from the *AEO2013* Reference Case. In addition, DOE analyzed scenarios that used inputs from the *AEO2013* Low Economic Growth and High Economic Growth Cases. These cases have lower and higher energy price trends, respectively, compared to the Reference Case. NIA results based on these cases are presented in appendix 10D of the final rule TSD.

A detailed description of the procedure to calculate NES and NPV, and inputs for this analysis are provided in chapter 10 of the final rule TSD.

1. Forecasted Efficiency in the Base Case and Standards Cases

The method for estimating the market share distribution of efficiency levels is presented in section IV.F.10, and a detailed description can be found in chapter 8 of the final rule TSD.

As discussed in section IV.F.10 of today's rule, DOE revised the distribution of equipment efficiencies in the base case to better account for data from ENERGY STAR. For equipment covered by ENERGY STAR, for the NIA DOE estimated that the market will move over time to adopt higher efficiency ENERGY STAR rated equipment. DOE estimated that for equipment not covered by ENERGY STAR, there is limited market demand for higher efficiency equipment, and the base case efficiency distribution would not change over time.

To estimate market behavior in the standards cases, DOE uses a ''roll-up'' scenario. Under the roll-up scenario, DOE 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 efficiencies above the standard level under consideration would be unaffected.

To project trends in standards-case efficiency after the initial shift in the compliance year, DOE used the same assumptions as in the base case for equipment covered or not covered by ENERGY STAR.

The estimated efficiency trends in the base case and standards cases are further described in chapter 8 of the final rule TSD.

2. National Energy Savings

For each year in the forecast period, DOE calculates the NES for each potential standard level by multiplying the stock of equipment affected by the energy conservation standards by the estimated per-unit annual energy savings. DOE typically considers the impact of a rebound effect in its calculation of NES for a given product. A rebound effect occurs when users operate higher efficiency equipment more frequently and/or for longer durations, thus offsetting estimated energy savings. DOE did not incorporate a rebound factor for commercial refrigeration equipment because it is operated 24 hours a day, and therefore there is no potential for a rebound effect.

Major inputs to the calculation of NES are annual unit energy consumption, shipments, equipment stock, a site-to-primary energy conversion factor, and a full fuel cycle factor.

The annual unit energy consumption is the site energy consumed by a commercial refrigeration unit in a given year. Because the equipment classes analyzed represent equipment sold across a range of sizes, DOE's ''unit'' in the NES is actually expressed as a linear foot of equipment in an equipment class, and not an individual unit of commercial refrigeration equipment of a specific size. DOE determined annual forecasted shipment-weighted average equipment efficiencies that, in turn, enabled determination of shipment-weighted annual energy consumption values.

The NES spreadsheet model keeps track of the total linear footage of commercial refrigeration units shipped each year. The commercial refrigeration equipment stock in a given year is the total linear footage of commercial refrigeration equipment shipped from earlier years that is still in use in that year, based on the equipment lifetime.

To estimate the national energy savings expected from energy conservation standards, DOE uses a multiplicative factor to convert site energy consumption (energy use at the location where the appliance is operated) into primary or source energy consumption (the energy required to deliver the site energy). For today's final rule, DOE used conversion factors based on *AEO 2013*. For electricity, the conversion factors vary over time because of projected changes in generation sources (*i.e.,* the types of power plants projected to provide electricity to the country). Because the *AEO* does not provide energy forecasts beyond 2040, DOE used conversion factors that remain constant at the 2040 values throughout the rest of the forecast.

DOE has historically presented NES 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 document 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 NEMS. After evaluating both models and the approaches discussed in the August 18, 2011 document, 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 its FFC analysis and its intention to use NEMS for that purpose. 77 FR 49701 (August 17, 2012).

The approach used for today's final rule, and the FFC multipliers that were applied, are described in appendix 10D of the final rule TSD. NES results are presented in both primary energy and FFC savings in section V.B.3.a.

3. Net Present Value of Customer Benefit

The inputs for determining the NPV of the total costs and benefits experienced by customers of the commercial refrigeration equipment are: (1) Total annual installed cost; (2) total annual savings in operating costs; and (3) a discount factor. DOE calculated net national customer savings for each year

as the difference between the base-case scenario and standards-case scenarios in terms of installation and operating costs. DOE calculated operating cost savings over the life of each piece of equipment shipped in the forecast period.

As discussed in section IV.F.1, DOE developed an equipment price trend for commercial refrigeration equipment based on the inflation-adjusted index of the PPI for air conditioning, refrigeration, and forced air heating from 1978 to 2012. A linear regression of the inflation-adjusted PPI shows a slight downward trend (see appendix 10D of the final rule TSD). To project a future trend over the analysis period, DOE extrapolated the historic trend using the regression results.

DOE multiplied monetary values in future years by the discount factor to determine the present value of costs and savings. DOE estimated national impacts using both a 3-percent and a 7-percent real discount rate as the average real rate of return on private investment in the U.S. economy. These discount rates are used in accordance with the Office of Management and Budget (OMB) guidance to Federal agencies on the development of regulatory analysis (OMB Circular A–4, September 17, 2003), and section E, ''Identifying and Measuring Benefits and Costs,'' therein. 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, including corporate capital. DOE used this discount rate to approximate the opportunity cost of capital in the private sector because recent OMB analysis has found the average rate of return on capital to be near this rate. In addition, DOE used the 3-percent rate to capture the potential effects of amended standards on private consumption. 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 Treasury notes minus annual rate of change in the Consumer Price Index), which has averaged about 3 percent on a pre-tax basis for the last 30 years. DOE defined the present year as 2014 for the analysis.

I. Customer Subgroup Analysis

In analyzing the potential impact of new or amended standards on commercial customers, DOE evaluates the impact on identifiable groups (*i.e.,* subgroups) of customers, such as different types of businesses that may be disproportionately affected. Small businesses typically face higher cost of capital. In general, the higher the cost of capital, the more likely it is that an entity would be disadvantaged by a requirement to purchase higher efficiency equipment. Based on data from the 2007 U.S. Economic Census and size standards set by the U.S. Small Business Administration (SBA), DOE determined that a majority of small grocery and convenience stores and restaurants fall under the definition of small businesses.

Comparing the small grocery and convenience store category to the convenience store with gas station category, both face the same cost of capital, but convenience stores with gas stations generally incur lower electricity prices, which would tend to render higher-efficiency equipment not cost-effective. To examine a ''worst case'' situation, convenience stores with gas stations were chosen for the subgroup analysis. Limited-service restaurants and full-service restaurants have similar electricity price and discount rates. DOE chose to study full-service restaurants for the subgroup analysis because a higher percentage of full-service restaurants tend to be operated by independent small businesses, as compared to limited-service (fast-food) restaurants. DOE believes that these two subgroups are broadly representative of small businesses that use CRE.

DOE estimated the impact on the identified customer subgroups using the LCC spreadsheet model. The input for business type was fixed to the identified subgroup, which ensured that the discount rates and electricity prices associated with only that subgroup were selected in the Monte Carlo simulations. The discount rate was further increased by applying the small firm premium to the WACC. In addition, DOE assumed that the subgroups do not have access to national purchasing accounts and, consequently, face a higher distribution channel markup. Apart from these changes, all other inputs for the subgroup analysis are the same as those in the LCC analysis. Details of the data used for the subgroup analysis and results are presented in chapter 11 of the final rule TSD.

The Society of American Florists stated that the percent of refrigerated product sold at retail by florists is higher than in other retail industries and that they would be particularly sensitive to an increase in equipment price. (SAF, No. 74 at p. 3) SAF suggested that DOE should conduct analyses for floriculture growers, wholesalers, and retail florists to determine the impact of amended standards on these end-users. (SAF, No. 74 at p. 7)

While the subgroups considered by DOE do not exactly correspond to florist-related businesses, DOE believes that the impacts experienced by the selected subgroups are indicative of the impacts that would be experienced by florist-related businesses. Thus, the analyses suggested by SAF are not warranted.

The National Restaurant Association suggested that DOE re-analyze the small business subgroups based on more accurate costs and equipment lifetime assumptions. (NRA, No. 90 at p. 2) DOE has used the best available data to estimate equipment costs and lifetime for the considered subgroups, so there would be no basis for re-analysis.

Mercatus stated that 26 percent of restaurants fail in their first year and by year three the rate of failure is just over 60 percent; therefore, it is not rational for these types of customers to purchase more efficient equipment before realizing a net benefit. (Mercatus, No. 72 at p. 3) DOE acknowledges that some CRE units may outlive the particular business that purchased them new, but the customer that purchases the used equipment would see the energy cost benefits of higher-efficiency equipment.

Several parties stated that higher equipment costs will induce small businesses to purchase used or refurbished equipment. The National Restaurant Association commented that an equipment cost increase of 15 to 20 percent will force small restaurants to purchase used or refurbished equipment. (NRA, No. 90 at p. 3) The Air Conditioning Contractors of America (ACCA) commented that small consumers would elect to extend the life of existing equipment rather than purchase new more expensive equipment. (ACCA, Public Meeting Transcript, No. 62 at pp. 343–44) True commented that individually owned restaurants would elect to purchase used equipment due to lower first cost instead of purchasing new, more efficient equipment. (True, Public Meeting Transcript, No. 62 at p. 208) Traulsen opined that smaller entities are more likely to keep existing equipment longer, and will be negatively affected by the proposed standard. (Traulsen, No. 65 at p. 19) Hoshizaki commented that the proposed standards will increase costs and deter small business owners from buying new equipment. (Hoshizaki, No. 84 at p. 1)

DOE acknowledges that some small businesses may respond to amended CRE standards by purchasing used or refurbished equipment. However, as discussed in section V.B.1.b, DOE did not have sufficient information to evaluate the likely extent of this

response. The consumer subgroup results (shown in section V.B.1.b of this document) indicate that in nearly all cases the considered small business subgroups see higher average LCC savings and lower median payback periods when compared to all CRE customers. These results suggest that most small businesses would find it beneficial to purchase new commercial refrigeration equipment that meets today's standards.

J. Manufacturer Impact Analysis

1. Overview

DOE performed a MIA to estimate the financial impact of amended energy conservation standards on manufacturers of commercial refrigeration equipment and to understand the impact of such standards on employment and manufacturing capacity. The MIA has both quantitative and qualitative aspects. The quantitative part of the MIA primarily relies on the Government Regulatory Impact Model (GRIM), an industry cash-flow model with inputs specific to this rulemaking. The key GRIM inputs are data on the industry cost structure, product costs, shipments, and assumptions about markups and conversion expenditures. The key output is the INPV. Different sets of markup scenarios will produce different results. The qualitative part of the MIA addresses factors such as equipment characteristics, impacts on particular subgroups of manufacturers, and important market and product trends. The complete MIA is outlined in chapter 12 of the final rule TSD.

DOE conducted the MIA for this rulemaking in three phases. In Phase 1 of the MIA, DOE prepared a profile of the commercial refrigeration equipment industry that includes a top-down cost analysis of manufacturers used to derive preliminary financial inputs for the GRIM (*e.g.,* sales general and administration (SG&A) expenses; research and development (R&D) expenses; and tax rates). DOE used public sources of information, including company SEC 10–K filings, corporate annual reports, the U.S. Census Bureau's Economic Census, and Hoover's reports.

In Phase 2 of the MIA, DOE prepared an industry cash-flow analysis to quantify the impacts of an amended energy conservation standard. In general, more-stringent energy conservation standards can affect manufacturer cash flow in three distinct ways: (1) By creating a need for increased investment; (2) by raising production costs per unit; and (3) by altering revenue due to higher per-unit prices and possible changes in sales volumes.

In Phase 3 of the MIA, DOE conducted structured, detailed interviews with a representative cross-section of 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.

Additionally, in Phase 3, DOE 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. For example, small manufacturers, niche players, or manufacturers exhibiting a cost structure that largely differs from the industry average could be more negatively affected.

DOE identified one subgroup, small manufacturers, for separate impact analyses. DOE applied the small business size standards published by the SBA to determine whether a company is considered a small business. 65 FR 30836, 30848 (May 15, 2000), as amended at 65 FR 53533, 53544 (September 5, 2000) and codified at 13 CFR part 121. To be categorized as a small business under North American Industry Classification System (NAICS) 333415, ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing,'' a commercial refrigeration manufacturer and its affiliates may employ a maximum of 750 employees. The 750-employee threshold includes all employees in a business's parent company and any other subsidiaries. Based on this classification, DOE identified at least 32 commercial refrigeration equipment manufacturers that qualify as small businesses. The commercial refrigeration equipment small manufacturer subgroup is discussed in chapter 12 of the final rule TSD and in section I.A.1 of this document.

2. Government Regulatory Impact Model

DOE uses the GRIM to quantify the changes in the commercial refrigeration equipment industry cash flow due to amended standards that result in a higher or lower industry value. The GRIM analysis uses a standard, annual cash-flow analysis that incorporates manufacturer costs, markups, shipments, and industry financial information as inputs, and models changes in costs, investments, and manufacturer margins that would result from new and amended energy conservation standards. The GRIM spreadsheet uses the inputs to arrive at a series of annual cash flows, beginning with the base year of the analysis, 2013 in this case, and continuing to 2046. DOE calculated INPVs by summing the stream of annual discounted cash flows during this period. For commercial refrigeration equipment manufacturers, DOE used a real discount rate of 10 percent. DOE's discount rate estimate was derived from industry financials and then modified according to feedback during manufacturer interviews.

The GRIM calculates cash flows using standard accounting principles and compares changes in INPV between a base case and various TSLs (the standards cases). The difference in INPV between the base case and a standards case represents the financial impact of the amended standard on manufacturers. As discussed previously, DOE collected the information on the critical GRIM inputs from a number of sources, including publicly available data and interviews with a number of 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 final rule 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 components, which are more costly than baseline components. The changes in the MPCs of the analyzed products can affect the revenues, gross margins, and cash flow of the industry, making these product cost data key GRIM inputs for DOE's analysis.

In the MIA, DOE used the MPCs for each considered efficiency level calculated in the engineering analysis, as described in section IV.B and further detailed in chapter 5 of the NOPR TSD. In addition, DOE used information from its teardown analysis, described in section IV.D.4.a, to disaggregate the MPCs into material, labor, and overhead costs. To calculate the MPCs for equipment above the baseline, DOE added incremental material, labor, overhead costs from the engineering cost-efficiency curves to the baseline MPCs. 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 these values 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 2046, the end of the analysis period. See chapter 9 of the final rule TSD for additional details.

Product and Capital Conversion Costs

Amended energy conservation standards will cause manufacturers to incur conversion costs to bring their production facilities and product designs into compliance. For the MIA, DOE classified these conversion costs into two major groups: (1) Product conversion costs and (2) capital conversion costs. Product conversion costs are investments in research, development, testing, marketing, and other non-capitalized costs necessary to make product designs comply with a new or amended energy conservation standard. Capital conversion costs are investments in property, plant, and equipment necessary to adapt or change existing production facilities such that new product designs can be fabricated and assembled.

To evaluate the level of capital conversion expenditures manufacturers would likely incur to comply with amended energy conservation standards, DOE used manufacturer interviews to gather data on the level of capital investment required at each efficiency level. DOE validated manufacturer comments through estimates of capital expenditure requirements derived from the product teardown analysis and engineering model described in section IV.D.4. Further adjustments were made to capital conversion costs based on feedback in the NOPR written comments. The key driver of capital conversion costs was new production equipment associated with improving cabinet insulation.

DOE assessed the product conversion costs at each level by integrating data from quantitative and qualitative sources. DOE considered feedback regarding the potential costs of each efficiency level from multiple manufacturers to determine conversion costs such as R&D expenditures and certification costs. Manufacturer data were aggregated to better reflect the industry as a whole and to protect confidential information. For the final rule, adjustments were made to product conversion costs based on feedback in the NOPR written comments submitted following the NOPR. Key drivers of product conversion costs included the re-design effort associated with modifying cabinets to incorporate improved cabinet insulation, along with the product and food safety certification costs associated with redesigning key equipment components.

In general, DOE assumes that all conversion-related investments occur between the year of publication of the final rule and the year by which manufacturers must comply with an amended standard. The investment figures used in the GRIM can be found in section V.B.2.a of this document. For additional information on the estimated product conversion and capital conversion costs, see chapter 12 of the final rule TSD.

b. Government Regulatory Impact Model Scenarios

Markup Scenarios

As discussed above, MSPs include direct manufacturing production costs (*i.e.,* labor, material, and overhead 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 markups to the MPCs estimated in the engineering analysis and then added in the cost of shipping. 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 percentage markup scenario; and (2) a preservation of operating profit markup scenario. These scenarios lead to different markups values that, when applied to the inputted 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 refrigeration equipment and comments from manufacturer interviews, DOE assumed the non-production cost markup—which includes SG&A expenses, R&D expenses, interest, and profit—to be 1.42. Because this markup scenario assumes that manufacturers would be able to maintain their gross margin percentage markups as production costs increase in response to an amended energy conservation standard, the scenario represents a high bound to industry profitability under an amended energy conservation standard.

In the preservation of operating profit scenario, manufacturer markups are set so that operating profit 1 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 and the cost of sales go up, manufacturers are generally required to reduce their markups to a level that maintains base-case operating profit. The implicit assumption behind this markup scenario is that the industry can only maintain its operating profit in absolute dollars after compliance with the amended standard is required. Therefore, operating margin in percentage terms is squeezed (reduced) between the base case and standards case. DOE adjusted the manufacturer markups in the GRIM at each TSL to yield approximately the same earnings before interest and taxes in the standards case in the year after the compliance date of the amended standards as in the base case. This markup scenario represents a low bound to industry profitability under an amended energy conservation standard.

3. Discussion of Comments

During the NOPR public meeting, interested parties commented on the assumptions and results of the analyses as described in the TSD. Oral and written comments addressed several topics, including volume purchasing of components, refrigerants, redesign issues, LED material costs, the GRIM, foaming fixtures, cumulative regulatory burden, certification costs, and issues specific to small manufacturers.

a. Volume Purchasing of Components

Traulsen commented that the prices of high-efficiency condenser fan motors were higher than DOE stated, and that this would place a cost burden on small manufacturers who could not receive a purchase volume discount. (Traulsen, No. 65 at p. 4) DOE recognizes that small manufacturers face pricing disadvantages for key components in both the base case and the standards case. This issue is incorporated into the discussion of Regulatory Flexibility in section VI.B.2 of this final rule.

b. Refrigerants

True commented that there was the potential for a substantial cost increase to manufacturers in the very near future due to the phasing out of HFCs. True further commented that new refrigerants may have an incremental cost of 5–10 times over what is currently being paid for refrigerants. (True, Public Meeting Transcript, No. 62 at p. 279) The use of alternative refrigerants by manufacturers of commercial refrigeration equipment would not arise as a direct result of this rule, and thus was not considered in this analysis. Furthermore, there is no requirement mandating the use of alternative refrigerants at this time. DOE does not include the impacts of pending legislation or unfinalized regulations in its analyses, as any impact would be speculative.

c. Redesign Issues

Several manufacturers pointed out that high capital costs were required by the proposed standards. Traulsen asserted that up to 95% of all equipment would need to be redesigned as a result of the proposed standard. (Traulsen, No. 62 at p. 315) True added that the cost of redesigning and retooling entire product lines, and including the costs of new refrigerants, would be cost prohibitive. (True, No. 62 at p. 341) With regard to the specific cost of replacing foaming fixtures, True commented that new fixtures could cost several hundred thousand dollars, and modifying fixtures in order to manufacture thicker foam panels could cost $40,000–$50,000 per fixture, while Southern Store Fixtures noted that it would have to change over 3,000 molds and 1,000 foaming fixtures for its entire product line, and that it would cost much more than the assumed $2,500,000. (True, No. 62 at p. 340) (SSF, No. 67 at p. 3)

With regard to capital costs, True commented that switching from double-pane to triple pane glass would require new tooling and molds for manufacturing, costing up to $300,000 per door model produced, and that if the interior volume of a unit were to change due to thicker foam, all shelving systems and weld fixtures would need to be redesigned. (True, No. 76 at p. 3) Furthermore, Traulsen commented that changing fixture depth would cause a change in production time per unit, and that this cost had not been reflected in the DOE analysis. (Traulsen, No. 65 at p. 9) Similarly, Hussmann commented that there was a substantial engineering cost associated with re-engineering case components in order to incorporate increased foam thickness. Specifically, Hussmann noted that in order to maintain outside dimensions of a case and increase insulation thickness, manufacturers would be required to redesign and retool every component based on the case's internal dimensions. (Hussmann, No. 77 at p. 2) Hoshizaki, also expressed the same concern, adding that that DOE underestimated the cost associated with increasing foam thickness by ½″, since this increase would require engineering, testing, tooling, production line changeover, down-time, packaging changes, and certification. (Hoshizaki, No. 84 at p. 2)

DOE estimated the conversion costs associated with increases in foam thickness based on direct input from the industry in interviews, as well as through analysis of production equipment that is part of the engineering cost model. DOE's analysis included capital conversion costs, including as tooling costs and production line upgrades, and product conversion costs, including redesign efforts, testing costs, industry certifications, and marketing changes. Differences in packing and shipping costs were also accounted for in the shipping cost component of the engineering analysis.

In its NOPR analysis, DOE recognized the need for new foaming fixtures to accommodate thicker panels. However, for the final rule analysis, DOE revised its estimate of fixture investment for the entire CRE industry upward to $210 million.

At the NOPR stage, the MIA analysis did not associate a conversion cost with changes in display door designs based on DOE's understanding that the vast majority of CRE manufacturers consider display doors to be purchased parts. Furthermore, in the final rule engineering analysis, DOE does not consider triple-pane display doors as a design option in its analysis. However, for the final rule, DOE updated its manufacturer impact analysis to account for the conversion costs associated with changes in door design and specification, such as moving from single-pane to double-pane for horizontal cases with transparent doors.

d. LED Material Costs

Structural Concepts commented that the implementation of LEDs would cost over $500,000 annually in material costs alone. (Structural Concepts, No. 85 at p. 3) DOE agrees with Structural Concepts that some design options, such as LED lighting, require larger upfront investments in component inventory by manufacturers. DOE accounts for investment in more expensive components and greater amounts of raw materials as increases in working capital. Increases in working capital decrease free cash flow and are reflected in industry net present value (INPV), which DOE considers as a key input when selecting a standard level.

e. GRIM

AHRI asserted that the GRIM model should account for periodic revisions to energy standards and potential changes in refrigerant policy when estimating the INPV. (AHRI, No. 75 at p. 11) Additionally, AHRI commented that, since the GRIM predicts INPV across an extended period, the model should have accounted for impacts on manufacturers due to periodic revisions of energy conservation standards and potential changes to refrigerant policy, and that the INPV range at TSL4 was grossly underestimated since there will likely be up to five revisions to CRE standards by 2046. (AHRI, No. 75 at p. 13) However, DOE does not take unfinalized regulation into account in its analysis. Any forecast of amendments to the standard level in the future and the potential costs of those changes would be purely speculative and, therefore, outside the scope of analysis.

f. Cumulative Regulatory Burden

Traulsen commented that the cost burden to manufacturers of complying with both the 2009 and 2017 rules, which overlap, is unmanageable. (Traulsen, No. 65 at p. 22) Lennox also stated that the proposed standards would place significant cumulative regulatory burden on manufacturers. (Traulsen, No. 65 at p. 9)

DOE defines cumulative regulatory burden (CRB) as regulations that go into effect within 3 years of the effective date of the standard under consideration. As a result, the 2009 amended standard is not one of the regulations listed in the CRB analysis in section V.B.2.e of this document. However, the market changes and equipment price impacts that resulted from the 2009 standard are incorporated into DOE's analyses.

g. Certification Costs

AHRI commented that the implementation of higher efficiency compressors should include costs associated with safety certification (UL, etc.), compliance with NSF Standards, and recertification due to the induced change in the equipment performance. (AHRI, No. 75 at p. 13) In its NOPR and final rule analyses, DOE accounted for the UL and NSF certification costs associated with compressor changes. While UL and NSF certification costs can vary by manufacturers, DOE used an industry average combined cost of

$8,000 per model for those certifications in its final rule analysis.

h. Small Manufacturers

In its written comment, Traulsen expressed the opinion that the proposed rule would have a significant economic impact on a substantial number of small businesses and was therefore in violation of the Regulatory Flexibility Act. In particular, Traulsen drew attention to page 55983, column 2 of the **Federal Register** NOPR document, which stated that DOE could not certify that the proposed standards would not have a significant impact on a significant number of small businesses. (Traulsen, No. 65 at p.16) The George Washington University (GWU) also asserted in its comment that the proposed rule affected small businesses—both manufacturers and consumers—since it did not maintain flexibility and freedom of choice. (GWU, No. 66 at p. 11) To better understand the potential impact of the final rule on small businesses, DOE provides an assessment of the impacts on small manufacturers in section VI.B.

K. Emissions Analysis

In the emissions analysis, DOE estimated the reduction in power sector emissions of CO_2, NO_X, sulfur dioxide (SO_2) and Hg from amended energy conservation standards for commercial refrigeration equipment. 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 (August 18, 2011)) 77 FR 49701 (August 17, 2012), 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 *AEO 2013,* supplemented by data from other sources. DOE developed separate emissions factors for power sector emissions and upstream emissions. The method that DOE used to derive emissions factors is described in chapter 13 of the final rule TSD.

For CH_4 and N_2O, DOE calculated emissions reduction in tons and also in terms of units of carbon dioxide equivalent (CO_2eq). Gases are converted to CO_2eq by multiplying the physical units by the gas' global warming potential (GWP) over a 100 year time horizon. Based on the Fourth Assessment Report of the Intergovernmental Panel on Climate Change,[62] 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 (42 U.S.C. 7651 *et seq.*) and the District of Columbia (D.C.). SO_2 emissions from 28 eastern States and D.C. were also limited under the Clean Air Interstate Rule (CAIR; 70 FR 25162 (May 12, 2005)), which created an allowance-based trading program. CAIR was remanded to the U.S. Environmental Protection Agency (EPA) by the U.S. Court of Appeals for the District of Columbia but it remained in effect.[63] 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). In 2011, EPA issued a replacement for CAIR, the Cross-State Air Pollution Rule (CSAPR). 76 FR 48208 (Aug. 8, 2011). On August 21, 2012, the D.C. Circuit issued a decision to vacate CSAPR.[64] The court ordered EPA to continue administering CAIR. The *AEO 2013* emissions factors used for today's final rule assume 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 tradable emissions allowances. Under existing EPA regulations, any excess SO_2 emissions allowances resulting from the lower electricity demand caused by the adoption of a new or amended efficiency standard could be used to allow 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 around 2015, however, SO_2 emissions will fall as a result of the Mercury and Air Toxics Standards (MATS) for power plants. 77 FR 9304 (February 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. *AEO2013* assumes that, in order to continue operating, coal plants must have either flue gas desulfurization or dry sorbent injection systems installed by 2015. Both technologies, which are used to reduce acid gas emissions, also reduce SO_2 emissions. Under the MATS, NEMS shows a reduction in SO_2 emissions when electricity demand decreases (*e.g.,* as a result of energy efficiency standards). Emissions will be far below the cap that would be established by CAIR, so it is unlikely that excess SO_2 emissions allowances resulting from the lower electricity demand would be needed or used to allow offsetting increases in SO_2 emissions by any regulated EGU. Therefore, DOE believes that energy 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 allow 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

[62] 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.

[63] 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).

[64] See *EME Homer City Generation, LP* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012), cert. granted, 81 U.S.L.W. 3567, 81 U.S.L.W. 3696, 81 U.S.L.W. 3702 (U.S. June 24, 2013) (No. 12–1182).

from the standards considered in today's final rule for these States.

The MATS limit mercury emissions from power plants, but they do not include emissions caps and, as such, DOE's energy conservation standards would likely reduce Hg emissions. DOE estimated mercury emissions factors based on *AEO2013,* which incorporates the MATS.

L. Monetizing Carbon Dioxide and Other Emissions Impacts

As part of the development of the standards in this final rule, DOE considered the estimated monetary benefits from the reduced emissions of CO_2 and NO_X that are expected to result from each of the TSLs considered. In order to make this calculation analogous to the calculation of the NPV of customer 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 final rule.

For today's final rule, DOE is relying on a set of values for the SCC that was developed by a Federal interagency process. The basis for these values is summarized below, and a more detailed description of the methodologies used is provided as an appendix to chapter 14 of the final rule TSD.

1. Social Cost of Carbon

The SCC is an estimate of the monetized damages associated with an incremental increase in carbon emissions in a given year. It is intended to include (but is not limited to) changes in net agricultural productivity, human health, property damages from increased flood risk, and the value of ecosystem services. Estimates of the SCC are provided in dollars per metric ton of carbon dioxide. A domestic SCC value is meant to reflect the value of damages in the United States resulting from a unit change in carbon dioxide emissions, while a global SCC value is meant to reflect the value of damages worldwide.

Under section 1(b) of Executive Order 12866, agencies must, to the extent permitted by law, ''assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.'' The purpose of the SCC estimates presented here is to allow agencies to incorporate the monetized social benefits of reducing CO_2 emissions into cost-benefit analyses of regulatory actions. The estimates are presented with an acknowledgement of the many uncertainties involved and with a clear understanding that they should be updated over time to reflect increasing knowledge of the science and economics of climate impacts.

As part of the interagency process that developed these SCC estimates, technical experts from numerous agencies met on a regular basis to consider public comments, explore the technical literature in relevant fields, and discuss key model inputs and assumptions. The main objective of this process was to develop a range of SCC values using a defensible set of input assumptions grounded in the existing scientific and economic literatures. In this way, key uncertainties and model differences transparently and consistently inform the range of SCC estimates used in the rulemaking process.

a. Monetizing Carbon Dioxide Emissions

When attempting to assess the incremental economic impacts of carbon dioxide emissions, the analyst faces a number of challenges. A report from the National Research Council [65] points out that any assessment will suffer from uncertainty, speculation, and lack of information about (1) future emissions of GHGs, (2) the effects of past and future emissions on the climate system, (3) the impact of changes in climate on the physical and biological environment, and (4) the translation of these environmental impacts into economic damages. As a result, any effort to quantify and monetize the harms associated with climate change will raise questions of science, economics, and ethics and should be viewed as provisional.

Despite the limits of both quantification and monetization, SCC estimates can be useful in estimating the social benefits of reducing CO_2 emissions. The agency can estimate the benefits from reduced (or costs from increased) emissions in any future year by multiplying the change in emissions in that year by the SCC values appropriate for that year. The net present value of the benefits can then be calculated by multiplying each of these future benefits by an appropriate discount factor and summing across all affected years.

It is important to emphasize that the interagency process is committed to updating these estimates as the science and economic understanding of climate change and its impacts on society improves over time. In the meantime, the interagency group will continue to explore the issues raised by this analysis and consider public comments as part of the ongoing interagency process.

b. Development of Social Cost of Carbon Values

In 2009, an interagency process was initiated to offer a preliminary assessment of how best to quantify the benefits from reducing carbon dioxide emissions. To ensure consistency in how benefits are evaluated across Federal agencies, the Administration sought to develop a transparent and defensible method, specifically designed for the rulemaking process, to quantify avoided climate change damages from reduced CO_2 emissions. The interagency group did not undertake any original analysis. Instead, it combined SCC estimates from the existing literature to use as interim values until a more comprehensive analysis could be conducted. The outcome of the preliminary assessment by the interagency group was a set of five interim values: global SCC estimates for 2007 (in 2006$) of $55, $33, $19, $10, and $5 per metric ton of CO_2. These interim values represented the first sustained interagency effort within the U.S. government to develop an SCC for use in regulatory analysis. The results of this preliminary effort were presented in several proposed and final rules.

c. Current Approach and Key Assumptions

After the release of the interim values, the interagency group reconvened on a regular basis to generate improved SCC estimates. Specially, the group considered public comments and further explored the technical literature in relevant fields. The interagency group relied on three integrated assessment models commonly used to estimate the SCC: the FUND, DICE, and PAGE models. These models are frequently cited in the peer-reviewed literature and were used in the last assessment of the Intergovernmental Panel on Climate Change (IPCC). Each model was given equal weight in the SCC values that were developed.

Each model takes a slightly different approach to model how changes in emissions result in changes in economic damages. A key objective of the interagency process was to enable a consistent exploration of the three models, while respecting the different approaches to quantifying damages

[65] National Research Council. *Hidden Costs of Energy: Unpriced Consequences of Energy Production and Use.* 2009. National Academies Press: Washington, DC.

taken by the key modelers in the field. An extensive review of the literature was conducted to select three sets of input parameters for these models: climate sensitivity, socio-economic and emissions trajectories, and discount rates. A probability distribution for climate sensitivity was specified as an input into all three models. In addition, the interagency group used a range of scenarios for the socio-economic parameters and a range of values for the discount rate. All other model features were left unchanged, relying on the model developers' best estimates and judgments.

The interagency group selected four sets of SCC values for use in regulatory analyses. Three sets of values are based on the average SCC from the three IAMs, 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, was included to represent higher than expected impacts from temperature 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,[66] although preference is given to consideration of the global benefits of reducing CO_2 emissions. Table IV.4 presents the values in the 2010 interagency group report,[67] which is reproduced in appendix 14A of the DOE final rule TSD.

TABLE IV.4—ANNUAL SCC VALUES FROM 2010 INTERAGENCY REPORT, 2010–2050

[2007 dollars per metric ton]

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 document were generated using the most recent versions of the three integrated assessment models that have been published in the peer-reviewed literature.[68] Table IV.5 shows the updated sets of SCC estimates in 5-year increments from 2010 to 2050. The full set of annual SCC estimates between 2010 and 2050 is reported in appendix 14B of the DOE final rule TSD. The central value that emerges is the average SCC across models at the 3 percent discount rate. However, for purposes of capturing the uncertainties involved in regulatory impact analysis, the interagency group emphasizes the importance of including all four sets of SCC values.

TABLE IV.5—ANNUAL SCC VALUES FROM 2013 INTERAGENCY REPORT, 2010–2050

[2007 dollars per metric ton]

Year	Discount rate			
	5%	3%	2.5%	3%
	Average	Average	Average	95th percentile
2010	11	32	51	89
2015	11	37	57	109
2020	12	43	64	128
2025	14	47	69	143
2030	16	52	75	159
2035	19	56	80	175
2040	21	61	86	191
2045	24	66	92	206
2050	26	71	97	220

It is important to recognize that a number of key uncertainties remain, and that current SCC estimates should be treated as provisional and revisable since they will evolve with improved scientific and economic understanding.

[66] It is recognized that this calculation for domestic values is approximate, provisional, and highly speculative. There is no *a priori* reason why domestic benefits should be a constant fraction of net global damages over time.

[67] *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. *www.whitehouse.gov/sites/default/files/omb/inforeg/for-agencies/Social-Cost-of-Carbon-for-RIA.pdf.*

[68] *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.*

The interagency group also recognizes that the existing models are imperfect and incomplete. The 2009 National Research Council report mentioned above points out that there is tension between the goal of producing quantified estimates of the economic damages from an incremental ton of carbon and the limits of existing efforts to model these effects. There are a number of analytic challenges that are being addressed by the research community, including research programs housed in many of the Federal agencies participating in the interagency process to estimate the SCC. The interagency group intends to periodically review and reconsider those estimates to reflect increasing knowledge of the science and economics of climate impacts, as well as improvements in modeling.

In summary, in considering the potential global benefits resulting from reduced CO_2 emissions, DOE used the values from the 2013 interagency report adjusted to 2012$ using the GDP price deflator. For each of the four sets of SCC values, the values 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.

In responding to the NOPR, many commenters questioned the scientific and economic basis of the SCC values. These commenters made extensive comments about: The alleged lack of economic theory underlying the models; the sufficiency of the models for policy-making; potential flaws in the models' inputs and assumptions (including the discount rates and climate sensitivity chosen); whether there had been adequate peer review of the three models; whether there had been adequate peer review of the interagency TSD supporting the 2013 SCC values; [69] whether the SCC estimates comply with OMB's ''Final Information Quality Bulletin for Peer Review'' [70] and DOE's own guidelines for ensuring and maximizing the quality, objectivity, utility and integrity of information disseminated by DOE; and why DOE is considering global benefits of carbon dioxide emission reductions rather than solely domestic benefits. (*See* AHRI, No. 75; Joint Comment from America's Natural Gas Alliance, the American Chemistry Council, the American Petroleum Institute, the National Association of Home Builders, the National Association of Manufacturers, the Portland Cement Association, and the U.S. Chamber of Commerce (ANGA *et al*/Chamber of Commerce), No. 79; Cato Institute (Cato), No. 69; EEI, No. 89; GWU, No. 66; Mercatus, No. 72; NRECA, No. 88; Traulsen, No. 65. Several other parties expressed support for the derivation and application of the SCC values. (Joint Comment from the Environmental Defense Fund, Institute for Policy Integrity, Natural Resources Defense Council, and the Union of Concerned Scientists, No. 83; ASAP, No. 91; Kopp, No. 60)

In response to the comments on the SCC values, DOE acknowledges the limitations in the SCC estimates, which are discussed in detail in the 2010 interagency group report. Specifically, uncertainties in the assumptions regarding climate sensitivity, as well as other model inputs such as economic growth and emissions trajectories, are discussed and the reasons for the specific input assumptions chosen are explained. Regarding discount rates, there is not consensus in the scientific or economics literature regarding the appropriate discount rate to use for intergenerational time horizons. The SCC estimates thus use a reasonable range of discount rates, from 2.5% to 5%, in order to show the effects that different discount rate assumptions have on the estimated values. More information about the choice of discount rates can be found in the 2010 interagency group report starting on page 17.

Regarding peer review of the models, the three integrated assessment models used to estimate the SCC are frequently cited in the peer-reviewed literature and were used in the last assessment of the IPCC. In addition, new versions of the models that were used in 2013 to estimate revised SCC values were published in the peer-reviewed literature (see appendix 14B of the DOE final rule TSD for discussion).

DOE believes that the SCC estimates comply with OMB's Final Information Quality Bulletin for Peer Review and DOE's own guidelines for ensuring and maximizing the quality, objectivity, utility and integrity of information disseminated by DOE.[71]

As to why DOE is considering global benefits of carbon dioxide emission reductions rather than solely domestic benefits, a global measure of SCC because of the distinctive nature of the climate change problem, which is highly unusual in at least two respects. First, it involves a global externality: Emissions of most greenhouse gases contribute to damages around the world even when they are emitted in the United States. Second, climate change presents a problem that the United States alone cannot solve. The issue of global versus domestic measures of the SCC is further discussed in appendix 14A of the DOE final rule TSD.

AHRI stated that DOE calculates the present value of the costs of standards to consumers and manufacturers over a 30-year period, but the SCC values reflect the present value of future climate related impacts well beyond 2100. AHRI stated that DOE's comparison of 30 years of cost to hundreds of years of presumed future benefits is inconsistent and improper. (AHRI, No. 84 at p. 12)

For the analysis of national impacts of the proposed standards, DOE considered the lifetime impacts of equipment shipped in a 30-year period. With respect to energy and energy cost savings, impacts continue past 30 years until all of the equipment shipped in the 30-year period is retired. With respect to the valuation of CO_2 emissions reductions, the SCC estimates developed by the interagency working group are meant to represent the full discounted value (using an appropriate range of discount rates) of emissions reductions occurring in a given year. DOE is thus comparing the costs of achieving the emissions reductions in each year of the analysis, with the carbon reduction value of the emissions reductions in those same years. Neither the costs nor the benefits of emissions reductions outside the analytic time frame are included in the analysis.

In November 2013, OMB announced a new opportunity for public comment on the interagency technical support document underlying the revised SCC estimates. See 78 FR 70586. The comment period for the OMB announcement closed on February 26, 2014. OMB is currently reviewing comments and considering whether further revisions to the 2013 SCC estimates are warranted. DOE stands ready to work with OMB and the other

[69] Available at: *http://www.whitehouse.gov/sites/default/files/omb/inforeg/social_cost_of_carbon_for_ria_2013_update.pdf.*

[70] Available at: *http://www.cio.noaa.gov/services_programs/pdfs/OMB_Peer_Review_Bulletin_m05-03.pdf.*

[71] *https://www.directives.doe.gov/references/secretarial_policy_statement_on_scientific_integrity/view.*

members of the interagency working group on further review and revision of the SCC estimates as appropriate.

2. Valuation of Other Emissions Reductions

DOE investigated the potential monetary benefit of reduced NO_X emissions from the potential standards it considered. As noted above, DOE has taken into account how new or amended energy conservation standards would reduce NO_X emissions in those 22 States not affected by emissions caps. DOE estimated the monetized value of NO_X emissions reductions resulting from each of the TSLs considered for today's final rule based on estimates found in the relevant scientific literature. Estimates of monetary value for reducing NO_X from stationary sources range from $468 to $4,809 per ton (2012$).[72] 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 important effects on the utility industry of the adoption of new or amended standards. For this analysis, DOE used the National Energy Modeling System—Building Technologies (NEMS–BT) [73] model to generate forecasts of electricity consumption, electricity generation by plant type, and electric generating capacity by plant type, that would result from each considered TSL. DOE obtained the energy savings inputs associated with efficiency improvements to considered products from the NIA. DOE conducts the utility impact analysis as a scenario that departs from the latest *AEO* Reference Case. In the analysis for today's rule, the estimated impacts of standards are the differences between values forecasted by NEMS–BT and the values in the *AEO2013* Reference Case. For more details on the utility impact analysis, see chapter 15 of the final rule TSD.

N. Employment Impact Analysis

Employment impacts are one of the factors that DOE considers in selecting an efficiency standard. Employment impacts include direct and indirect impacts. Direct employment impacts are any changes that affect employment of commercial refrigeration equipment manufacturers, their suppliers, and related service firms. Indirect impacts are those changes in employment in the larger economy which occur because of the shift in expenditures and capital investment caused by the purchase and operation of more-efficient commercial refrigeration equipment. Direct employment impacts are analyzed as part of the MIA. Indirect impacts are assessed as part of the employment impact analysis.

Indirect employment impacts from amended commercial refrigeration equipment standards consist of the net jobs created or eliminated in the national economy, other than in the manufacturing sector being regulated, as a consequence of (1) reduced spending by end users on electricity; (2) reduced spending on new energy supply by the utility industry; (3) increased spending on the purchase price of new commercial refrigeration equipment; and (4) the effects of those three factors throughout the Nation's economy. DOE expects the net monetary savings from amended standards to stimulate other forms of economic activity. DOE also expects these shifts in spending and economic activity to affect the demand for labor.

In developing this analysis for today's standard, DOE estimated indirect national employment impacts using an input/output model of the U.S. economy, called ImSET (Impact of Sector Energy Technologies), developed by DOE's Building Technologies Program. ImSET is an economic analysis model that characterizes the interconnections among 188 sectors of the economy as national input/output structural matrices, using data from the U.S. Department of Commerce's 1997 Benchmark U.S. input/output table.[74] The ImSET model estimates changes in employment, industry output, and wage income in the overall U.S. economy resulting from changes in expenditures in various sectors of the economy. DOE estimated changes in expenditures using the NIA model. ImSET then estimated the net national indirect employment impacts that amended commercial refrigeration equipment efficiency standards could have on employment by sector.

For more details on the employment impact analysis and its results, see chapter 16 of the TSD.

V. Analytical Results

A. Trial Standard Levels

1. Trial Standard Level Formulation Process and Criteria

Based on the results of the LCC analysis and NIA, DOE selected five TSLs above the baseline level for each equipment class for the final rule. TSL 5 was selected at the max-tech level for all equipment classes. TSL 4 was chosen so as to group the efficiency levels with the highest energy savings combined with a positive customer NPV at a 7-percent discount rate. TSL 3 was chosen to represent the group of efficiency levels with the highest customer NPV at a 7-percent discount rate. TSL 2 and TSL 1 were chosen to provide intermediate efficiency levels that fill the gap between the baseline efficiency levels and TSL 3.

For the HCT.SC.I, HZO.RC.M, and HZO.RC.L equipment classes, there is only one efficiency level above baseline. For the HZO.SC.L equipment class, there are no efficiency levels above baseline, because there was only one analytical design analyzed engineering analysis compliant with the 2009 final rule. While TSL 5 was associated with the max-tech level for HCT.SC.I, HZO.RC.M, and HZO.RC.L equipment classes, TSLs 1 through 4 did not have corresponding efficiency levels that satisfied the TSL formulation criteria. Therefore, the baseline efficiency level was assigned to TSL 1 through TSL 4 for each of these equipment classes. Table V.1 shows the mapping between TSLs and efficiency levels.

[72] For additional information, refer to U.S. Office of Management and Budget, Office of Information and Regulatory Affairs, *2006 Report to Congress on the Costs and Benefits of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities,* Washington, DC.

[73] 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.*

[74] U.S. Department of Commerce, Bureau of Economic Analysis. Benchmark Input-Output Accounts. 1997. U.S. Government Printing Office: Washington, DC.

TABLE V.1—MAPPING BETWEEN TSLS AND EFFICIENCY LEVELS

Equipment class	Intermediate level	Intermediate level	Max NPV *	Max NES NPV * >0-†	Max-tech
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
VOP.RC.M	Baseline	Baseline	EL 1	EL 3	EL 4.
VOP.RC.L	Baseline	Baseline	EL 1	EL 2	EL 3.
VOP.SC.M	Baseline	Baseline	Baseline	EL 1	EL 2.
VCT.RC.M	Baseline	Baseline	EL 1	EL 3	EL 4.
VCT.RC.L	EL 1	EL 1	EL 2	EL 3	EL 4.
VCT.SC.M	EL 1	EL 2	EL 3	EL 5	EL 7.
VCT.SC.L	EL 1	EL 3	EL 5	EL 7	EL 7.
VCT.SC.I	EL 1	EL 1	EL 1	EL 3	EL 4.
VCS.SC.M	EL 1	EL 2	EL 4	EL 6	EL 7.
VCS.SC.L	EL 1	EL 3	EL 5	EL 6	EL 7.
VCS.SC.I	EL 1	EL 2	EL 4	EL 4	EL 5.
SVO.RC.M	EL 1	EL 1	EL 1	EL 3	EL 4.
SVO.SC.M	Baseline	Baseline	Baseline	EL 1	EL 3.
SOC.RC.M	Baseline	Baseline	Baseline	EL 1	EL 4.
SOC.SC.M	Baseline	Baseline	Baseline	EL 2	EL 4.
HZO.RC.M	Baseline	Baseline	Baseline	Baseline	EL 1.
HZO.RC.L	Baseline	Baseline	Baseline	Baseline	EL 1.
HZO.SC.M	Baseline	EL 1	EL 1	EL 2	EL 3.
HZO.SC.L	Baseline	Baseline	Baseline	Baseline	Baseline.
HCT.SC.M	EL 2	EL 3	EL 4	EL 6	EL 7.
HCT.SC.L	EL 2	EL 3	EL 4	EL 6	EL 7.
HCT.SC.I	Baseline	Baseline	Baseline	Baseline	EL 1.
HCS.SC.M	EL 1	EL 2	EL 3	EL 4	EL 6.
HCS.SC.L	EL 1	EL 2	EL 3	EL 5	EL 6.
PD.SC.M	EL 1	EL 2	EL 3	EL 4	EL 7.

* NPV is estimated at a 7 percent discount rate.

2. Trial Standard Level Equations

Because of the equipment size variation within each equipment class and the use of daily energy consumption as the efficiency metric, DOE developed a methodology to express efficiency standards in terms of a normalizing metric. DOE used two normalizing metrics that were each used for certain equipment classes: (1) Volume (V), and (2) total display area (TDA). The use of these two normalization metrics allows for the development of a standard in the form of a linear equation that can be used to represent the entire range of equipment sizes within a given equipment class.

DOE retained the respective normalization metric (TDA or volume) previously used in the EPACT 2005, AEMTCA, or January 2009 final rule standard for each covered equipment class. (42 U.S.C. 6313(c)(2)–(3)); 74 FR at 1093 (January 9, 2009). Additionally, for its January 2009 final rule, DOE developed offset factors as a method to adjust the energy efficiency requirements for smaller equipment in each equipment class analyzed. These offset factors, which form the y-intercept on a plot of each standard level equation (representing a limit case of zero volume or zero TDA), accounted for certain components of the refrigeration load (such as conduction end effects) that remain constant even when equipment sizes vary. These constant loads affect smaller cases disproportionately. The offset factors were intended to approximate these constant loads and provide a fixed end point in an equation that describes the relationship between energy consumption and the corresponding normalization metric. 74 FR at 1118–19 (January 9, 2009). The standard level equations prescribed by EPACT 2005 also contained similar fixed parts not multiplied by the volume metric and which correspond to these offset factors. (42 U.S.C. 6313(c)(2)) In this final rule, DOE retained the January 2009 final rule offset factors at all TSLs, and updated those included in the EPACT 2005 standards to reflect size-based trends in energy consumption for each equipment class. See chapter 5 of the TSD for further details and discussion of offset factors.

For the equipment classes covered under this rulemaking, the standards equation at each TSL is presented in the form of MDEC (in kilowatt-hours per day), normalized by a volume (V) or TDA metric, with an offset factor added to that value. These equations take the form:

$MDEC = A \times TDA + B$ *(for equipment using TDA as a normalizing metric)*

or

$MDEC = A \times V + B$ *(for equipment using volume as a normalizing metric*)

The standards equations may be used to prescribe the MDEC for equipment of different sizes within the same equipment class. Chapter 9 of the final rule TSD explains the methodology used for selecting TSLs and developing the coefficients shown in Table V.3.

TABLE V.2—CDEC VALUES BY TSL FOR REPRESENTATIVE UNITS ANALYZED IN THE ENGINEERING ANALYSIS FOR EACH PRIMARY EQUIPMENT CLASS

Equipment class	CDEC Values by TSL kWh/day				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
VOP.RC.M	46.84	46.84	38.02	36.1	35.65
VOP.RC.L	105.6	105.6	104.94	101.70	100.01

TABLE V.2—CDEC VALUES BY TSL FOR REPRESENTATIVE UNITS ANALYZED IN THE ENGINEERING ANALYSIS FOR EACH PRIMARY EQUIPMENT CLASS—Continued

Equipment class	CDEC Values by TSL kWh/day				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
VOP.SC.M	30.01	30.01	30.01	29.91	29.71
VCT.RC.M	13.65	13.65	11.8	11.49	10.99
VCT.RC.L	35.34	35.34	34.78	34.50	33.04
VCT.SC.M	6.83	5.99	5.64	5.45	5.15
VCT.SC.L	27.46	18.23	17.16	16.05	16.05
VCT.SC.I	19.52	19.52	19.52	18.95	18.11
VCS.SC.M	5.29	4.03	3.69	3.45	3.03
VCS.SC.L	13.94	12.94	12.19	12.08	11.13
VCS.SC.I	18.70	18.01	17.43	17.43	16.04
SVO.RC.M	29.45	29.45	29.45	28.01	27.70
SVO.SC.M	26.32	26.32	26.32	25.65	25.4
SOC.RC.M	22.74	22.74	22.74	22.31	21.56
SOC.SC.M	27.72	27.72	27.72	26.61	26.12
HZO.RC.M	14.47	14.47	14.47	14.47	14.15
HZO.RC.L	32.36	32.36	32.36	32.36	31.08
HZO.SC.M	14.66	14.16	14.16	14.02	13.75
HZO.SC.L	29.92	29.92	29.92	29.92	29.92
HCT.SC.M	1.62	0.99	0.90	0.79	0.61
HCT.SC.L	2.15	2.03	1.92	1.73	1.32
HCT.SC.I	3.13	3.13	3.13	3.13	2.33
HCS.SC.M	1.42	1.36	1.28	1.26	0.98
HCS.SC.L	1.78	1.67	1.53	1.29	0.71
PD.SC.M	4.73	3.90	3.78	3.75	3.41

TABLE V.3—EQUATIONS REPRESENTING THE STANDARDS AT EACH TSL FOR ALL PRIMARY EQUIPMENT CLASSES

Equipment class	Trial standard levels for primary equipment classes analyzed					
	Baseline	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
VOP.RC.M	0.82 × TDA + 4.07	0.8 × TDA + 4.07	0.8 × TDA + 4.07	0.64 × TDA + 4.07	0.6 × TDA + 4.07	0.59 × TDA + 4.07.
VOP.RC.L	2.27 × TDA + 6.85	2.21 × TDA + 6.85	2.21 × TDA + 6.85	2.2 × TDA + 6.85	2.12 × TDA + 6.85	2.09 × TDA + 6.85.
VOP.SC.M	1.74 × TDA + 4.71	1.69 × TDA + 4.71	1.69 × TDA + 4.71	1.69 × TDA + 4.71	1.69 × TDA + 4.71	1.67 × TDA + 4.71.
VCT.RC.M	0.22 × TDA + 1.95	0.18 × TDA + 1.95	0.18 × TDA + 1.95	0.15 × TDA + 1.95	0.15 × TDA + 1.95	0.14 × TDA + 1.95.
VCT.RC.L	0.56 × TDA + 2.61	0.5 × TDA + 2.61	0.5 × TDA + 2.61	0.49 × TDA + 2.61	0.49 × TDA + 2.61	0.47 × TDA + 2.61.
VCT.SC.M	0.12 × V + 3.34	0.1 × V + 2.05	0.1 × V + 1.21	0.1 × V + 0.86	0.1 × V + 0.68	0.1 × V + 0.38.
VCT.SC.L	0.75 × V + 4.1	0.48 × V + 4.1	0.29 × V + 4.1	0.29 × V + 2.95	0.29 × V + 1.84	0.29 × V + 1.84.
VCT.SC.I	0.67 × TDA + 3.29	0.62 × TDA + 3.29	0.62 × TDA + 3.29	0.62 × TDA + 3.29	0.6 × TDA + 3.29	0.57 × TDA + 3.29.
VCS.SC.M	0.1 × V + 2.04	0.07 × V + 2.04	0.05 × V + 1.69	0.05 × V + 1.36	0.05 × V + 1.11	0.05 × V + 0.7.
VCS.SC.L	0.4 × V + 1.38	0.26 × V + 1.38	0.24 × V + 1.38	0.22 × V + 1.38	0.22 × V + 1.38	0.2 × V + 1.38.
VCS.SC.I	0.38 × V + 0.88	0.37 × V + 0.88	0.36 × V + 0.88	0.34 × V + 0.88	0.34 × V + 0.88	0.32 × V + 0.88.
SVO.RC.M	0.83 × TDA + 3.18	0.66 × TDA + 3.18	0.66 × TDA + 3.18	0.66 × TDA + 3.18	0.62 × TDA + 3.18	0.61 × TDA + 3.18.
SVO.SC.M	1.73 × TDA + 4.59	1.7 × TDA + 4.59	1.7 × TDA + 4.59	1.7 × TDA + 4.59	1.65 × TDA + 4.59	1.63 × TDA + 4.59
SOC.RC.M.	0.51 × TDA + 0.11	0.44 × TDA + 0.11	0.44 × TDA + 0.11	0.44 × TDA + 0.11	0.44 × TDA + 0.11	0.42 × TDA + 0.11.
SOC.SC.M	0.6 × TDA + 1	0.52 × TDA + 1	0.52 × TDA + 1	0.52 × TDA + 1	0.5 × TDA + 1	0.49 × TDA + 1.
HZO.RC.M	0.35 × TDA + 2.88	0.35 × TDA + 2.88	0.35 × TDA + 2.88	0.35 × TDA + 2.88	0.35 × TDA + 2.88	0.34 × TDA + 2.88.
HZO.RC.L	0.57 × TDA + 6.88	0.55 × TDA + 6.88	0.55 × TDA + 6.88	0.55 × TDA + 6.88	0.55 × TDA + 6.88	0.53 × TDA + 6.88.
HZO.SC.M	0.77 × TDA + 5.55	0.76 × TDA + 5.55	0.72 × TDA + 5.55	0.72 × TDA + 5.55	0.71 × TDA + 5.55	0.68 × TDA + 5.55.
HZO.SC.L	1.92 × TDA + 7.08	1.9 × TDA + 7.08	1.9 × TDA + 7.08	1.9 × TDA + 7.08	1.9 × TDA + 7.08	1.9 × TDA + 7.08.
HCT.SC.M	0.12 × V + 3.34	0.06 × V + 1.09	0.06 × V + 0.46	0.06 × V + 0.37	0.06 × V + 0.27	0.06 × V + 0.09.
HCT.SC.L	0.75 × V + 4.1	0.08 × V + 1.47	0.08 × V + 1.35	0.08 × V + 1.23	0.08 × V + 1.05	0.08 × V + 0.63.
HCT.SC.I	0.56 × TDA + 0.43	0.56 × TDA + 0.43	0.56 × TDA + 0.43	0.56 × TDA + 0.43	0.56 × TDA + 0.43	0.4 × TDA + 0.43.
HCS.SC.M	0.1 × V + 2.04	0.05 × V + 1.05	0.05 × V + 0.98	0.05 × V + 0.91	0.05 × V + 0.89	0.02 × V + 0.81.
HCS.SC.L	0.4 × V + 1.38	0.06 × V + 1.38	0.06 × V + 1.26	0.06 × V + 1.12	0.06 × V + 0.89	0.06 × V + 0.31.
PD.SC.M	0.126 × V + 3.51	0.11 × V + 1.76	0.11 × V + 0.93	0.11 × V + 0.81	0.11 × V + 0.78	0.11 × V + 0.44.

In addition to the 25 primary equipment classes analyzed, DOE evaluated existing and potential amended standards for 24 secondary equipment classes of commercial refrigeration equipment covered in this rulemaking that were not directly analyzed in the engineering analysis. DOE's approach to evaluating standards for these secondary equipment classes involves extension multipliers developed using the engineering results for the primary equipment classes analyzed and a set of matched-pair analyses performed during the January 2009 final rule analysis.[75] In addition,

[75] The matched-pair analyses compared calculated energy consumption levels for pieces of equipment with similar designs but one major construction or operational difference; for example, vertical open remote condensing cases operating at medium and low temperatures. The relationships between these sets of units were used to determine the effect of the design or operational difference on

DOE believes that standards for certain primary equipment classes can be directly applied to similar secondary equipment classes. Chapter 5 of the final rule TSD discusses the development of the extension multipliers.

Using the extension multiplier approach, DOE developed an additional set of TSLs and associated equations for the secondary equipment classes, as shown in Table V.4. The TSLs shown in Table V.4 do not necessarily satisfy the criteria spelled out in section V.A. DOE is presenting the standards equations developed for each TSL for all 47 equipment classes to allow interested parties to better observe the ramifications of each TSL across the range of equipment sizes on the market.

TABLE V.4—EQUATIONS REPRESENTING THE STANDARDS AT EACH TSL FOR ALL SECONDARY EQUIPMENT CLASSES

Equipment class	Trial standard levels for secondary equipment classes analyzed					
	Baseline	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
VOP.RC.I	2.89 × TDA + 8.7 ..	2.81 × TDA + 8.7 ..	2.81 × TDA + 8.7 ..	2.79 × TDA + 8.7 ..	2.7 × TDA + 8.7	2.65 × TDA + 8.7.
SVO.RC.L ...	2.27 × TDA + 6.85	2.21 × TDA + 6.85	2.21 × TDA + 6.85	2.2 × TDA + 6.85 ..	2.12 × TDA + 6.85	2.09 × TDA + 6.85.
SVO.RC.I	2.89 × TDA + 8.7 ..	2.81 × TDA + 8.7 ..	2.81 × TDA + 8.7 ..	2.79 × TDA + 8.7 ..	2.7 × TDA + 8.7	2.65 × TDA + 8.7.
HZO.RC.I	0.72 × TDA + 8.74	0.7 × TDA + 8.74 ..	0.7 × TDA + 8.74 ..	0.7 × TDA + 8.74 ..	0.7 × TDA + 8.74 ..	0.67 × TDA + 8.74.
VOP.SC.L	4.37 × TDA + 11.82.	4.25 × TDA + 11.82.	4.25 × TDA + 11.82.	4.25 × TDA + 11.82.	4.24 × TDA + 11.82.	4.2 × TDA + 11.82.
VOP.SC.I	5.55 × TDA + 15.02.	5.4 × TDA + 15.02	5.4 × TDA + 15.02	5.4 × TDA + 15.02	5.38 × TDA + 15.02.	5.34 × TDA + 15.02.
SVO.SC.L	4.34 × TDA + 11.51.	4.26 × TDA + 11.51.	4.26 × TDA + 11.51.	4.26 × TDA + 11.51.	4.13 × TDA + 11.51.	4.08 × TDA + 11.51.
SVO.SC.I	5.52 × TDA + 14.63.	5.41 × TDA + 14.63.	5.41 × TDA + 14.63.	5.41 × TDA + 14.63.	5.24 × TDA + 14.63.	5.18 × TDA + 14.63.
HZO.SC.I	2.44 × TDA + 9	2.42 × TDA + 9	2.42 × TDA + 9	2.42 × TDA + 9	2.42 × TDA + 9	2.42 × TDA + 9.
SOC.RC.L ...	1.08 × TDA + 0.22	0.93 × TDA + 0.22	0.93 × TDA + 0.22	0.93 × TDA + 0.22	0.91 × TDA + 0.22	0.88 × TDA + 0.22.
SOC.RC.I	1.26 × TDA + 0.26	1.09 × TDA + 0.26	1.09 × TDA + 0.26	1.09 × TDA + 0.26	1.07 × TDA + 0.26	1.03 × TDA + 0.26.
SOC.SC.I	1.76 × TDA + 0.36	1.53 × TDA + 0.36	1.53 × TDA + 0.36	1.53 × TDA + 0.36	1.5 × TDA + 0.36 ..	1.45 × TDA + 0.36.
VCT.RC.I	0.66 × TDA + 3.05	0.59 × TDA + 3.05	0.59 × TDA + 3.05	0.58 × TDA + 3.05	0.57 × TDA + 3.05	0.55 × TDA + 3.05.
HCT.RC.M ...	0.16 × TDA + 0.13	0.16 × TDA + 0.13	0.16 × TDA + 0.13	0.16 × TDA + 0.13	0.16 × TDA + 0.13	0.12 × TDA + 0.13.
HCT.RC.L	0.34 × TDA + 0.26	0.34 × TDA + 0.26	0.34 × TDA + 0.26	0.34 × TDA + 0.26	0.34 × TDA + 0.26	0.24 × TDA + 0.26.
HCT.RC.I	0.4 × TDA + 0.31 ..	0.4 × TDA + 0.31 ..	0.4 × TDA + 0.31 ..	0.4 × TDA + 0.31 ..	0.4 × TDA + 0.31 ..	0.28 × TDA + 0.31.
VCS.RC.M ...	0.11 × V + 0.26	0.11 × V + 0.26	0.1 × V + 0.26	0.1 × V + 0.26	0.1 × V + 0.26	0.09 × V + 0.26.
VCS.RC.L	0.23 × V + 0.54	0.23 × V + 0.54	0.22 × V + 0.54	0.21 × V + 0.54	0.21 × V + 0.54	0.19 × V + 0.54.
VCS.RC.I	0.27 × V + 0.63	0.27 × V + 0.63	0.25 × V + 0.63	0.25 × V + 0.63	0.25 × V + 0.63	0.23 × V + 0.63.
HCS.SC.I	0.38 × V + 0.88	0.37 × V + 0.88	0.36 × V + 0.88	0.34 × V + 0.88	0.34 × V + 0.88	0.32 × V + 0.88.
HCS.RC.M ..	0.11 × V + 0.26	0.11 × V + 0.26	0.1 × V + 0.26	0.1 × V + 0.26	0.1 × V + 0.26	0.09 × V + 0.26.
HCS.RC.L ...	0.23 × V + 0.54	0.23 × V + 0.54	0.22 × V + 0.54	0.21 × V + 0.54	0.21 × V + 0.54	0.19 × V + 0.54.
HCS.RC.I	0.27 × V + 0.63	0.27 × V + 0.63	0.25 × V + 0.63	0.25 × V + 0.63	0.25 × V + 0.63	0.23 × V + 0.63.
SOC.SC.L* ..	0.75 × V + 4.10	1.1 × TDA + 2.1	1.1 × TDA + 2.1	1.1 × TDA + 2.1	1.05 × TDA + 2.1 ..	1.03 × TDA + 2.1.

* Equipment class SOC.SC.L was inadvertently grouped under the category self-contained commercial freezers with transparent doors in the standards prescribed by EPCA, as amended by EPACT 2005. (42 U.S.C. 6313(c)(2)) The baseline expression is thus given by the expression 0.75 × V + 4.10, which is the current standard for SOC.SC.L equipment. A similar anomaly (of inadvertent classification under a different equipment category) for SOC.SC.M equipment was corrected by the standard established by AEMTCA. (42 U.S.C. 6313(c)(4)) However, no such corrective action has been prescribed for standards for SOC.SC.L equipment. In establishing a new standard for SOC.SC.M equipment, AEMTCA also changed the normalization metric from volume (V) to total display area (TDA). Accordingly, DOE is promulgating amended standards for SOC.SC.M equipment with TDA as the normalization metric (see Table V.3), DOE derives the standard for secondary equipment classes based on the standard of a primary equipment that has similar characteristics as the secondary equipment class under consideration (see chapter 5 of the final rule TSD for details). For the equipment class SOC.SC.L, the standard was derived from the standard level selected for equipment class SOC.SC.M. Since the standard for SOC.SC.M is in terms of TDA, the standard for SOC.SC.L equipment has also been specified in terms of TDA. Therefore, while the baseline expression has been shown with V as the normalization metric, the expressions for TSLs 1 through 5 have been shown in terms of TDA. This change of normalization metric for equipment class SOC.SC.L is consistent with the legislative intent, evident in AEMTCA, for equipment class SOC.SC.M.

B. Economic Justification and Energy Savings

1. Economic Impacts on Commercial Customers

a. Life-Cycle Cost and Payback Period

Customers affected by new or amended standards usually incur higher purchase prices and lower operating costs. DOE evaluates these impacts on individual customers by calculating the LCC and the PBP associated with the TSLs. The results of the LCC analysis for each TSL were obtained by comparing the installed and operating costs of the equipment in the base-case scenario (scenario with no amended energy conservation standards) against the standards-case scenarios at each TSL. The energy consumption values for both the base-case and standards-case scenarios were calculated based on the DOE test procedure conditions specified in the 2012 test procedure final rule. 77 FR 10292, 10318–21 (February 21, 2012) The DOE test procedure adopted an industry-accepted test method and has been widely accepted as a reasonably accurate representation of the conditions to which a vast majority of the equipment covered in this rulemaking is subjected during actual use. As described in section IV.F, the LCC analysis was carried out in the form of Monte Carlo simulations. Consequently, the results are distributed over a range of values, as opposed to a single deterministic value. DOE presents the mean or median values, as appropriate, calculated from the distributions of results.

applicable equipment. For more information, please see chapter 5 of the 2009 final rule TSD, which can be found at *http://www.regulations.gov/#!documentDetail;D=EERE-2006-STD-0126-0058.*

Table V.5 through Table V.29 show key results of the LCC and PBP analysis for each equipment class. Each table presents the mean LCC, mean LCC savings, median PBP, and distribution of customer impacts in the form of percentages of customers who experience net cost, no impact, or net benefit.

All of the equipment classes, except for VCT.SC.L, have negative LCC savings values at TSL 5. Negative average LCC savings imply that, on average, customers experience an increase in LCC as a consequence of buying equipment associated with that particular TSL.

The mean LCC savings associated with TSL 4 vary by equipment class, and are negative for some equipment classes with significant market shares. The mean LCC savings at today's standard, TSL 3, are all positive. (LCC savings are equal in cases in which both TSLs are associated with the same efficiency level.)

Generally, customers who currently buy equipment in the base case scenario at or above the level of performance specified by the TSL under consideration would be unaffected if the amended standard were to be set at that TSL. Customers who buy equipment below the level of the TSL under consideration would be affected if the amended standard were to be set at that TSL. Among these affected customers, some may benefit (lower LCC) and some may incur net cost (higher LCC). DOE's results indicate that only a small percentage of customers may benefit from an amended standard that is set at TSL 5. At TSL 4, the percentage of customers who experience net benefits or no impacts ranges from 0 to 92 percent. At TSL 3, a larger percentage of customers experience net benefits or no impacts as compared to TSL 4. At TSLs 1 and 2, almost all customers experience either net benefits or no impacts.

For all of the equipment classes, except VCT.SC.L, the median PBPs for TSL 5 are greater than the average lifetime of the equipment, indicating that a majority of customers may not be able to recover the higher equipment installed costs through savings in operating costs during the life of the equipment. The median PBP values for TSL 4 range from 1.4 years to 63.1 years. The median PBP values at TSL 3 are all below the average lifetime of a majority of the commercial refrigeration equipment under consideration is 10 to 15 years. Therefore, PBP results for TSL 3 indicate that, in general, the majority of customers will be able to recover the increased purchase costs associated with equipment that is compliant with TSL 3 through operating cost savings within the lifetime of the equipment.

TABLE V.5—SUMMARY LCC AND PBP RESULTS FOR VOP.RC.M EQUIPMENT CLASS*

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience**			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	17,095	10,527	2,376	30,748	.....	0	100	0	.....
2	17,095	10,527	2,376	30,748	.....	0	100	0	.....
3	13,877	11,988	2,099	29,826	922	4	41	55	5.7
4	13,177	12,786	2,071	30,374	−5	64	0	36	9.9
5	13,013	15,901	2,202	34,572	−4,203	100	0	0	34.1

* Percentages may not add up to 100 percent due to rounding.

TABLE V.6—SUMMARY LCC AND PBP RESULTS FOR VOP.RC.L EQUIPMENT CLASS*

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience**			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	38,544	11,699	4,445	49,574	.....	0	100	0	.....
2	38,544	11,699	4,445	49,574	.....	0	100	0	.....
3	38,301	11,799	4,427	49,521	53	7	40	53	5.7
4	37,117	12,631	4,353	49,707	−148	59	20	21	7.2
5	36,502	17,725	4,534	56,289	−6,701	100	0	0	9.9

* Percentages may not add up to 100 percent due to rounding.

TABLE V.7—SUMMARY LCC AND PBP RESULTS FOR VOP.SC.M EQUIPMENT CLASS*

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience**			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	10,953	6,365	1,340	20,337	.....	0	100	0	.....
2	10,953	6,365	1,340	20,337	.....	0	100	0	.....
3	10,953	6,365	1,340	20,337	.....	0	100	0	.....
4	10,917	6,432	1,339	20,391	−54	60	40	0	5.7

TABLE V.7—SUMMARY LCC AND PBP RESULTS FOR VOP.SC.M EQUIPMENT CLASS*—Continued

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience**			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
5	10,846	7,483	1,368	21,742	−1,384	100	0	0	7.2

*Percentages may not add up to 100 percent due to rounding.

TABLE V.8—SUMMARY LCC AND PBP RESULTS FOR VCT.RC.M EQUIPMENT CLASS*

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience**			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	4,981	12,951	1,263	23,996	.....	0	100	0	.....
2	4,981	12,951	1,263	23,996	.....	0	100	0	.....
3	4,307	13,102	1,185	23,454	542	0	40	60	2.1
4	4,192	13,384	1,193	23,803	41	36	13	51	6.6
5	4,011	17,093	1,341	28,775	−4,937	100	0	0	364.7

*Percentages may not add up to 100 percent due to rounding.

TABLE V.9—SUMMARY LCC AND PBP RESULTS FOR VCT.RC.L EQUIPMENT CLASS*

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience**			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	12,898	14,411	2,081	32,705	647	0	40	60	1.8
2	12,898	14,411	2,081	32,705	647	0	40	60	1.8
3	12,694	14,508	2,066	32,665	526	4	20	76	2.7
4	12,593	14,809	2,070	32,996	93	43	0	57	6.3
5	12,061	19,567	2,232	39,125	−6,036	100	0	0	194.7

*Percentages may not add up to 100 percent due to rounding.

TABLE V.10—SUMMARY LCC AND PBP RESULTS FOR VCT.SC.M EQUIPMENT CLASS*

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience**			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	2,491	5,184	490	10,025	−10	71	10	18	23.4
2	2,184	5,336	452	9,800	214	1	10	89	4.8
3	2,057	5,401	442	9,767	226	3	0	97	5.3
4	1,991	5,487	440	9,830	163	17	0	83	7.0
5	1,879	6,831	478	11,534	−1,541	100	0	0	96.2

*Percentages may not add up to 100 percent due to rounding.

TABLE V.11—SUMMARY LCC AND PBP RESULTS FOR VCT.SC.L EQUIPMENT CLASS

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	90 of Customers that experience **			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	10,022	6,498	1,270	19,135	2,503	0	10	90	0.5

TABLE V.11—SUMMARY LCC AND PBP RESULTS FOR VCT.SC.L EQUIPMENT CLASS—Continued

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	90 of Customers that experience **			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
2	6,654	6,822	964	16,397	4,709	0	0	100	0.8
3	6,262	7,003	917	16,105	5,001	0	0	100	1.1
4	5,857	8,909	948	18,294	2,812	11	0	89	4.7
5	5,857	8,909	948	18,294	2,812	11	0	89	4.7

* Percentages may not add up to 100 percent due to rounding.

TABLE V.12—SUMMARY LCC AND PBP RESULTS FOR VCT.SC.I EQUIPMENT CLASS *

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	90 of Customers that experience **			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	7,124	7,305	1,015	17,384	18	10	40	50	7.2
2	7,124	7,305	1,015	17,384	18	10	40	50	7.2
3	7,124	7,305	1,015	17,384	18	10	40	50	7.2
4	6,916	7,509	1,003	17,468	−68	65	24	11	16.2
5	6,609	9,780	1,057	20,242	−2,834	84	16	0	663.6

* Percentages may not add up to 100 percent due to rounding.

TABLE V.13—SUMMARY LCC AND PBP RESULTS FOR VCS.SC.M EQUIPMENT CLASS *

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience **			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	1,929	3,572	368	6,378	223	0	40	60	0.5
2	1,469	3,601	326	6,083	518	0	40	60	0.6
3	1,346	3,651	318	6,067	363	7	10	83	1.4
4	1,258	3,734	314	6,125	305	25	10	65	2.6
5	1,105	5,062	365	7,828	−1,428	100	0	0	48.0

* Percentages may not add up to 100 percent due to rounding.

TABLE V.14—SUMMARY LCC AND PBP RESULTS FOR VCS.SC.L EQUIPMENT CLASS *

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience **			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	5,088	4,007	702	9,374	588	0	40	60	0.6
2	4,722	4,083	672	9,215	550	0	10	90	1.3
3	4,448	4,216	653	9,201	507	7	0	93	2.5
4	4,410	4,238	651	9,213	495	9	0	91	2.7
5	4,062	5,988	703	11,349	−1,640	100	0	0	31.8

* Percentages may not add up to 100 percent due to rounding.

TABLE V.15—SUMMARY LCC AND PBP RESULTS FOR VCS.SC.I EQUIPMENT CLASS *

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience **			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	6,824	4,349	895	11,195	41	0	40	60	2.6
2	6,574	4,420	876	11,117	114	0	32	68	3.6
3	6,361	4,515	861	11,096	113	9	17	75	5.0
4	6,361	4,515	861	11,096	113	9	17	75	5.0
5	5,855	6,839	927	13,909	−2,710	92	8	0	183.7

* Percentages may not add up to 100 percent due to rounding.

TABLE V.16—SUMMARY LCC AND PBP RESULTS FOR SVO.RC.M EQUIPMENT CLASS *

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience **			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	10,748	10,304	1,694	24,841	564	7	40	54	6.2
2	10,748	10,304	1,694	24,841	564	7	40	54	6.2
3	10,748	10,304	1,694	24,841	564	7	40	54	6.2
4	10,226	10,875	1,670	25,201	−19	67	0	33	10.4
5	10,111	12,867	1,752	27,873	−2,691	100	0	0	29.9

* Percentages may not add up to 100 percent due to rounding.

TABLE V.17—SUMMARY LCC AND PBP RESULTS FOR SVO.SC.M EQUIPMENT CLASS§*

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience§**			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	9,608	4,980	1,150	16,733	.....	0	100	0	.....
2	9,608	4,980	1,150	16,733	.....	0	100	0	.....
3	9,608	4,980	1,150	16,733	.....	0	100	0	.....
4	9,361	5,157	1,132	16,728	6	32	40	27	10.9
5	9,271	5,897	1,151	17,648	−917	100	0	0	151.6

* Percentages may not add up to 100 percent due to rounding.

TABLE V.18—SUMMARY LCC AND PBP RESULTS FOR SOC.RC.M EQUIPMENT CLASS *

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience **			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	8,300	13,971	1,679	28,172	.....	0	100	0	.....
2	8,300	13,971	1,679	28,172	.....	0	100	0	.....
3	8,300	13,971	1,679	28,172	.....	0	100	0	.....
4	8,144	14,144	1,674	28,301	−128	60	40	0	38.0
5	7,869	15,879	1,729	30,492	−2,268	100	0	0	114.1

* Percentages may not add up to 100 percent due to rounding.

TABLE V.19—SUMMARY LCC AND PBP RESULTS FOR SOC.SC.M EQUIPMENT CLASS *

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience **			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	10,119	13,965	1,821	27,861	.....	0	100	0	.....
2	10,119	13,965	1,821	27,861	.....	0	100	0	.....
3	10,119	13,965	1,821	27,861	.....	0	100	0	.....
4	9,711	14,332	1,808	28,128	−209	100	0	1	28.7
5	9,533	15,880	1,868	30,123	−2,204	100	0	0	25.3

* Percentages may not add up to 100 percent due to rounding.

TABLE V.20—SUMMARY LCC AND PBP RESULTS FOR HZO.RC.M EQUIPMENT CLASS *

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience **			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	5,282	8,290	1,036	16,958	.....	0	100	0	.....
2	5,282	8,290	1,036	16,958	.....	0	100	0	.....
3	5,282	8,290	1,036	16,958	.....	0	100	0	.....
4	5,282	8,290	1,036	16,958	.....	0	100	0	.....
5	5,165	9,921	1,103	19,137	−2,180	60	40	0	.....

* Percentages may not add up to 100 percent due to rounding.

TABLE V.21—SUMMARY LCC AND PBP RESULTS FOR HZO.RC.L EQUIPMENT CLASS *

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience **			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	11,812	8,504	1,673	22,548	.....	0	100	0	.....
2	11,812	8,504	1,673	22,548	.....	0	100	0	.....
3	11,812	8,504	1,673	22,548	.....	0	100	0	.....
4	11,812	8,504	1,673	22,548	.....	0	100	0	.....
5	11,344	11,822	1,787	26,795	−4,249	60	40	0	288.9

* Percentages may not add up to 100 percent due to rounding.

TABLE V.22—SUMMARY LCC AND PBP RESULTS FOR HZO.SC.M EQUIPMENT CLASS *

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience **			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	5,351	2,605	629	9,022	.....	0	100	0	.....
2	5,168	2,698	615	8,967	55	5	40	54	6.9
3	5,168	2,698	615	8,967	55	5	40	54	6.9
4	5,118	2,763	613	9,013	−4	50	21	29	11.8
5	5,018	3,689	636	10,163	−1,154	100	0	0	194.7

* Percentages may not add up to 100 percent due to rounding.

TABLE V.23—SUMMARY LCC AND PBP RESULTS FOR HZO.SC.M EQUIPMENT CLASS *

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience **			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	10,922	5,008	1,265	17,894	.....	0	100	0	.....
2	10,922	5,008	1,265	17,894	.....	0	100	0	.....
3	10,922	5,008	1,265	17,894	.....	0	100	0	.....
4	10,922	5,008	1,265	17,894	.....	0	100	0	.....
5	10,922	5,008	1,265	17,894	.....	0	100	0	.....

* Percentages may not add up to 100 percent due to rounding.

TABLE V.24—SUMMARY LCC AND PBP RESULTS FOR HCT.SC.M EQUIPMENT CLASS

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience **			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	590	2,101	140	3,577	66	0	40	60	2.5
2	360	2,198	122	3,478	165	0	40	60	4.7
3	327	2,213	120	3,476	101	20	0	80	5.8
4	289	2,279	120	3,534	43	45	0	55	9.2
5	224	2,807	131	4,175	−599	100	0	0	46.6

* Percentages may not add up to 100 percent due to rounding.

TABLE V.25—SUMMARY LCC AND PBP RESULTS FOR HCT.SC.L EQUIPMENT CLASS *

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience **			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	785	2,297	190	3,882	428	0	41	59	1.8
2	742	2,312	187	3,876	435	0	41	59	2.0
3	701	2,330	185	3,870	293	10	10	80	2.5
4	632	2,399	182	3,915	248	29	10	61	3.6
5	480	3,120	200	4,775	−613	87	10	3	19.5

** Percentages may not add up to 100 percent due to rounding.

TABLE V.26—SUMMARY LCC AND PBP RESULTS FOR HCT.SC.I EQUIPMENT CLASS *

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience**			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	1,141	2,490	240	4,348	.....	0	100	0	.....
2	1,141	2,490	240	4,348	.....	0	100	0	.....
3	1,141	2,490	240	4,348	.....	0	100	0	.....
4	1,141	2,490	240	4,348	.....	0	100	0	.....
5	849	3,553	264	5,587	−1,240	61	39	0	23.8

* Percentages may not add up to 100 percent due to rounding.

TABLE V.27—SUMMARY LCC AND PBP RESULTS FOR HCS.SC.M EQUIPMENT CLASS *

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience **			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	518	1,986	146	3,100	12	0	9	91	2.9
2	495	1,993	145	3,095	17	1	9	90	3.7
3	466	2,008	143	3,097	15	10	9	80	5.5
4	461	2,014	144	3,107	5	42	9	48	7.5
5	358	2,488	157	3,679	−568	91	9	0	680.6

* Percentages may not add up to 100 percent due to rounding.

TABLE V.28—SUMMARY LCC AND PBP RESULTS FOR HCS.SC.L EQUIPMENT CLASS *

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience **			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	650	2,006	160	3,224	31	0	10	90	1.4
2	609	2,013	156	3,205	50	0	10	90	1.7
3	558	2,028	153	3,191	64	0	10	90	2.5
4	472	2,093	148	3,222	33	20	10	70	6.2
5	260	2,663	156	3,845	−590	90	10	0	68.9

* Percentages may not add up to 100 percent due to rounding.

TABLE V.29—SUMMARY LCC AND PBP RESULTS FOR PD.SC.M EQUIPMENT CLASS *

TSL	Annual energy consumption kWh/yr	Life-cycle cost, all customers 2012$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2012$	% of Customers that experience **			
						Net cost (percent)	No impact (percent)	Net benefit (percent)	
1	1,726	3,502	342	6,732	8	28	39	33	9.3
2	1,422	3,654	310	6,574	163	3	0	97	5.3
3	1,381	3,677	308	6,572	165	5	0	95	5.6
4	1,369	3,691	308	6,587	150	8	0	92	6.0
5	1,243	4,808	340	7,989	−1,252	100	0	0	102.2

* Percentages may not add up to 100 percent due to rounding.

b. Customer Subgroup Analysis

As described in section IV.I, DOE estimated the impact of potential amended efficiency standards for commercial refrigeration equipment on two representative customer subgroups: full-service restaurants and convenience stores with gas stations.

The results for full-service restaurants are presented only for the self-contained equipment classes because full-service restaurants that are small businesses generally do not use remote condensing equipment. Table V.30 presents the comparison of mean LCC savings for the subgroup with the values for all CRE customers. For all TSLs in all equipment classes save one, the LCC savings for this subgroup are higher (or less negative) than the national average values. This can be attributed to the longer average lifetimes of CRE used by small business customers, and higher electricity prices in the case of full service restaurants.

Table V.31 compares median PBPs for full-service restaurants with the values for all CRE customers. The PBP values are lower for the small business subgroup in all cases save one, which is consistent with the decrease in LCC savings.

TABLE V.30—COMPARISON OF MEAN LCC SAVINGS FOR THE FULL-SERVICE RESTAURANTS SUBGROUP WITH THE SAVINGS FOR ALL CRE CUSTOMERS

Equipment class	Category	Mean LCC savings 2012$ *				
		TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
VOP.SC.M	Small Business	.....	.....	.....	$(57)	$(1,508)

TABLE V.30—COMPARISON OF MEAN LCC SAVINGS FOR THE FULL-SERVICE RESTAURANTS SUBGROUP WITH THE SAVINGS FOR ALL CRE CUSTOMERS—Continued

Equipment class	Category	Mean LCC savings 2012$*				
		TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
	All Business Types	.....	.....	.....	$(54)	$(1,384)
VCT.SC.M	Small Business	$0	$299	$330	$280	$(1,391)
	All Business Types	$(10)	$214	$226	$163	$(1,541)
VCT.SC.L	Small Business	$3,073	$5,868	$6,254	$4,163	$4,163
	All Business Types	$2,503	$4,709	$5,001	$2,812	$2,812
VCT.SC.I	Small Business	$34	$34	$34	$(12)	$(2,706)
	All Business Types	$18	$18	$18	$(68)	$(2,834)
VCS.SC.M	Small Business	$375	$870	$652	$632	$(1,031)
	All Business Types	$223	$518	$363	$305	$(1,428)
VCS.SC.L	Small Business	$979	$971	$999	$1,000	$(936)
	All Business Types	$588	$550	$507	$495	$(1,640)
VCS.SC.I	Small Business	$81	$257	$321	$321	$(2,241)
	All Business Types	$41	$114	$113	$113	$(2,710)
SOC.SC.M	Small Business	.....	.....	.....	$(74)	$(1,952)
	All Business Types	.....	.....	.....	$(209)	$(2,204)
SVO.SC.M	Small Business	.....	.....	.....	$53	$(871)
	All Business Types	.....	.....	.....	$6	$(917)
HZO.SC.M	Small Business	.....	$92	$92	$33	$(1,097)
	All Business Types	.....	$55	$55	$(4)	$(1,154)
HZO.SC.L	Small Business	.....	.....	.....	.....	.....
	All Business Types	.....	.....	.....	.....	.....
HCT.SC.M	Small Business	$81	$216	$137	$85	$(546)
	All Business Types	$66	$165	$101	$43	$(599)
HCT.SC.L	Small Business	$687	$707	$487	$468	$(319)
	All Business Types	$428	$435	$293	$248	$(613)
HCT.SC.I	Small Business	.....	.....	.....	.....	$(1,081)
	All Business Types	.....	.....	.....	.....	$(1,240)
HCS.SC.M	Small Business	$23	$38	$48	$38	$(477)
	All Business Types	$12	$17	$15	$5	$(568)
HCS.SC.L	Small Business	$55	$91	$127	$133	$(381)
	All Business Types	$31	$50	$64	$33	$(590)

TABLE V.31—COMPARISON OF MEDIAN PAYBACK PERIODS FOR THE FULL-SERVICE RESTAURANTS SUBGROUP WITH THE VALUES FOR ALL CRE CUSTOMERS

Equipment class	Category	Mean LCC savings 2012$*				
		TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
VOP.SC.M	Small Business	.....	.....	.....	54.1	541.3
	All Business Types	.....	.....	.....	63.1	593.2
VCT.SC.M	Small Business	12.9	4.1	4.5	5.9	64.8
	All Business Types	23.4	4.8	5.3	7.0	96.2
VCT.SC.L	Small Business	0.4	0.7	0.9	4.0	4.0
	All Business Types	0.5	0.8	1.1	4.7	4.7
VCT.SC.I	Small Business	5.8	5.8	5.8	12.4	310.0
	All Business Types	7.2	7.2	7.2	16.2	663.6
VCS.SC.M	Small Business	0.4	0.5	1.2	2.1	22.4
	All Business Types	0.5	0.6	1.4	2.6	48.0
VCS.SC.L	Small Business	0.5	1.1	2.0	2.2	19.2
	All Business Types	0.6	1.3	2.5	2.7	31.8
VCS.SC.I	Small Business	2.1	2.9	3.9	3.9	91.7
	All Business Types	2.6	3.6	5.0	5.0	183.7
SOC.SC.M	Small Business	.....	.....	.....	15.5	221.7
	All Business Types	.....	.....	.....	28.7	25.3
SVO.SC.M	Small Business	.....	.....	.....	8.9	124.3
	All Business Types	.....	.....	.....	10.9	151.6
HZO.SC.M	Small Business	.....	5.7	5.7	9.5	166.7
	All Business Types	.....	6.9	6.9	11.8	194.7
HZO.SC.L	Small Business	.....	.....	.....	.....	.....
	All Business Types	.....	.....	.....	.....	.....
HCT.SC.M	Small Business	2.1	4.0	4.7	7.5	33.9
	All Business Types	2.5	4.7	5.8	9.2	46.6
HCT.SC.L	Small Business	1.5	1.6	2.0	2.9	14.0
	All Business Types	1.8	2.0	2.5	3.6	19.5
HCT.SC.I	Small Business	.....	.....	.....	.....	176.3

TABLE V.31—COMPARISON OF MEDIAN PAYBACK PERIODS FOR THE FULL-SERVICE RESTAURANTS SUBGROUP WITH THE VALUES FOR ALL CRE CUSTOMERS—Continued

Equipment class	Category	Mean LCC savings 2012$*				
		TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
	All Business Types	.....	.....	.....	.....	23.8
HCS.SC.M	Small Business	2.3	2.9	4.2	5.4	136.0
	All Business Types	2.9	3.7	5.5	7.5	680.6
HCS.SC.L	Small Business	1.1	1.4	2.1	4.7	27.9
	All Business Types	1.4	1.7	2.5	6.2	68.9
PD.SC.M	Small Business	6.9	4.5	4.7	5.0	63.3
	All Business Types	9.3	5.3	5.6	6.0	102.2

Table V.32 presents the comparison of mean LCC savings for convenience stores with gasoline stations with the national average values at each TSL. This comparison shows higher (or less negative) LCC savings for the subgroups in nearly all instances.

Table V.33 presents the comparison of median PBPs for convenience stores with gasoline stations with national median values at each TSL. This comparison shows lower PBP for the subgroup in nearly all cases.

TABLE V.32—COMPARISON OF MEAN LCC SAVINGS FOR CONVENIENCE STORES WITH GASOLINE STATIONS WITH SAVINGS FOR ALL CRE CUSTOMERS

Equipment class	Category	Mean LCC savings* 2012$				
		TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
VOP.RC.M	Small Business	.....	.....	$1,334	$299	$(4,003)
	All Business Types	.....	.....	$922	$(5)	$(4,203)
VOP.RC.L	Small Business	.....	.....	$82	$2	$(6,703)
	All Business Types	.....	.....	$53	$(148)	$(6,701)
VOP.SC.M	Small Business	.....	.....	.....	$(62)	$(1,485)
	All Business Types	.....	.....	.....	$(54)	$(1,384)
VCT.RC.M	Small Business	.....	.....	$636	$135	$(4,544)
	All Business Types	.....	.....	$542	$41	$(4,937)
VCT.RC.L	Small Business	$751	$751	$634	$213	$(5,486)
	All Business Types	$647	$647	$526	$93	$(6,036)
VCT.SC.M	Small Business	$(8)	$214	$229	$169	$(1,479)
	All Business Types	$(10)	$214	$226	$163	$(1,541)
VCT.SC.L	Small Business	$2,489	$4,699	$4,988	$2,878	$2,878
	All Business Types	$2,503	$4,709	$5,001	$2,812	$2,812
VCT.SC.I	Small Business	$19	$19	$19	$(59)	$(2,732)
	All Business Types	$18	$18	$18	$(68)	$(2,834)
VCS.SC.M	Small Business	$299	$696	$511	$476	$(1,157)
	All Business Types	$223	$518	$363	$305	$(1,428)
VCS.SC.L	Small Business	$785	$765	$763	$758	$(1,190)
	All Business Types	$588	$550	$507	$495	$(1,640)
VCS.SC.I	Small Business	$62	$189	$224	$224	$(2,354)
	All Business Types	$41	$114	$113	$113	$(2,710)
SVO.RC.M	Small Business	$966	$966	$966	$340	$(2,148)
	All Business Types	$564	$564	$564	$(19)	$(2,691)
SVO.SC.M	Small Business	.....	.....	.....	$5	$(891)
	All Business Types	.....	.....	.....	$6	$(917)
SOC.RC.M	Small Business	.....	.....	.....	$(93)	$(2,058)
	All Business Types	.....	.....	.....	$(128)	$(2,268)
HZO.RC.M**	Small Business	.....	.....	.....	.....	$(2,015)
	All Business Types	.....	.....	.....	.....	$(2,180)
HZO.RC.L**	Small Business	.....	.....	.....	.....	$(3,880)
	All Business Types	.....	.....	.....	.....	$(4,249)
HZO.SC.M	Small Business	.....	$55	$55	$(3)	$(1,114)
	All Business Types	.....	$55	$55	$(4)	$(1,154)
HZO.SC.L**	Small Business	.....	.....	.....	.....	.....
	All Business Types	.....	.....	.....	.....	.....
HCT.SC.M	Small Business	$62	$151	$92	$35	$(591)
	All Business Types	$66	$165	$101	$43	$(599)
HCT.SC.L	Small Business	$535	$548	$374	$343	$(451)
	All Business Types	$428	$435	$293	$248	$(613)
HCT.SC.I	Small Business	.....	.....	.....	.....	$(1,106)
	All Business Types	.....	.....	.....	.....	$(1,240)
HCS.SC.M	Small Business	$18	$28	$32	$23	$(498)
	All Business Types	$12	$17	$15	$5	$(568)

TABLE V.32—COMPARISON OF MEAN LCC SAVINGS FOR CONVENIENCE STORES WITH GASOLINE STATIONS WITH SAVINGS FOR ALL CRE CUSTOMERS—Continued

Equipment class	Category	Mean LCC savings * 2012$				
		TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
HCS.SC.L	Small Business	$44	$71	$97	$87	$(453)
	All Business Types	$31	$50	$64	$33	$(590)
PD.SC.M	Small Business	$14	$186	$190	$177	$(1,159)
	All Business Types	$8	$163	$165	$150	$(1,252)

TABLE V.33—COMPARISON OF MEDIAN PAYBACK PERIODS FOR CONVENIENCE STORES WITH GASOLINE STATIONS WITH VALUES FOR ALL CRE CUSTOMERS

Equipment class	Category	Median payback period years				
		TSL1	TSL2	TSL3	TSL4	TSL5
VOP.RC.M	Small Business	.....	.....	5.5	9.0	25.1
	All Business Types	.....	.....	5.7	9.9	34.1
VOP.RC.L	Small Business	.....	.....	5.8	10.2	195.3
	All Business Types	.....	.....	6.1	11.3	310.0
VOP.SC.M	Small Business	.....	.....	.....	69.5	513.9
	All Business Types	.....	.....	.....	63.1	593.2
VCT.RC.M	Small Business	.....	.....	1.9	5.8	308.8
	All Business Types	.....	.....	2.1	6.6	364.7
VCT.RC.L	Small Business	1.7	1.7	2.5	5.7	171.0
	All Business Types	1.8	1.8	2.7	6.3	194.7
VCT.SC.M	Small Business	18.2	4.5	5.0	6.5	82.7
	All Business Types	23.4	4.8	5.3	7.0	96.2
VCT.SC.L	Small Business	0.4	0.8	1.0	4.4	4.4
	All Business Types	0.5	0.8	1.1	4.7	4.7
VCT.SC.I	Small Business	6.6	6.6	6.6	14.3	531.1
	All Business Types	7.2	7.2	7.2	16.2	663.6
VCS.SC.M	Small Business	0.5	0.6	1.3	2.3	26.4
	All Business Types	0.5	0.6	1.4	2.6	48.0
VCS.SC.L	Small Business	0.5	1.2	2.2	2.4	22.2
	All Business Types	0.6	1.3	2.5	2.7	31.8
VCS.SC.I	Small Business	2.3	3.2	4.3	4.3	118.4
	All Business Types	2.6	3.6	5.0	5.0	183.7
SVO.RC.M	Small Business	5.4	5.4	5.4	8.4	20.7
	All Business Types	6.2	6.2	6.2	10.4	29.9
SVO.SC.M	Small Business	.....	.....	.....	10.0	150.5
	All Business Types	.....	.....	.....	10.9	151.6
SOC.RC.M	Small Business	.....	.....	.....	23.2	656.6
	All Business Types	.....	.....	.....	38.0	114.1
SOC.SC.M	Small Business	.....	.....	.....	18.2	265.4
	All Business Types	.....	.....	.....	28.7	25.3
HZO.RC.M	Small Business	.....	.....	.....	.....	.....
	All Business Types	.....	.....	.....	.....	.....
HZO.RC.L	Small Business	.....	.....	.....	.....	59.8
	All Business Types	.....	.....	.....	.....	288.9
HZO.SC.M	Small Business	.....	6.4	6.4	10.8	174.0
	All Business Types	.....	6.9	6.9	11.8	194.7
HZO.SC.L	Small Business	.....	.....	.....	.....	.....
	All Business Types	.....	.....	.....	.....	.....
HCT.SC.M	Small Business	2.3	4.4	5.4	8.5	40.5
	All Business Types	2.5	4.7	5.8	9.2	46.6
HCT.SC.L	Small Business	1.7	1.8	2.3	3.3	15.6
	All Business Types	1.8	2.0	2.5	3.6	19.5
HCT.SC.I	Small Business	.....	.....	.....	.....	208.9
	All Business Types	.....	.....	.....	.....	23.8
HCS.SC.M	Small Business	2.6	3.3	4.7	6.2	151.6
	All Business Types	2.9	3.7	5.5	7.5	680.6
HCS.SC.L	Small Business	1.3	1.6	2.3	5.3	33.7
	All Business Types	1.4	1.7	2.5	6.2	68.9
PD.SC.M	Small Business	8.0	4.9	5.2	5.6	78.9
	All Business Types	9.3	5.3	5.6	6.0	102.2

c. Rebuttable Presumption Payback

As discussed in section IV.F.12, EPCA provides a rebuttable presumption that a given standard is economically justified if the increased purchase cost for a product that meets the standard is less than three times the value of the first-year energy savings resulting from the standard. However, DOE routinely conducts a full economic analysis that considers the full range of impacts, including those to the customer, manufacturer, Nation, and environment, as required under 42 U.S.C. 6295(o)(2)(B)(i) and 42 U.S.C. 6316(e)(1). The results of this analysis serve as the basis for DOE to evaluate definitively the economic justification for a potential standard level (thereby supporting or rebutting the results of any preliminary determination of economic justification). Therefore, if the rebuttable presumption is not met, DOE may justify its standard on another basis.

Table V.34 shows the rebuttable payback periods analysis for each equipment class.

TABLE V.34—SUMMARY OF RESULTS FOR COMMERCIAL REFRIGERATION EQUIPMENT TSLS: REBUTTABLE MEDIAN PAYBACK PERIOD

	Median Payback Period years				
Equipment class	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
VOP.RC.M	.....	.....	5.1	7.6	17.3
VOP.RC.L	.....	.....	4.6	7.3	36.2
VOP.SC.M	.....	.....	.....	21.2	127.9
VCT.RC.M	.....	.....	2.5	6.8	56.3
VCT.RC.L	2.2	2.2	3.0	6.6	43.0
VCT.SC.M	4.4	5.4	5.5	6.5	28.1
VCT.SC.L	0.5	0.8	1.1	4.2	4.2
VCT.SC.I	5.0	5.0	5.0	9.5	48.7
VCS.SC.M	0.4	0.6	1.2	2.1	16.5
VCS.SC.L	0.5	1.2	2.1	2.3	13.6
VCS.SC.I	2.3	3.0	3.8	3.8	28.7
SVO.RC.M	5.4	5.4	5.4	7.8	16.5
SVO.SC.M	.....	.....	.....	8.1	35.9
SOC.RC.M	.....	.....	.....	12.4	54.3
SOC.SC.M	.....	.....	.....	10.2	39.8
HZO.RC.M	.....	.....	.....	.....	156.3
HZO.RC.L	.....	.....	.....	.....	79.5
HZO.SC.M	.....	5.6	5.6	8.1	42.9
HZO.SC.L	.....	.....	.....	.....	.....
HCT.SC.M	2.2	4.0	4.4	6.6	20.9
HCT.SC.L	1.7	1.8	2.2	3.0	11.4
HCT.SC.I	.....	.....	.....	.....	40.8
HCS.SC.M	2.5	2.9	4.0	4.5	30.5
HCS.SC.L	1.3	1.6	2.2	4.5	16.7
PD.SC.M	4.9	5.4	5.5	5.7	26.7

2. Economic Impacts on Manufacturers

DOE performed an MIA to estimate the impact of amended energy conservation standards on manufacturers of commercial refrigeration equipment. The following section describes the expected impacts on manufacturers at each TSL. Chapter 12 of the final rule 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 standards on manufacturers as well as the conversion costs that DOE estimates manufacturers would incur for all equipment classes at each TSL. To evaluate the range of cash flow impacts on the commercial refrigeration industry, DOE modeled two different scenarios using different assumptions for markups that correspond to the range of anticipated market responses to amended 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 was applied across all potential efficiency levels. In this scenario, DOE assumed that a manufacturer's absolute dollar markup would increase as production costs increase in the amended 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 an amended efficiency 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 markup scenario, which assumes that manufacturers would be able to earn the same operating margin in absolute dollars in the amended standards case as in the base case. Table V.35 and Table V.36 show the potential INPV impacts for commercial refrigeration equipment manufacturers at each TSL: Table V.35 reflects the lower bound of impacts and Table V.36 represents the upper bound.

Each of the modeled scenarios results in a unique set of cash flows and corresponding industry values at each TSL. In the following discussion, the INPV results refer to the difference in industry value between the base case and each potential amended standards case that results from the sum of discounted cash flows from the base year 2013 through 2046, the end of the analysis period. To provide perspective on the short-run cash flow impact, DOE includes in the discussion of the results below 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.

TABLE V.35—MANUFACTURER IMPACT ANALYSIS FOR COMMERCIAL REFRIGERATION EQUIPMENT—PRESERVATION OF GROSS MARGIN PERCENTAGE MARKUP SCENARIO*

	Units	Base case	Trial standard level				
			1	2	3	4	5
INPV	2012$ Millions	2,660.0	2,650.1	2,651.3	2,566.1	2,470.6	2,475.6
Change in INPV	2012$ Millions		(9.9)	(8.7)	(93.9)	(189.4)	(184.4)
	(%)		(0.37)	(0.33)	(3.53)	(7.12)	(6.93)
Product Conversion Costs	2012$ Millions		20.6	32.1	125.9	194.2	282.1
Capital Conversion Costs	2012$ Millions		3.5	3.6	58.1	160.7	499.7
Total Conversion Costs	2012$ Millions		24.1	35.6	184.0	354.9	781.8

*Values in parentheses are negative values.

TABLE V.36—MANUFACTURER IMPACT ANALYSIS FOR COMMERCIAL REFRIGERATION EQUIPMENT—PRESERVATION OF OPERATING PROFIT MARKUP SCENARIO*

	Units	Base case	Trial standard level				
			1	2	3	4	5
INPV	2012$ Millions	2,660.0	2,636.1	2,617.1	2,495.0	2,339.1	1,515.2
Change in INPV	2012$ Millions		(23.9)	(42.9)	(165.0)	(320.9)	(1,144.8)
	(%)		(0.90)	(1.61)	(6.20)	(12.07)	(43.04)
Product Conversion Costs	2012$ Millions		20.6	32.1	125.9	194.2	282.1
Capital Conversion Costs	2012$ Millions		3.5	3.6	58.1	160.7	499.7
Total Conversion Costs	2012$ Millions		24.1	35.6	184.0	354.9	781.8

*Values in parentheses are negative values.

At TSL 1, DOE estimates impacts on INPV for commercial refrigeration equipment manufacturers to range from −$23.9 million to −$9.9 million, or a change in INPV of −0 percent to −0.37 percent. At this potential standard level, industry free cash flow is estimated to decrease by approximately 4.16 percent to $192.1 million, compared to the base-case value of $200.4 million in the year before the compliance date (2016).

The INPV impacts at TSL 1 are relatively minor because DOE manufacturer production costs do not increase significant. The average unit price for the industry (calculated by dividing industry revenue by industry unit shipments) increases 0.8% from $2,892.72 to $2,916.55 in the standards year. Few capital conversion costs are expected because DOE anticipates that manufacturers would be able to make simple component swaps to meet the efficiency levels for each equipment class at this TSL. However, product conversion costs are required for industry certifications to incorporate the new components into existing designs. Industry conversion costs total $24.1 million.

Under the preservation of gross margin percentage markup scenario, impacts on manufacturers are marginally negative because while manufacturers can maintain their gross margin percentages, they also incur conversion costs that offset the higher profits that they gain from increasing their selling prices to accommodate higher production costs. However, the effects of these conversion costs are more apparent in the preservation of operating profit markup scenario because manufacturers earn the same operating profit at TSL 1 as they do in the base case. In general, manufacturers stated that the preservation of operating profit scenario is a more likely representation of the industry than the preservation of operating profit scenario, especially as MPCs increase.

At TSL 2, DOE estimates impacts on INPV for commercial refrigeration equipment manufacturers to range from −$42.9 million to −$8.7 million, or a change in INPV of −1.61 percent to −0.33 percent. At this potential standard level, industry free cash flow is estimated to decrease by approximately 6.04 percent to $188.3 million, compared to the base-case value of $200.4 million in the year before the compliance date (2016).

Although DOE continues to expect mild INPV impacts on the industry at TSL 2, product conversion costs do increase. Nearly 20% of product in the industry would require some level of component redesign, such as changes in evaporator coil, condenser coil, or compressor selection, that would necessitate UL or NSF certification changes. These industry certification investments push total industry conversion costs to $35.4 million.

At TSL 3, DOE estimates impacts on INPV for commercial refrigeration equipment manufacturers to range from −$165.0 million to −$93.9 million, or a change in INPV of −6.20 percent to −3.53 percent. At this potential standard level, industry free cash flow is estimated to decrease by approximately 33.64 percent to $133.0 million, compared to the base-case value of $200.4 million in the year before the compliance date (2016).

At TSL 3, the expected design options do not dramatically alter manufacturer per unit production costs. Average unit costs increase by 4.1% to $3,011.93 while industry shipments remain steady. However, DOE expects higher conversion costs at TSL 3 due to the possible need for improved insulation for high-volume products, such as VCS.SC.L, which accounts for approximately 18.3 percent of total shipments, and VCT.RC.L, which accounts for approximately 4.1 percent. In total, DOE expects 5 of the 24 equipment classes to require improved insulation due to higher standards. The need for improved insulation necessitates redesign efforts for the cabinet as well as interior components. Furthermore, thicker insulation requires investment in new production tooling.

Total industry conversion costs reach $184.0 million.

At TSL 4, DOE estimates impacts on INPV for commercial refrigeration equipment manufacturers range from −$320.9 million to −$189.4 million, or a change in INPV of −12.7 percent to −7.12 percent. At this potential standard level, industry free cash flow is estimated to decrease by approximately 67.84 percent to $64.4 million, compared to the base-case value of $200.4 million in the year before the compliance date (2016).

The drop in INPV at TSL 4 is driven by conversion costs. Industry average unit price increases 7.6% and industry shipments are modeled to remain steady. However, the need for new tooling to accommodate additional foam insulation in 16 of the 25 analyzed equipment classes pushes up industry conversion costs. The redesign effort, coupled with industry certification costs, push product conversion costs up to $194.2 million. Total industry conversion costs are expected to reach $354.9 million.

At TSL 5, DOE estimates impacts on INPV for commercial refrigeration equipment manufacturers to range from −$1,144.85 million to −$184.4 million, or a change in INPV of −43.04 percent to −6.93 percent. At this potential standard level, industry free cash flow is estimated to decrease by approximately 158.32 percent to −$116.9 million, compared to the base-case value of $200.4 million in the year before the compliance date (2016).

A substantial increase in conversion costs are expected at TSL 5 due to the possible need for VIP technology. VIPs are not currently used by any commercial refrigeration equipment manufacturers and the production of VIPs would require processes different from those used to produce standard foam panels. High R&D investments would be necessary to integrate the technology into CRE cases. Based on industry feedback, DOE estimated the R&D investment to be 1–2 times the industry's typical annual R&D expenditure and the capital conversion cost to be more than double the cost of all current fixtures in use. Total industry conversion costs total $781.8 million.

b. Impacts on Direct Employment

To quantitatively assess the impacts of amended energy conservation standards on employment, DOE used the GRIM to estimate the domestic labor expenditures and number of employees in the base case and at each TSL from 2013 through 2046. DOE used statistical data from the U.S. Census Bureau's 2011 Annual Survey of Manufacturers (ASM), the results of the engineering analysis, the commercial refrigeration equipment shipments forecast, and interviews with manufacturers to determine the inputs necessary to calculate industry-wide labor expenditures and domestic employment levels. Labor expenditures related to manufacturing of the product are a function of the labor intensity of the product, the sales volume, and an assumption that wages remain fixed in real terms over time. The total labor expenditures in each year are calculated by multiplying the MPCs by the labor percentage of MPCs.

The total labor expenditures in the GRIM were then converted to domestic production employment levels by dividing production labor expenditures by the annual payment per production worker (production worker hours times the labor rate found in the U.S. Census Bureau's 2011 ASM). The estimates of production workers in this section cover workers, including line supervisors who are directly involved in fabricating and assembling a product within the OEM facility. Workers performing services that are closely associated with production operations, such as materials handling tasks using forklifts, are also included as production labor. DOE's estimates only account for production workers who manufacture the specific products covered by this rulemaking.

TABLE V.37—POTENTIAL CHANGES IN THE NUMBER OF COMMERCIAL REFRIGERATION EQUIPMENT PRODUCTION WORKERS IN 2017

	Trial Standard Level *					
	Base Case	1	2	3	4	5
Total Number of Domestic Production Workers in 2017 (assuming no changes in production locations).	7,779	7,779	7,779	7,779	7,780	8,220
Range of Potential Changes in Domestic Production Workers in 2017 **.	—	(7,7790) to 0	(7,740) to 0	(7,779) to 0	(7,779) to 1	(7,779) to 441.

* Numbers in parentheses are negative numbers.

** DOE presents a range of potential employment impacts, where the lower range represents the scenario in which all domestic manufacturers move production to other countries.

The employment impacts shown in Table V.37 represent the potential production employment changes that could result following the compliance date of an amended energy conservation standard. The upper end of the results in the table estimates the maximum increase in the number of production workers after the implementation of new energy conservation standards and it assumes that manufacturers would continue to produce the same scope of covered products within the United States. The lower end of the range indicates the 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. Though manufacturers stated in interviews that shifts in production to foreign countries are unlikely, the industry did not provide enough information for DOE fully quantify what percentage of the industry would move production at each evaluated standard level.

The majority of design options analyzed in the engineering analysis require manufacturers to purchase more-efficient components from suppliers. These components do not require significant additional labor to assemble. A key component of a commercial refrigeration equipment unit that requires fabrication labor by the commercial refrigeration equipment manufacturer is the shell of the unit, which needs to be formed and foamed in. Although this activity may require new production equipment if thicker insulation is needed to meet higher efficiency levels, the process of building the foamed-in-place cases would essentially remain the same, and therefore require no additional labor

costs. As a result, labor needs are not expected to increase as the amended energy conservation standard increases from baseline to TSL 4.

At TSL 5, the introduction of vacuum insulation panels may lead to greater labor requirements. In general, the production and handling of VIPs will require more labor than the production of standard refrigerated cases. This is due to the delicate nature of VIPs and the additional labor necessary to embed them into a display case. The additional labor and handling associated with these panels account for the increase in labor at the max-tech trial standard level.

DOE notes that the employment impacts discussed here are independent of the employment impacts to the broader U.S. economy, which are documented in the Employment Impact Analysis, chapter 16 of the TSD.

c. Impacts on Manufacturing Capacity

According to the majority of commercial refrigeration equipment manufacturers interviewed, amended energy conservation standards will not significantly affect manufacturers' production capacities. An amended energy conservation standard for commercial refrigeration equipment would not change the fundamental assembly of the equipment, but manufacturers do anticipate potential for changes to tooling and fixtures. The most significant of these would come as a result of any redesigns performed to accommodate additional foam insulation thickness. However, most of the design options being evaluated are already available on the market as product options. Thus, DOE believes manufacturers would be able to maintain manufacturing capacity levels and continue to meet market demand under amended energy conservation standards.

d. Impacts on Subgroups of Manufacturers

Small manufacturers, niche equipment manufacturers, and manufacturers exhibiting a cost structure substantially different from the industry average could be affected disproportionately. As discussed in section IV.J, using average cost assumptions to develop an industry cash-flow estimate is inadequate to assess differential impacts among manufacturer subgroups.

For commercial refrigeration equipment, DOE identified and evaluated the impact of amended energy conservation standards on one subgroup: Small manufacturers. The SBA defines a ''small business'' as having 750 employees or less for NAICS 333415, ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.'' Based on this definition, DOE identified 32 manufacturers in the commercial refrigeration equipment industry that are small businesses.

For a discussion of the impacts on the small manufacturer subgroup, see the regulatory flexibility analysis in section VI.B of this document and chapter 12 of the final rule TSD.

e. Cumulative Regulatory Burden

While any one regulation may not impose a significant burden on manufacturers, the combined effects of recent or impending regulations may have serious consequences for some manufacturers, groups of manufacturers, or an entire industry. Assessing the impact of a single regulation may overlook this cumulative regulatory burden. In addition to energy conservation standards, other regulations can significantly affect manufacturers' financial operations. Multiple regulations affecting the same manufacturer can strain profits and lead companies to abandon product lines or markets with lower expected future returns than competing products. For these reasons, DOE conducts an analysis of cumulative regulatory burden as part of its rulemakings pertaining to appliance efficiency.

For the cumulative regulatory burden analysis, DOE looks at other regulations that could affect CRE manufacturers that will take effect approximately three years before or after the 2017 compliance date of amended energy conservation standards for these products. In interviews, manufacturers cited Federal regulations on certification, on walk-in cooler and freezer equipment, and from ENERGY STAR as contributing to their cumulative regulatory burden. The compliance years and expected industry conversion costs are listed below:

Walk-In Cooler and Freezer Energy Conservation Standard Rulemaking

Nine commercial refrigeration equipment manufacturers also produce walk-ins, and therefore they must comply with two rulemakings that follow similar timelines. These manufacturers will incur conversion costs for both types of products at around the same time, which could be a significant strain on resources. In the 2013 NOPR for walk-ins, the proposed standard was estimated to require conversion costs of $71 million (in 2012$) to be incurred by the industry ahead of the 2017 compliance date. 78 FR 55781. However, the analysis is not final and these figures are subject to change in the forthcoming final rule for walk-in coolers and freezers. DOE discusses these and other requirements, and includes the full details of the cumulative regulatory burden, in chapter 12 of the final rule TSD.

Certification, Compliance, and Enforcement Rule

Many manufacturers have expressed concerns about the Certification, Compliance, and Enforcement (CC&E) March 2011 final rule, which allows DOE to enforce the energy and water conservation standards for covered products and equipment, and provides for more accurate, comprehensive information about the energy and water use characteristics of products sold in the United States. The rule revises former certification regulations so that the Department has the information it needs to ensure that regulated products sold in the United States comply with the law. According to the rule, manufacturers of covered consumer products and commercial and industrial equipment must certify on an annual basis, by means of a compliance statement and a certification report, that each of their basic models meets its applicable energy conservation, water conservation, and/or design standard before it is distributed within the United States. For purposes of certification testing, the determination that a basic model complies with the applicable conservation standard must be based on sampling procedures, which currently require that a minimum of two units of a basic model must be tested in order to certify that the model is compliant (unless the product-specific regulations specify otherwise). 76 FR 12422 (March 7, 2011).

However, DOE recognizes that sampling requirements can create burden for certain commercial refrigeration equipment manufacturers who build one-of-a kind customized units and have a large number of basic models. Therefore, DOE conducted a rulemaking to expand AEDM coverage and issued a final rule on December 31, 2013. (78 FR 79579) An AEDM is a computer modeling or mathematical tool that predicts the performance of non-tested basic models. In the final rule, DOE is allowing CRE manufacturers to rate their basic models using AEDMs, reducing the need for sample units and reducing burden on manufacturers. More information can be found at *http://www1.eere.energy.gov/buildings/appliance_standards/implement_cert_and_enforce.html*. DOE

discusses these and other requirements, and includes the full details of the cumulative regulatory burden, in chapter 12 of the final rule TSD.

EPA's ENERGY STAR

Some stakeholders have also expressed concern regarding potential conflicts with other certification programs, in particular EPA's ENERGY STAR requirements. However, DOE notes that certain standards, such as ENERGY STAR, are voluntary for manufacturers. As such, they are not part of DOE's consideration of cumulative regulatory burden.

DOE discusses these and other non-Federal regulations in chapter 12 of the NOPR TSD.

3. National Impact Analysis

a. Energy Savings

DOE estimated the NES by calculating the difference in annual energy consumption for the base-case scenario and standards-case scenario at each TSL for each equipment class and summing up the annual energy savings over the lifetime of all equipment purchased in 2017–2046.

Table V.38 presents the primary NES (taking into account losses in the generation and transmission of electricity) for all equipment classes and the sum total of NES for each TSL, and

Table V.39 presents estimated FFC energy savings for each considered TSL. The total FFC NES progressively increases from 1.195 quads at TSL 1 to 4.207 quads at TSL 5.

TABLE V.38—CUMULATIVE NATIONAL PRIMARY ENERGY SAVINGS FOR EQUIPMENT PURCHASED IN 2017–2046

Equipment class	Quads				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
VOP.RC.M	0.000	0.000	0.403	0.550	0.584
VOP.RC.L	0.000	0.000	0.001	0.011	0.017
VOP.SC.M	0.000	0.000	0.000	0.002	0.007
VCT.RC.M	0.000	0.000	0.006	0.008	0.010
VCT.RC.L	0.096	0.096	0.130	0.150	0.259
VCT.SC.M	0.010	0.060	0.093	0.110	0.139
VCT.SC.L	0.018	0.041	0.045	0.050	0.050
VCT.SC.I	0.001	0.001	0.001	0.003	0.008
VCS.SC.M	0.309	0.687	0.794	0.870	1.080
VCS.SC.L	0.450	0.631	0.808	0.839	1.121
VCS.SC.I	0.000	0.001	0.002	0.002	0.005
SVO.RC.M	0.229	0.229	0.229	0.316	0.335
SVO.SC.M	0.000	0.000	0.000	0.010	0.016
SOC.RC.M	0.000	0.000	0.000	0.004	0.016
SOC.SC.M	0.000	0.000	0.000	0.001	0.002
HZO.RC.M	0.000	0.000	0.000	0.000	0.002
HZO.RC.L	0.000	0.000	0.000	0.000	0.023
HZO.SC.M	0.000	0.001	0.001	0.001	0.002
HZO.SC.L	0.000	0.000	0.000	0.000	0.000
HCT.SC.M	0.000	0.001	0.001	0.002	0.002
HCT.SC.L	0.011	0.012	0.012	0.013	0.016
HCT.SC.I	0.000	0.000	0.000	0.000	0.005
HCS.SC.M	0.004	0.008	0.013	0.013	0.030
HCS.SC.L	0.001	0.002	0.003	0.005	0.010
PD.SC.M	0.046	0.271	0.301	0.310	0.403
Total	1.176	2.041	2.844	3.270	4.140

TABLE V.39—CUMULATIVE NATIONAL FULL-FUEL-CYCLE ENERGY SAVINGS FOR EQUIPMENT PURCHASED IN 2017–2046

Equipment class	Quads				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
VOP.RC.M	0.000	0.000	0.410	0.559	0.593
VOP.RC.L	0.000	0.000	0.001	0.011	0.018
VOP.SC.M	0.000	0.000	0.000	0.002	0.007
VCT.RC.M	0.000	0.000	0.006	0.008	0.010
VCT.RC.L	0.098	0.098	0.132	0.153	0.263
VCT.SC.M	0.010	0.061	0.094	0.112	0.141
VCT.SC.L	0.018	0.042	0.046	0.050	0.050
VCT.SC.I	0.001	0.001	0.001	0.003	0.008
VCS.SC.M	0.314	0.699	0.807	0.884	1.097
VCS.SC.L	0.458	0.641	0.821	0.852	1.139
VCS.SC.I	0.000	0.001	0.002	0.002	0.005
SVO.RC.M	0.233	0.233	0.233	0.321	0.340
SVO.SC.M	0.000	0.000	0.000	0.010	0.016
SOC.RC.M	0.000	0.000	0.000	0.004	0.016
SOC.SC.M	0.000	0.000	0.000	0.001	0.002
HZO.RC.M	0.000	0.000	0.000	0.000	0.002
HZO.RC.L	0.000	0.000	0.000	0.000	0.023
HZO.SC.M	0.000	0.001	0.001	0.001	0.002
HZO.SC.L	0.000	0.000	0.000	0.000	0.000
HCT.SC.M	0.000	0.001	0.001	0.002	0.002

TABLE V.39—CUMULATIVE NATIONAL FULL-FUEL-CYCLE ENERGY SAVINGS FOR EQUIPMENT PURCHASED IN 2017–2046—Continued

Equipment class	Quads				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
HCT.SC.L	0.011	0.012	0.012	0.013	0.016
HCT.SC.I	0.000	0.000	0.000	0.000	0.005
HCS.SC.M	0.004	0.008	0.013	0.014	0.030
HCS.SC.L	0.001	0.002	0.003	0.005	0.010
PD.SC.M	0.047	0.275	0.306	0.315	0.410
Total	1.195	2.074	2.889	3.323	4.207

Circular A–4 requires agencies to present analytical results, including separate schedules of the monetized benefits and costs that show the type and timing of benefits and costs. Circular A–4 also directs agencies to consider the variability of key elements underlying the estimates of benefits and costs. For this rulemaking, DOE undertook a sensitivity analysis using nine rather than 30 years of product shipments. The choice of a 9-year period is a proxy for the timeline in EPCA for the review of certain energy conservation standards and potential revision of and compliance with such revised standards.[76] The review timeframe established in EPCA generally does not overlap with the product lifetime, product manufacturing cycles or other factors specific to commercial refrigeration equipment. Thus, this information is presented for informational purposes only and is not indicative of any change in DOE's analytical methodology. The primary and full-fuel cycle NES results based on a 9-year analysis period are presented in Table V.40 and Table V.41, respectively. The impacts are counted over the lifetime of products purchased in 2017–2025.

TABLE V.40—CUMULATIVE NATIONAL PRIMARY ENERGY SAVINGS FOR 9-YEAR ANALYSIS PERIOD

[Equipment purchased in 2017–2025]

Equipment class	Quads				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
VOP.RC.M	0.000	0.000	0.099	0.134	0.143
VOP.RC.L	0.000	0.000	0.000	0.003	0.004
VOP.SC.M	0.000	0.000	0.000	0.000	0.002
VCT.RC.M	0.000	0.000	0.002	0.002	0.003
VCT.RC.L	0.024	0.024	0.032	0.037	0.063
VCT.SC.M	0.003	0.017	0.025	0.029	0.036
VCT.SC.L	0.005	0.011	0.012	0.013	0.013
VCT.SC.I	0.000	0.000	0.000	0.001	0.002
VCS.SC.M	0.075	0.168	0.198	0.219	0.270
VCS.SC.L	0.110	0.156	0.202	0.209	0.278
VCS.SC.I	0.000	0.000	0.001	0.001	0.001
SVO.RC.M	0.056	0.056	0.056	0.077	0.082
SVO.SC.M	0.000	0.000	0.000	0.002	0.004
SOC.RC.M	0.000	0.000	0.000	0.001	0.004
SOC.SC.M	0.000	0.000	0.000	0.000	0.001
HZO.RC.M	0.000	0.000	0.000	0.000	0.000
HZO.RC.L	0.000	0.000	0.000	0.000	0.006
HZO.SC.M	0.000	0.000	0.000	0.000	0.000
HZO.SC.L	0.000	0.000	0.000	0.000	0.000
HCT.SC.M	0.000	0.000	0.000	0.000	0.001
HCT.SC.L	0.003	0.003	0.003	0.003	0.004
HCT.SC.I	0.000	0.000	0.000	0.000	0.001
HCS.SC.M	0.001	0.002	0.003	0.004	0.008
HCS.SC.L	0.000	0.001	0.001	0.001	0.003
PD.SC.M	0.011	0.066	0.074	0.076	0.099
Total	0.289	0.504	0.707	0.814	1.027

[76] EPCA requires DOE to review its standards at least once every 6 years (42 U.S.C. 6295(m)(1), 6316(e)), 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. (42 U.S.C. 6295(m)(4), 6316(e)).While adding a 6-year review to the 3-year compliance period sums 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 be extended to 5 years. 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 period following establishment of a new or amended standard before which compliance is required is 5 years rather than 3 years.

TABLE V.41—CUMULATIVE FULL FUEL CYCLE NATIONAL ENERGY SAVINGS FOR 9-YEAR ANALYSIS PERIOD

[Equipment purchased in 2017–2025]

Equipment class	quads				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
VOP.RC.M	0.000	0.000	0.100	0.137	0.145
VOP.RC.L	0.000	0.000	0.000	0.003	0.004
VOP.SC.M	0.000	0.000	0.000	0.000	0.002
VCT.RC.M	0.000	0.000	0.002	0.002	0.003
VCT.RC.L	0.024	0.024	0.032	0.037	0.064
VCT.SC.M	0.003	0.017	0.025	0.029	0.037
VCT.SC.L	0.005	0.012	0.013	0.014	0.014
VCT.SC.I	0.000	0.000	0.000	0.001	0.002
VCS.SC.M	0.077	0.171	0.201	0.222	0.275
VCS.SC.L	0.112	0.158	0.205	0.213	0.283
VCS.SC.I	0.000	0.000	0.001	0.001	0.001
SVO.RC.M	0.057	0.057	0.057	0.079	0.083
SVO.SC.M	0.000	0.000	0.000	0.002	0.004
SOC.RC.M	0.000	0.000	0.000	0.001	0.004
SOC.SC.M	0.000	0.000	0.000	0.000	0.001
HZO.RC.M	0.000	0.000	0.000	0.000	0.000
HZO.RC.L	0.000	0.000	0.000	0.000	0.006
HZO.SC.M	0.000	0.000	0.000	0.000	0.000
HZO.SC.L	0.000	0.000	0.000	0.000	0.000
HCT.SC.M	0.000	0.000	0.000	0.000	0.001
HCT.SC.L	0.003	0.003	0.003	0.003	0.004
HCT.SC.I	0.000	0.000	0.000	0.000	0.001
HCS.SC.M	0.001	0.002	0.004	0.004	0.008
HCS.SC.L	0.000	0.001	0.001	0.001	0.003
PD.SC.M	0.011	0.067	0.075	0.077	0.100
Total	0.294	0.513	0.719	0.828	1.045

b. Net Present Value of Customer Costs and Benefits

DOE estimated the cumulative NPV to the Nation of the net savings for CRE customers that would result from potential standards at each TSL. In accordance with OMB guidelines on regulatory analysis (OMB Circular A–4, section E, September 17, 2003), DOE calculated NPV using both a 7-percent and a 3-percent real discount rate.

Table V.42 and Table V.43 show the customer NPV results for each of the TSLs DOE considered for commercial refrigeration equipment at 7-percent and 3-percent discount rates, respectively. The impacts cover the expected lifetime of equipment purchased in 2017–2046.

The NPV results at a 7-percent discount rate are negative for all equipment classes at TSL 5 except for the VCT.SC.L equipment class. Efficiency levels for TSL 4 were chosen to correspond to the highest efficiency level with a near positive NPV at a 7-percent discount rate for each equipment class. The criterion for TSL 3 was to select efficiency levels with the highest NPV at a 7-percent discount rate. Consequently, the total NPV is highest for TSL 3. TSL 2 shows the second highest total NPV at a 7-percent discount rate. TSL 1 has a total NPV lower than TSL 2.

TABLE V.42— NET PRESENT VALUE OF CUSTOMER COSTS AND BENEFITS AT A 7-PERCENT DISCOUNT RATE

Equipment class	billion 2012$*				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
VOP.RC.M	0.000	0.000	0.570	0.171	−2.941
VOP.RC.L	0.000	0.000	0.001	−0.004	−0.240
VOP.SC.M	0.000	0.000	0.000	−0.009	−0.374
VCT.RC.M	0.000	0.000	0.013	−0.003	−0.271
VCT.RC.L	0.212	0.212	0.234	−0.005	−4.423
VCT.SC.M	−0.006	0.039	0.058	−0.003	−1.531
VCT.SC.L	0.059	0.118	0.123	0.040	0.040
VCT.SC.I	0.000	0.000	0.000	−0.004	−0.141
VCS.SC.M	0.756	1.748	1.829	1.659	−6.820
VCS.SC.L	1.164	1.502	1.579	1.550	−4.692
VCS.SC.I	0.001	0.002	0.003	0.003	−0.050
SVO.RC.M	0.291	0.291	0.291	0.081	−1.493
SVO.SC.M	0.000	0.000	0.000	−0.003	−0.215
SOC.RC.M	0.000	0.000	0.000	−0.011	−0.342
SOC.SC.M	0.000	0.000	0.000	−0.003	−0.032
HZO.RC.M	0.000	0.000	0.000	0.000	−0.123
HZO.RC.L	0.000	0.000	0.000	0.000	−0.734
HZO.SC.M	0.000	0.000	0.000	0.000	−0.025
HZO.SC.L	0.000	0.000	0.000	0.000	0.000

TABLE V.42— NET PRESENT VALUE OF CUSTOMER COSTS AND BENEFITS AT A 7-PERCENT DISCOUNT RATE—Continued

Equipment class	billion 2012$*				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
HCT.SC.M	0.001	0.002	0.002	0.000	−0.014
HCT.SC.L	0.024	0.024	0.025	0.022	−0.030
HCT.SC.I	0.000	0.000	0.000	0.000	−0.076
HCS.SC.M	0.008	0.012	0.012	0.007	−0.342
HCS.SC.L	0.003	0.005	0.006	0.004	−0.047
PD.SC.M	0.007	0.183	0.183	0.146	−3.475
Total	2.519	4.139	4.928	3.637	−28.390

*A value of $0.000 means NES values are less than 0.001 billion 2012$.

TABLE V.43— NET PRESENT VALUE OF CUSTOMER COSTS AND BENEFITS AT A 3-PERCENT DISCOUNT RATE

Equipment class	billion 2012$*				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
VOP.RC.M	0.000	0.000	1.500	0.882	−4.894
VOP.RC.L	0.000	0.000	0.004	0.003	−0.433
VOP.SC.M	0.000	0.000	0.000	−0.016	−0.683
VCT.RC.M	0.000	0.000	0.029	0.001	−0.496
VCT.RC.L	0.481	0.481	0.551	0.125	−8.007
VCT.SC.M	−0.006	0.119	0.185	0.086	−2.712
VCT.SC.L	0.124	0.252	0.265	0.116	0.116
VCT.SC.I	0.001	0.001	0.001	−0.005	−0.254
VCS.SC.M	1.656	3.838	4.074	3.825	−11.832
VCS.SC.L	2.551	3.333	3.626	3.592	−7.824
VCS.SC.I	0.001	0.005	0.007	0.007	−0.090
SVO.RC.M	0.790	0.790	0.790	0.476	−2.443
SVO.SC.M	0.000	0.000	0.000	0.003	−0.383
SOC.RC.M	0.000	0.000	0.000	−0.018	−0.625
SOC.SC.M	0.000	0.000	0.000	−0.004	−0.058
HZO.RC.M	0.000	0.000	0.000	0.000	−0.227
HZO.RC.L	0.000	0.000	0.000	0.000	−1.350
HZO.SC.M	0.000	0.001	0.001	0.000	−0.044
HZO.SC.L	0.000	0.000	0.000	0.000	0.000
HCT.SC.M	0.002	0.004	0.004	0.002	−0.024
HCT.SC.L	0.054	0.056	0.057	0.053	−0.039
HCT.SC.I	0.000	0.000	0.000	0.000	−0.137
HCS.SC.M	0.019	0.029	0.033	0.022	−0.594
HCS.SC.L	0.006	0.010	0.014	0.012	−0.076
PD.SC.M	0.046	0.577	0.602	0.537	−6.090
Total	5.727	9.497	11.742	9.698	−49.199

*value of $0.000 means NES values are less than 0.001 billion 2012$. Values in parentheses are negative values.

The NPV results based on the aforementioned 9-year analysis period are presented in Table V.44 and Table V.45. The impacts are counted over the lifetime of equipment purchased in 2017–2025. 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.44—NET PRESENT VALUE OF CUSTOMER COSTS AND BENEFITS AT A 7-PERCENT DISCOUNT RATE FOR 9-YEAR ANALYSIS PERIOD

[Equipment purchased in 2017–2025]

Equipment class	billion 2012$*				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
VOP.RC.M	0.000	0.000	0.237	0.036	−1.454
VOP.RC.L	0.000	0.000	0.000	−0.002	−0.116
VOP.SC.M	0.000	0.000	0.000	−0.005	−0.179
VCT.RC.M	0.000	0.000	0.006	−0.002	−0.130
VCT.RC.L	0.099	0.099	0.107	−0.009	−2.130
VCT.SC.M	−0.004	0.020	0.027	−0.003	−0.736
VCT.SC.L	0.029	0.059	0.061	0.021	0.021
VCT.SC.I	0.000	0.000	0.000	−0.002	−0.068

TABLE V.44—NET PRESENT VALUE OF CUSTOMER COSTS AND BENEFITS AT A 7-PERCENT DISCOUNT RATE FOR 9-YEAR ANALYSIS PERIOD—Continued

[Equipment purchased in 2017–2025]

Equipment class	billion 2012$*				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
VCS.SC.M	0.342	0.792	0.827	0.732	−3.338
VCS.SC.L	0.528	0.681	0.709	0.693	−2.311
VCS.SC.I	0.000	0.001	0.001	0.001	−0.024
SVO.RC.M	0.118	0.118	0.118	0.012	−0.742
SVO.SC.M	0.000	0.000	0.000	−0.002	−0.104
SOC.RC.M	0.000	0.000	0.000	−0.006	−0.165
SOC.SC.M	0.000	0.000	0.000	−0.001	−0.015
HZO.RC.M	0.000	0.000	0.000	0.000	−0.059
HZO.RC.L	0.000	0.000	0.000	0.000	−0.353
HZO.SC.M	0.000	0.000	0.000	0.000	−0.012
HZO.SC.L	0.000	0.000	0.000	0.000	0.000
HCT.SC.M	0.000	0.001	0.001	0.000	−0.007
HCT.SC.L	0.011	0.011	0.011	0.010	−0.018
HCT.SC.I	0.000	0.000	0.000	0.000	−0.037
HCS.SC.M	0.004	0.006	0.006	0.003	−0.182
HCS.SC.L	0.001	0.002	0.003	0.002	−0.025
PD.SC.M	0.000	0.079	0.077	0.059	−1.680
Total	1.129	1.869	2.191	1.536	−13.863

* A value of $0.000 means NES values are less than 0.001 billion 2012$. Values in parentheses are negative values.

TABLE V.45—NET PRESENT VALUE OF CUSTOMER COSTS AND BENEFITS AT A 3-PERCENT DISCOUNT RATE FOR 9-YEAR ANALYSIS PERIOD

[Equipment purchased in 2017–2025]

Equipment class	billion 2012$*				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
VOP.RC.M	0.000	0.000	0.446	0.208	−1.814
VOP.RC.L	0.000	0.000	0.001	−0.001	−0.154
VOP.SC.M	0.000	0.000	0.000	−0.006	−0.240
VCT.RC.M	0.000	0.000	0.010	0.000	−0.174
VCT.RC.L	0.160	0.160	0.179	0.027	−2.829
VCT.SC.M	−0.004	0.044	0.062	0.025	−0.957
VCT.SC.L	0.045	0.092	0.096	0.043	0.043
VCT.SC.I	0.000	0.000	0.000	−0.002	−0.090
VCS.SC.M	0.533	1.239	1.314	1.204	−4.295
VCS.SC.L	0.824	1.078	1.160	1.143	−2.885
VCS.SC.I	0.000	0.001	0.002	0.002	−0.032
SVO.RC.M	0.231	0.231	0.231	0.108	−0.914
SVO.SC.M	0.000	0.000	0.000	0.000	−0.136
SOC.RC.M	0.000	0.000	0.000	−0.007	−0.221
SOC.SC.M	0.000	0.000	0.000	−0.002	−0.021
HZO.RC.M	0.000	0.000	0.000	0.000	−0.080
HZO.RC.L	0.000	0.000	0.000	0.000	−0.475
HZO.SC.M	0.000	0.000	0.000	0.000	−0.016
HZO.SC.L	0.000	0.000	0.000	0.000	0.000
HCT.SC.M	0.001	0.001	0.001	0.000	−0.009
HCT.SC.L	0.017	0.018	0.018	0.016	−0.020
HCT.SC.I	0.000	0.000	0.000	0.000	−0.049
HCS.SC.M	0.007	0.010	0.011	0.007	−0.237
HCS.SC.L	0.002	0.004	0.005	0.004	−0.031
PD.SC.M	0.009	0.178	0.182	0.158	−2.171
Total	1.826	3.056	3.719	2.929	−17.805

* A value of $0.000 means NES values are less than 0.001 billion 2012$. Values in parentheses are negative values.

c. Employment Impacts

In addition to the direct impacts on manufacturing employment discussed in section V.B.2, DOE develops general estimates of the indirect employment impacts of amended standards on the economy. As discussed above, DOE expects energy amended conservation standards for commercial refrigeration equipment to reduce energy bills for commercial customers, and the resulting net savings to be redirected to other forms of economic activity. DOE also realizes that these shifts in spending and economic activity by commercial

refrigeration equipment owners could affect the demand for labor. Thus, indirect employment impacts may result from expenditures shifting between goods (the substitution effect) and changes in income and overall expenditure levels (the income effect) that occur due to the imposition of amended standards. These impacts may affect a variety of businesses not directly involved in the decision to make, operate, or pay the utility bills for commercial refrigeration equipment. To estimate these indirect economic effects, DOE used an input/output model of the U.S. economy using U.S. Department of Commerce, Bureau of Economic Analysis (BEA) and BLS data (as described in section IV.J of this document; see chapter 16 of the final rule TSD for more details).

Customers who purchase more-efficient equipment pay lower amounts towards utility bills, which results in job losses in the electric utilities sector. However, in the input/output model, the dollars saved on utility bills are re-invested in economic sectors that create more jobs than are lost in the electric utilities sector. Thus, the amended energy conservation standards for commercial refrigeration equipment are likely to slightly increase the net demand for labor in the economy. As shown in chapter 16 of the final rule TSD, DOE estimates that net indirect employment impacts from commercial refrigeration equipment amended standards are very small relative to the national economy. However, the net increase in jobs might be offset by other, unanticipated effects on employment. Neither the BLS data nor the input/output model used by DOE includes the quality of jobs.

4. Impact on Utility or Performance of Equipment

In performing the engineering analysis, DOE considers design options that would not lessen the utility or performance of the individual classes of equipment. (42 U.S.C. 6295(o)(2)(B)(i)(IV) and 6316(e)(1)) As presented in the screening analysis (chapter 4 of the final rule TSD), DOE eliminates from consideration any design options that reduce the utility of the equipment. For today's final rule, DOE concluded that none of the efficiency levels considered for commercial refrigeration equipment reduce the utility or performance of the equipment.

5. Impact of Any Lessening of Competition

EPCA directs DOE to consider any lessening of competition that is likely to result from standards. It also directs the Attorney General of the United States (Attorney General) to determine the impact, if any, of any lessening of competition likely to result from a proposed standard and to transmit such determination to the Secretary within 60 days of the publication of a proposed rule and simultaneously published proposed rule, together with an analysis of the nature and extent of the impact. (42 U.S.C. 6295(o)(2)(B)(i)(V) and (B)(ii)) To assist the Attorney General in making a determination for CRE standards, DOE provided the Department of Justice (DOJ) with copies of the NOPR and the TSD for review. DOE received no adverse comments from DOJ regarding the proposal.

6. Need of the Nation To Conserve Energy

An improvement in the energy efficiency of the equipment subject to today's final rule is likely to improve the security of the Nation's energy system by reducing overall demand for energy. Reduced electricity demand may also improve the reliability of the electricity system. Reductions in national electric generating capacity estimated for each considered TSL are reported in chapter 14 of the final rule TSD.

Energy savings from amended standards for commercial refrigeration equipment could also produce environmental benefits in the form of reduced emissions of air pollutants and GHGs associated with electricity production. Table V.46 provides DOE's estimate of cumulative emissions reductions projected to result from the TSLs considered in this rule. The table includes both power sector emissions and upstream emissions. DOE reports annual emissions reductions for each TSL in chapter 13 of the final rule TSD.

TABLE V.46—CUMULATIVE EMISSIONS REDUCTION ESTIMATED FOR COMMERCIAL REFRIGERATION EQUIPMENT TSLS FOR EQUIPMENT PURCHASED IN 2017–2046

	TSL				
	1	2	3	4	5
Power Sector Emissions					
CO_2 *(million metric tons)*	54.9	95.4	133.0	152.9	193.6
SO_2 (*thousand tons*)	84.9	147.4	205.5	236.3	299.1
NO_X *(thousand tons)*	−11.4	−19.9	−28.1	−32.3	−40.7
Hg (*tons*)	0.10	0.17	0.24	0.28	0.35
N_2O (*thousand tons*)	1.3	2.3	3.2	3.7	4.7
CH_4 (*thousand tons*)	7.7	13.3	18.6	21.4	27.1
Upstream Emissions					
CO_2 *(million metric tons)*	3.7	6.4	8.9	10.2	13.0
SO_2 (*thousand tons*)	0.8	1.4	1.9	2.2	2.8
NO_X *(thousand tons)*	50.6	87.8	122.4	140.7	178.2
Hg (*tons*)	0.00	0.00	0.00	0.01	0.01
N_2O (*thousand tons*)	0.0	0.1	0.1	0.1	0.1
CH_4 (*thousand tons*)	307.2	533.3	743.1	854.6	1081.9
Total Emissions					
CO_2 *(million metric tons)*	58.6	101.7	141.9	163.2	206.5
SO_2 (*thousand tons*)	85.7	148.8	207.4	238.5	301.9
NO_X *(thousand tons)*	39.2	67.9	94.3	108.4	137.4
Hg (*tons*)	0.10	0.18	0.25	0.28	0.36
N_2O (*thousand tons*)	1.4	2.4	3.3	3.8	4.8

TABLE V.46—CUMULATIVE EMISSIONS REDUCTION ESTIMATED FOR COMMERCIAL REFRIGERATION EQUIPMENT TSLS FOR EQUIPMENT PURCHASED IN 2017–2046—Continued

	TSL				
	1	2	3	4	5
CH_4 (*thousand tons*)	314.9	546.6	761.7	875.9	1109.0

As part of the analysis for this final rule, DOE estimated monetary benefits likely to result from the reduced emissions of CO_2 and NO_X that were estimated for each of the TSLs considered. As discussed in section IV.L, for CO_2, DOE used values for the SCC developed by an interagency process. The interagency group selected four sets of SCC values for use in regulatory analyses. Three sets 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 temperature change further out in the tails of the SCC distribution. The four SCC values for CO_2 emissions reductions in 2015, expressed in 2012$, are $11.8/ton, $39.7/ton, $61.2/ton, and $117/ton. The values for later years are higher due to increasing emissions-related costs as the magnitude of projected climate change increases.

Table V.47 presents the global value of CO_2 emissions reductions at each TSL. DOE calculated domestic values as a range from 7 percent to 23 percent of the global values, and these results are presented in chapter 14 of the final rule TSD.

TABLE V.47—GLOBAL PRESENT VALUE OF CO_2 EMISSIONS REDUCTION FOR POTENTIAL STANDARDS FOR COMMERCIAL REFRIGERATION EQUIPMENT

TSL	SCC Scenario			
	5% discount rate, average	3% discount rate, average	2.5% discount rate, average	3% discount rate, 95th percentile
	million 2012$			
Power Sector Emissions				
1	392	1762	2787	5438
2	682	3063	4844	9452
3	952	4274	6758	13187
4	1095	4916	7773	15167
5	1385	6220	9836	19192
Upstream Emissions				
1	25	115	183	356
2	43	200	317	617
3	61	278	442	861
4	70	320	508	990
5	88	405	643	1253
Total Emissions				
1	417	1877	2970	5794
2	725	3263	5161	10070
3	1012	4552	7200	14047
4	1164	5236	8281	16157
5	1473	6625	10479	20444

DOE is well aware that scientific and economic knowledge about the contribution of CO_2 and other GHG emissions to changes in the future global climate and the potential resulting damages to the world economy continues to evolve rapidly. Thus, any value placed in this final rule on reducing CO_2 emissions is subject to change. DOE, together with other Federal agencies, will continue to review various methodologies for estimating the monetary value of reductions in CO_2 and other GHG emissions. This ongoing review will consider the comments on this subject that are part of the public record for this final rule 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 final rule the most recent values and analyses resulting from the ongoing interagency review process.

DOE also estimated a range for the cumulative monetary value of the economic benefits associated with NO_X emission reductions anticipated to result from amended commercial refrigeration equipment standards. Table V.48 presents the present value of cumulative NO_X emissions reductions for each TSL calculated using the average dollar-per-ton values and 7-percent and 3-percent discount rates.

TABLE V.48—PRESENT VALUE OF NO_X EMISSIONS REDUCTION FOR POTENTIAL STANDARDS FOR COMMERCIAL REFRIGERATION EQUIPMENT

TSL	million 2012$	
	3% Discount rate	7% Discount rate
Power Sector Emissions		
1	−25.3	−18.9
2	−44.4	−33.2
3	−62.4	−46.6
4	−71.9	−53.7
5	−90.6	−67.7
Upstream Emissions		
1	68.7	32.6
2	119.4	56.7
3	166.5	79.3
4	191.5	91.2
5	242.4	115.3
Total Emissions		
1	43.4	13.7
2	75.0	23.6
3	104.1	32.6
4	119.6	37.4
5	151.8	47.6

7. Summary of National Economic Impact

The NPV of the monetized benefits associated with emission reductions can be viewed as a complement to the NPV of the customer savings calculated for each TSL considered in this final rule. Table V.49 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, at both a 7-percent and a 3-percent discount rate. The CO_2 values used in the table correspond to the four scenarios for the valuation of CO_2 emission reductions discussed above.

TABLE V.49—COMMERCIAL REFRIGERATION EQUIPMENT TSLS: NET PRESENT VALUE OF CONSUMER SAVINGS COMBINED WITH NET PRESENT VALUE OF MONETIZED BENEFITS FROM CO_2 AND NO_X EMISSIONS REDUCTIONS

TSL	Consumer NPV at 37% Discount Rate added with Value of Emissions Based on:			
	SCC Value of $11.8/metric ton CO_2* and Medium Value for NO_X	SCC Value of $39.7/metric ton CO_2* and Medium Value for NO_X	SCC Value of $61.2/metric ton CO_2* and Medium Value for NO_X	SCC Value of $117/metric ton CO_2* and Medium Value for NO_X
	billion 2012$			
1	6.2	7.6	8.7	11.6
2	10.3	12.8	14.7	19.6
3	12.9	16.4	19.0	25.9
4	11.0	15.1	18.1	26.0
5	−47.6	−42.4	−38.6	−28.6
TSL	Consumer NPV at 7% Discount Rate added with Value of Emissions Based on:			
	SCC Value of $11.8/metric ton CO_2* and Medium Value for NO_X	SCC Value of $39.7/metric ton CO_2* and Medium Value for NO_X	SCC Value of $61.2/metric ton CO_2* and Medium Value for NO_X	SCC Value of $117/metric ton CO_2* and Medium Value for NO_X
	billion 2012$			
1	3.0	4.4	5.5	8.3
2	4.9	7.4	9.3	14.2
3	6.0	9.5	12.2	19.0
4	4.8	8.9	12.0	19.8
5	−26.9	−21.7	−17.9	−7.9

*These label values represent the global SCC in 2015, in 2012$. The present values have been calculated with scenario-consistent discount rates.

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 quite different time frames for analysis. The national operating cost savings is measured for the lifetime of products shipped in 2017–2046. 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

EPCA allows the Secretary, 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) and 6316(e)(1)) DOE

has not considered other factors in development of the standards in this final rule.

C. Conclusions

Any new or amended energy conservation standard for any type (or class) of covered product shall be designed to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A) and 6316(e)(1)) 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(e)(1)) The new or amended standard must also result in a significant conservation of energy. (42 U.S.C. 6295(o)(3)(B) and 6316(e)(1))

For today's rulemaking, DOE considered the impacts of potential standards at each TSL, beginning with the maximum technologically feasible level, to determine whether that level met the evaluation criteria. If the max-tech level was not justified, DOE then considered the next most efficient level and undertook the same evaluation until it reached the highest efficiency level that is both technologically feasible and economically justified and saves a significant amount of energy.

To aid the reader in understanding the benefits and/or burdens of each TSL, 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 IV.A.1. In addition to the quantitative results presented in the tables below, DOE also considers other burdens and benefits that affect economic justification. These include the impacts on identifiable subgroups of consumers who may be disproportionately affected by a national standard, and impacts on employment. Section IV.I presents the estimated impacts of each TSL for the considered subgroups. DOE discusses the impacts on employment in CRE manufacturing in section IV.J and discusses the indirect employment impacts in section IV.N.

1. Benefits and Burdens of Trial Standard Levels Considered for Commercial Refrigeration Equipment

Table V.50 through Table V.53 summarizes the quantitative impacts estimated for each TSL for CRE.

TABLE V.50—SUMMARY OF RESULTS FOR COMMERCIAL REFRIGERATION EQUIPMENT TSLS: NATIONAL IMPACTS*

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
Cumulative National Energy Savings 2017 through 2060 quads					
	1.176	2.041	2.844	3.270	4.140.
With full-fuel cycle	1.195	2.074	2.889	3.323	4.207.
Cumulative NPV of Customer Benefits 2012$ billion					
3% discount rate	5.73	9.50	11.74	9.70	(49.20).
7% discount rate	2.52	4.14	4.93	3.64	(28.39).
Industry Impacts					
Change in Industry NPV (2012$ million).	(23.9) to (9.9)	(42.9) to (8.7)	(165.0) to (93.9)	(320.9) to (189.4)	(1,144.8) to (184.4).
Change in Industry NPV (%)	(0.90) to (0.37)	(1.61) to (0.33)	(6.20) to (3.53)	(12.07) to (7.12)	(43.04) to (6.93).
Cumulative Emissions Reductions**					
CO_2 (Mt)	58.6	101.7	141.9	163.2	206.5.
SO_2 (kt)	85.7	148.8	207.4	238.5	301.9.
NO_X (kt)	39.2	67.9	94.3	108.4	137.4.
Hg (t)	0.10	0.18	0.25	0.28	0.36.
N_2O (kt)	1.4	2.4	3.3	3.8	4.8.
N_2O (kt CO_2eq)	408.8	709.4	988.1	1136.2	1438.8.
CH_4 (*kt*)	314.9	546.6	761.7	875.9	1109.0.
CH_4 (*kt* CO_2eq)	7872.6	13665.9	19043.5	21898.5	27724.7.
Monetary Value of Cumulative Emissions Reductions 2012$ million†					
CO_2	417 to 5794	725 to 10070	1012 to 14047	1164 to 16157	1473 to 20444.
NO_X—3% discount rate	43.4	75.0	104.1	119.6	151.8.
NO_X—7% discount rate	13.7	23.6	32.6	37.4	47.6.

** "Mt" stands for million metric tons; "kt" stands for kilotons; "t" stands for tons. 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.51—SUMMARY OF RESULTS FOR COMMERCIAL REFRIGERATION EQUIPMENT TSLS: MEAN LCC SAVINGS

	Mean LCC Savings* 2012$				
Equipment Class	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
VOP.RC.M	.....	.....	922	−5	−4,203
VOP.RC.L	.....	.....	53	−148	−6,701
VOP.SC.M	.....	.....	.....	−54	−1,384
VCT.RC.M	.....	.....	542	41	−4,937
VCT.RC.L	647	647	526	93	−6,036
VCT.SC.M	−10	214	226	163	−1,541
VCT.SC.L	2,503	4,709	5,001	2,812	2,812
VCT.SC.I	18	18	18	−68	−2,834
VCS.SC.M	223	518	363	305	−1,428
VCS.SC.L	588	550	507	495	−1,640
VCS.SC.I	41	114	113	113	−2,710
SVO.RC.M	564	564	564	−19	−2,691
SVO.SC.M	.....	.....	.....	6	−917
SOC.RC.M	.....	.....	.....	−128	−2,268
SOC.SC.M	.....	.....	.....	−209	−2,204
HZO.RC.M	.....	.....	.....	.....	−2,180
HZO.RC.L	.....	.....	.....	.....	−4,249
HZO.SC.M	.....	55	55	−4	−1,154
HZO.SC.L	.....	.....	.....	.....	-
HCT.SC.M	66	165	101	43	−599
HCT.SC.L	428	435	293	248	−613
HCT.SC.I	.....	.....	.....	.....	−1,240
HCS.SC.M	12	17	15	5	−568
HCS.SC.L	31	50	64	33	−590
PD.SC.M	8	163	165	150	−1,252

* "NA" means "not applicable," because for equipment classes HZO.RC.M, HZO.RC.L, and HZO.SC.L, TSLs 1 through 4 are associated with the baseline efficiency level.

TABLE V.52—SUMMARY OF RESULTS FOR COMMERCIAL REFRIGERATION EQUIPMENT TSLS: MEDIAN PAYBACK PERIOD

	Median Payback Period years				
Equipment Class	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
VOP.RC.M	.....	.....	5.7	9.9	34.1
VOP.RC.L	.....	.....	6.1	11.3	310.0
VOP.SC.M	.....	.....	.....	63.1	593.2
VCT.RC.M	.....	.....	2.1	6.6	364.7
VCT.RC.L	1.8	1.8	2.7	6.3	194.7
VCT.SC.M	23.4	4.8	5.3	7.0	96.2
VCT.SC.L	0.5	0.8	1.1	4.7	4.7
VCT.SC.I	7.2	7.2	7.2	16.2	663.6
VCS.SC.M	0.5	0.6	1.4	2.6	48.0
VCS.SC.L	0.6	1.3	2.5	2.7	31.8
VCS.SC.I	2.6	3.6	5.0	5.0	183.7
SVO.RC.M	6.2	6.2	6.2	10.4	29.9
SVO.SC.M	.....	.....	.....	10.9	151.6
SOC.RC.M	.....	.....	.....	38.0	114.1
SOC.SC.M	.....	.....	.....	28.7	25.3
HZO.RC.M	.....	.....	.....	.....	.....
HZO.RC.L	.....	.....	.....	.....	288.9
HZO.SC.M	.....	6.9	6.9	11.8	194.7
HZO.SC.L	.....	.....	.....	.....	.....
HCT.SC.M	2.5	4.7	5.8	9.2	46.6
HCT.SC.L	1.8	2.0	2.5	3.6	19.5
HCT.SC.I	.....	.....	.....	.....	23.8
HCS.SC.M	2.9	3.7	5.5	7.5	680.6
HCS.SC.L	1.4	1.7	2.5	6.2	68.9
PD.SC.M	9.3	5.3	5.6	6.0	102.2

* "NA" means "not applicable," because for equipment classes HZO.RC.M, HZO.RC.L, and HZO.SC.L, TSLs 1 through 4 are associated with the baseline efficiency level.

TABLE V.53—SUMMARY OF RESULTS FOR COMMERCIAL REFRIGERATION EQUIPMENT TSLS: DISTRIBUTION OF CUSTOMER LCC IMPACTS

Category	TSL 1*	TSL 2*	TSL 3*	TSL 4*	TSL 5*
VOP.RC.M:					
Net Cost (%)	0	0	4	64	100
No Impact (%)	100	100	41	0	0
Net Benefit (%)	0	0	55	36	0
VOP.RC.L:					
Net Cost (%)	0	0	7	59	100
No Impact (%)	100	100	40	20	0
Net Benefit (%)	0	0	53	21	0
VOP.SC.M:					
Net Cost (%)	0	0	0	60	100
No Impact (%)	100	100	100	40	0
Net Benefit (%)	0	0	0	0	0
VCT.RC.M:					
Net Cost (%)	0	0	0	36	100
No Impact (%)	100	100	40	13	0
Net Benefit (%)	0	0	60	51	0
VCT.RC.L:					
Net Cost (%)	0	0	4	43	100
No Impact (%)	40	40	20	0	0
Net Benefit (%)	60	60	76	57	0
VCT.SC.M:					
Net Cost (%)	71	1	3	17	100
No Impact (%)	10	10	0	0	0
Net Benefit (%)	18	89	97	83	0
VCT.SC.L:					
Net Cost (%)	0	0	0	11	11
No Impact (%)	10	0	0	0	0
Net Benefit (%)	90	100	100	89	89
VCT.SC.I:					
Net Cost (%)	10	10	10	65	84
No Impact (%)	40	40	40	24	16
Net Benefit (%)	50	50	50	11	0
VCS.SC.M:					
Net Cost (%)	0	0	7	25	100
No Impact (%)	40	40	10	10	0
Net Benefit (%)	60	60	83	65	0
VCS.SC.L:					
Net Cost (%)	0	0	7	9	100
No Impact (%)	40	10	0	0	0
Net Benefit (%)	60	90	93	91	0
VCS.SC.I:					
Net Cost (%)	0	0	9	9	92
No Impact (%)	40	32	17	17	8
Net Benefit (%)	60	68	75	75	0
SVO.RC.M:					
Net Cost (%)	7	7	7	67	100
No Impact (%)	40	40	40	0	0
Net Benefit (%)	54	54	54	33	0
SVO.SC.M:					
Net Cost (%)	0	0	0	32	100
No Impact (%)	100	100	100	40	0
Net Benefit (%)	0	0	0	27	0
SOC.RC.M:					
Net Cost (%)	0	0	0	60	100
No Impact (%)	100	100	100	40	0
Net Benefit (%)	0	0	0	0	0
SOC.SC.M:					
Net Cost (%)	0	0	0	100	100
No Impact (%)	100	100	100	0	0
Net Benefit (%)	0	0	0	1	0
HZO.RC.M: **					
Net Cost (%)	0	0	0	0	60
No Impact (%)	100	100	100	100	40
Net Benefit (%)	0	0	0	0	0
HZO.RC.L: **					
Net Cost (%)	0	0	0	0	60
No Impact (%)	100	100	100	100	40
Net Benefit (%)	0	0	0	0	0
HZO.SC.M:					
Net Cost (%)	0	5	5	50	100
No Impact (%)	100	40	40	21	0

TABLE V.53—SUMMARY OF RESULTS FOR COMMERCIAL REFRIGERATION EQUIPMENT TSLS: DISTRIBUTION OF CUSTOMER LCC IMPACTS—Continued

Category	TSL 1*	TSL 2*	TSL 3*	TSL 4*	TSL 5*
Net Benefit (%)	0	54	54	29	0
HZO.SC.L:					
Net Cost (%)	0	0	0	0	0
No Impact (%)	100	100	100	100	100
Net Benefit (%)	0	0	0	0	0
HCT.SC.M:					
Net Cost (%)	0	0	20	45	100
No Impact (%)	40	40	0	0	0
Net Benefit (%)	60	60	80	55	0
HCT.SC.L:					
Net Cost (%)	0	0	10	29	87
No Impact (%)	41	41	10	10	10
Net Benefit (%)	59	59	80	61	3
HCT.SC.I:					
Net Cost (%)	0	0	0	0	61
No Impact (%)	100	100	100	100	39
Net Benefit (%)	0	0	0	0	0
HCS.SC.M:					
Net Cost (%)	0	1	10	42	91
No Impact (%)	9	9	9	9	9
Net Benefit (%)	91	90	80	48	0
HCS.SC.L:					
Net Cost (%)	0	0	0	20	90
No Impact (%)	10	10	10	10	10
Net Benefit (%)	90	90	90	70	0
PD.SC.M:					
Net Cost (%)	28	3	5	8	100
No Impact (%)	39	0	0	0	0
Net Benefit (%)	33	97	95	92	0

*Values have been rounded to the nearest integer. Therefore, some of the percentages may not add up to 100.

TSL 5 corresponds to the max-tech level for all the equipment classes and offers the potential for the highest cumulative energy savings. The estimated energy savings from TSL 5 is 4.21 quads, an amount DOE deems significant. TSL 5 shows a net negative NPV for customers with estimated increased costs valued at $28.39 billion at a 7-percent discount rate. Estimated emissions reductions are 206.5 Mt of CO_2, 137.4 kt of NO_X, 301.9 kt of SO_2, and 0.36 tons of Hg. The CO_2 emissions have a value of $1.5 billion to $20.4 billion and the NO_X emissions have a value of $47.6 million at a 7-percent discount rate.

For TSL 5 the mean LCC savings for all equipment classes, except for VCT.SC.L are negative, implying an increase in LCC. The median PBP is longer than the lifetime of the equipment for nearly all/most equipment classes. The share of customers that would experience a net benefit (positive LCC savings) is very low in nearly all equipment classes.

At TSL 5, manufacturers may expect diminished profitability due to large increases in product costs, capital investments in equipment and tooling, and expenditures related to engineering and testing. The projected change in INPV ranges from a decrease of $1,144.8 million to a decrease of $184.4 million based on DOE's manufacturer markup scenarios. The upper bound of −$184.4 million is considered an optimistic scenario for manufacturers because it assumes manufacturers can fully pass on substantial increases in equipment costs to their customers. DOE recognizes the risk of large negative impacts on industry if manufacturers' expectations concerning reduced profit margins are realized. TSL 5 could reduce commercial refrigeration equipment INPV by up to 43.04 percent if impacts reach the lower bound of the range.

After carefully considering the analyses results and weighing the benefits and burdens of TSL 5, DOE finds that the benefits to the Nation from TSL 5, in the form of energy savings and emissions reductions, are outweighed by the burdens, in the form of a large decrease in customer NPV, negative LCC savings and very long PBPs for nearly all equipment classes, and a decrease in manufacturer INPV. DOE concludes that the burdens of TSL 5 outweigh the benefits and, therefore, does not find TSL 5 to be economically justifiable.

TSL 4 corresponds to the highest efficiency level, in each equipment class, with a near positive NPV at a 7-percent discount rate. The estimated energy savings from TSL 4 is 3.32 quads, an amount DOE deems significant. TSL 4 shows a net positive NPV for customers with estimated benefit of at $3.64 billion at a 7-percent discount rate. Estimated emissions reductions are 163.2 Mt of CO_2, 108.4 kt of NO_X, 238.5 kt of SO_2, and 0.28 tons of Hg. The CO_2 emissions have a value of $1.2 billion to $16.1 billion and the NO_X emissions have a value of $37.4 million at a 7-percent discount rate.

At TSL 4, the mean LCC savings among equipment classes affected by standards range from −$209 for HCS.SC.M to $2,812 for VOP.RC.M.[77] The median PBP ranges from 2.6 years to 63.1 years. The share of customers that would experience a net benefit (positive LCC savings) ranges from 0 percent to 91 percent.

At TSL 4, the projected change in INPV ranges from a decrease of $320.9 million to a decrease of $189.4 million. At TSL 4, DOE recognizes the risk of negative impacts if manufacturers' expectations concerning reduced profit

[77] For equipment classes HZO.RC.M, HZO.RC.L, and HZO.SC.L, and HCT.SC.I TSL 4 is associated with the baseline level because these equipment classes have only one efficiency level above baseline and each of those higher efficiency levels yields a negative NPV. Therefore, there are no efficiency levels that satisfy the criteria used for selection of TSLs 1 through 4.

margins are realized. If the lower bound of the range of impacts is reached, as DOE expects, TSL 4 could result in a net loss of 12.07 percent in INPV for commercial refrigeration equipment manufacturers.

After carefully considering the analyses results and weighing the benefits and burdens of TSL 4, DOE finds that the benefits to the Nation from TSL 4, in the form of energy savings and emissions reductions, an increase in customer NPV, and positive mean LCC savings for many equipment classes, are outweighed by the burdens, in the form of negative mean LCC savings for many equipment classes (including several classes with a significant share of total shipments), long PBPs for some equipment classes, the fact that over half of customers would experience a net cost (negative LCC savings) in many equipment classes, and a decrease in manufacturer INPV. DOE concludes that the burdens of TSL 4 outweigh the benefits and, therefore, does not find TSL 4 to be economically justifiable.

Next, DOE considered TSL 3. The estimated energy savings from TSL 3 is 2.89 quads, an amount DOE deems significant. TSL 3 shows a positive NPV for customers valued at $4.93 billion at a 7-percent discount rate. Estimated emissions reductions are 141.9 Mt of CO_2, 94.3 kt of NO_X, 207.4 kt of SO_2, and 0.25 tons of Hg. The CO_2 emissions have a value of $1.0 billion to $14.0 billion and the NO_X emissions have a value of $32.6 million at a 7-percent discount rate.

At TSL 3, the mean LCC savings for affected equipment classes range from $18 to $5,001.[78] The median PBP ranges from 1.1 years to 7.2 years. The share of customers that would experience a net benefit (positive LCC savings) is over 50 percent for all affected equipment classes.

At TSL 3, the projected change in INPV ranges from a decrease of $165.0 million to a decrease of $93.9 million. At TSL 3, DOE recognizes the risk of negative impacts if manufacturers' expectations concerning reduced profit margins are realized. If the lower bound of the range of impacts is reached, as DOE expects, TSL 3 could result in a net loss of 6.20 percent in INPV for commercial refrigeration equipment manufacturers.

After careful consideration of the analyses results and, weighing the benefits and burdens of TSL 3, DOE finds that the benefits to the Nation from TSL 3, in the form of energy savings and emissions reductions, an increase in customer NPV, positive mean LCC savings for all affected equipment classes, PBPs that are less than seven years for most of the affected equipment classes, and the fact that over half of customers would experience a net benefit in nearly all affected equipment classes, outweigh the burdens, in the form of a decrease in manufacturer INPV. The Secretary concludes that TSL 3 will offer the maximum improvement in efficiency that is technologically feasible and economically justified and will result in the significant conservation of energy. Therefore, DOE today is adopting standards at TSL 3 for commercial refrigeration equipment. The amended energy conservation standards for commercial refrigeration equipment, which consist of maximum daily energy consumption (MDEC) values as a function of either refrigerated volume or total display area (TDA), are shown in Table V.54.

TABLE V.54—ENERGY CONSERVATION STANDARDS FOR COMMERCIAL REFRIGERATION EQUIPMENT

[Compliance required starting March 27, 2017]

Equipment class*	Standard level**,†	Equipment class*	Standard level**,†
VCT.RC.L	0.49 × TDA + 2.61.	VOP.RC.I	2.79 × TDA + 8.7.
VOP.RC.M	0.63 × TDA + 4.07.	SVO.RC.L	2.2 × TDA + 6.85.
SVO.RC.M	0.66 × TDA + 3.18.	SVO.RC.I	2.79 × TDA + 8.7.
HZO.RC.L	0.55 × TDA + 6.88.	HZO.RC.I	0.7 × TDA + 8.74.
HZO.RC.M	0.35 × TDA + 2.88.	VOP.SC.L	4.25 × TDA + 11.82.
VCT.RC.M	0.15 × TDA + 1.95.	VOP.SC.I	5.4 × TDA + 15.02.
VOP.RC.L	2.2 × TDA + 6.85.	SVO.SC.L	4.26 × TDA + 11.51.
SOC.RC.M	0.44 × TDA + 0.11.	SVO.SC.I	5.41 × TDA + 14.63.
VOP.SC.M	1.69 × TDA + 4.71.	HZO.SC.I	2.42 × TDA + 9.
SVO.SC.M	1.7 × TDA + 4.59.	SOC.RC.L	0.93 × TDA + 0.22.
HZO.SC.L	1.9 × TDA + 7.08.	SOC.RC.I	1.09 × TDA + 0.26.
HZO.SC.M	0.72 × TDA + 5.55.	SOC.SC.I	1.53 × TDA + 0.36.
HCT.SC.I	0.56 × TDA + 0.43.	VCT.RC.I	0.58 × TDA + 3.05.
VCT.SC.I	0.62 × TDA + 3.29.	HCT.RC.M	0.16 × TDA + 0.13.
VCS.SC.I	0.34 × V + 0.88.	HCT.RC.L	0.34 × TDA + 0.26.
VCT.SC.M	0.1 × V + 0.86.	HCT.RC.I	0.4 × TDA + 0.31.
VCT.SC.L	0.29 × V + 2.95.	VCS.RC.M	0.1 × V + 0.26.
VCS.SC.M	0.05 × V + 1.36.	VCS.RC.L	0.21 × V + 0.54.
VCS.SC.L	0.22 × V + 1.38.	VCS.RC.I	0.25 × V + 0.63.
HCT.SC.M	0.06 × V + 0.37.	HCS.SC.I	0.34 × V + 0.88.
HCT.SC.L	0.08 × V + 1.23.	HCS.RC.M	0.1 × V + 0.26.
HCS.SC.M	0.05 × V + 0.91.	HCS.RC.L	0.21 × V + 0.54.
HCS.SC.L	0.06 × V + 1.12.	HCS.RC.I	0.25 × V + 0.63.
PD.SC.M	0.11 × V + 0.81.	SOC.SC.L	1.1 × TDA + 2.1.
SOC.SC.M	0.52 × TDA + 1.		

*Equipment class designations consist of a combination (in sequential order separated by periods) of: (1) An equipment family code (VOP = vertical open, SVO = semivertical open, HZO = horizontal open, VCT = vertical closed with transparent doors, VCS = vertical closed with solid doors, HCT = horizontal closed with transparent doors, HCS = horizontal closed with solid doors, SOC = service over counter, or PD = pull-down); (2) an operating mode code (RC = remote condensing or SC = self-contained); and (3) a rating temperature code (M = medium temperature (38 ± 2 °F), L = low temperature (0 ± 2 °F), or I = ice-cream temperature (−15 ± 2 °F)). For example, ''VOP.RC.M'' refers to the ''vertical open, remote condensing, medium temperature'' equipment class. See discussion in chapter 3 of the final rule technical support document (TSD) for a more detailed explanation of the equipment class terminology.

**''TDA'' is the total display area of the case, as measured in the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) Standard 1200–2010, appendix D.

†''V'' is the volume of the case, as measured in American National Standards Institute (ANSI)/Association of Home Appliance Manufacturers (AHAM) Standard HRF–1–2004.

[78] Equipment classes VOP.SC.M, SVO.SC.M, SOC.RC.M, SOC.SC.M, HZO.RC.M, HZO.RC.L, HZO.SC.L, and HCT.SC.I at TSL 3 are associated with the baseline level.

2. Summary of Benefits and Costs (Annualized) of the Standards

The benefits and costs of today's standards, for equipment sold in 2017–2046, can also be expressed in terms of annualized values. The annualized monetary values are the sum of (1) the annualized national economic value of the benefits from operating the product (consisting primarily of operating cost savings from using less energy, minus increases in equipment purchase and installation costs, which is another way of representing consumer NPV), plus (2) the annualized monetary value of the benefits of emission reductions, including CO_2 emission reductions.[79]

Estimates of annualized benefits and costs of today's standards are shown in Table V.55. 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 in today's rule is $256 million per year in increased equipment costs, while the benefits are $710 million per year in reduced equipment operating costs, $246 million in CO_2 reductions, and $3.01 million in reduced NO_X emissions. In this case, the net benefit amounts to $704 million per year. Using a 3-percent discount rate for all benefits and costs and the average SCC series, the cost of the standards in today's rule is $264 million per year in increased equipment costs, while the benefits are $900 million per year in reduced operating costs, $246 million in CO_2 reductions, and $5.64 million in reduced NO_X emissions. In this case, the net benefit amounts to $888 million per year.

TABLE V.55—ANNUALIZED BENEFITS AND COSTS OF NEW AND AMENDED STANDARDS FOR COMMERCIAL REFRIGERATION EQUIPMENT

	Discount rate	Million 2012$/year		
		Primary estimate*	Low net benefits estimate*	High net benefits estimate*
Benefits				
Operating Cost Savings	7%	710	688	744.
	3%	900	865	947.
CO_2 Reduction at ($11.8/t case) **.	5%	73	73	73.
CO_2 Reduction at ($39.7/t case) **.	3%	246	246	246.
CO_2 Reduction at ($61.2/t case)**.	2.5%	361	361	361.
CO_2 Reduction at ($117.0/t case) **.	3%	760	760	760.
NO_X Reduction at ($2,591/ton) **.	7%	3.01	3.01	3.01.
	3%	5.64	5.64	5.64.
Total Benefits †	7% plus CO_2 range	786 to 1,474	764 to 1,451	820 to 1,508.
	7%	960	937	994.
	3% plus CO_2 range	978 to 1,666	943 to 1,631	1,026 to 1,713.
	3%	1,152	1,117	1,200.
Costs				
Incremental Equipment Costs.	7%	256	250	261.
	3%	264	258	271.
Net Benefits				
Total †	7% plus CO_2 range	530 to 1,218	513 to 1,201	559 to 1,246.
	7%	704	687	733.
	3% plus CO_2 range	714 to 1,402	685 to 1,373	755 to 1,442.
	3%	888	859	929.

* This table presents the annualized costs and benefits associated with commercial refrigeration equipment shipped in 2017–2046. These results include benefits to customers which accrue after 2046 from the products purchased in 2017–2046. The results account for the incremental variable and fixed costs incurred by manufacturers due to the amended standard, some of which may be incurred in preparation for the final rule. The primary, low, and high estimates utilize projections of energy prices from the *AEO 2013* Reference case, Low Estimate, and High Estimate, respectively. In addition, incremental equipment costs reflect a medium decline 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.H.

** 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.

[79] 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.3. From the present value, DOE then calculated the fixed annual payment over a 30-year period (2017 through 2046) 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.

† 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 (October 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) For certain segments of the companies that purchase commercial refrigeration equipment, such as small grocers, there may be a lack of consumer information and/or information processing capability about energy efficiency opportunities in the commercial refrigeration equipment 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).

(3) There are external benefits resulting from improved energy efficiency of commercial refrigeration equipment that are not captured by the users of such equipment. These benefits include externalities related to environmental protection that are not reflected in energy prices, such as reduced emissions of greenhouse gases. DOE attempts to quantify some of the external benefits through use of Social Cost of Carbon values.

In addition, DOE has determined that today's regulatory action is an ''economically significant regulatory action'' under section 3(f)(1) of Executive Order 12866. Accordingly, section 6(a)(3) of the Executive Order requires that DOE prepare a regulatory impact analysis (RIA) on today's rule and that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) review this rule. DOE presented to OIRA for review the draft rule and other documents prepared for this rulemaking, including the RIA, and has included these documents in the rulemaking record. The assessments prepared pursuant to Executive Order 12866 can be found in the technical support document for this rulemaking.

DOE has also reviewed this regulation pursuant to Executive Order 13563, issued on January 18, 2011 (76 FR 3281, January 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 final rule is consistent with these principles, including the requirement that, to the extent permitted by law, benefits justify costs and that net benefits are maximized.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an final regulatory flexibility analysis (FRFA) 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*).

For manufacturers of commercial refrigeration equipment, 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 (September 5, 2000) and codified at 13 CFR Part 121.The size standards are listed by North American Industry Classification System (NAICS) code and industry description and are available at *http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf*. Commercial refrigeration equipment manufacturing is classified under NAICS 333415, ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.'' The SBA sets a threshold of 750 employees or less for an entity to be considered as a small business for this category. Based on this threshold, DOE present the following FRFA analysis:

1. Description and Estimated Number of Small Entities Regulated

During its market survey, DOE used available public information to identify potential small manufacturers. DOE's research involved industry trade association membership directories (including AHRI), public databases (*e.g.,* AHRI Directory,[80] the SBA Database [81]), individual company Web sites, and

[80] ''AHRI Certification Directory.'' AHRI Certification Directory. AHRI. (Available at: *https://www.ahridirectory.org/ahridirectory/pages/home.aspx*) (Last accessed October 10, 2011). See *www.ahridirectory.org/ahriDirectory/pages/home.aspx*.

[81] ''Dynamic Small Business Search.'' SBA. (Available at: See *http://dsbs.sba.gov/dsbs/search/dsp_dsbs.cfm*) (Last accessed October 12, 2011).

market research tools (*e.g.,* Dunn and Bradstreet reports [82] and Hoovers reports [83]) to create a list of companies that manufacture or sell products covered by this rulemaking. DOE also asked stakeholders and industry representatives if they were aware of any other small manufacturers during manufacturer interviews and at DOE public meetings. DOE reviewed publicly available data and contacted select companies on its list, as necessary, to determine whether they met the SBA's definition of a small business manufacturer of covered commercial refrigeration equipment. DOE screened out companies that do not offer products covered by this rulemaking, do not meet the definition of a ''small business,'' or are foreign owned.

DOE identified 54 companies selling commercial refrigeration equipment in the United States. Nine of the companies are foreign-owned firms. Of the remaining 45 companies, about 70 percent (32 companies) are small domestic manufacturers. DOE contacted eight domestic commercial refrigeration equipment manufacturers for interviews and all eight companies accepted. Of these eight companies, four were small businesses.

2. Description and Estimate of Compliance Requirements

The 32 identified domestic manufacturers of commercial refrigeration equipment that qualify as small businesses under the SBA size standard account for approximately 26 percent of commercial refrigeration equipment shipments.[84] While some small businesses have significant market share (*e.g.,* Continental has a 4-percent market share for foodservice commercial refrigeration [84]), the majority of small businesses have less than a 1-percent market share. These smaller firms often specialize in designing custom products and servicing niche markets.

At the amended level, the average small manufacturer is expected to face capital conversion costs that are nearly five times typical annual capital expenditures, and product conversion costs that are roughly double the typical annual R&D spending, as shown in Table VI.1. At the amended level, the conversion costs are driven by the incorporation of thicker insulation into case designs. The thicker case designs necessitate the purchase of new jigs for production. Manufacturers estimate of the cost of modifying an existing jig at approximately $50,000. Manufacturer estimates of the cost of a new jig ranged from $100,000 to $300,000, depending on the jig size and design. In addition to the cost of jigs, changes in case thickness may require product redesign due to changes in the interior volume of the equipment. All shelving and internally fitted components would need to be redesigned to fit the revised cabinet's interior dimensions. Furthermore, changes in insulation and in refrigeration components could necessitate new industry certifications.

The proposed standard could cause small manufacturers to be at a disadvantage relative to large manufacturers. The capital conversion costs represent a smaller percentage of annual capital expenditures for large manufacturers than for small manufacturers. The capital conversion costs are 49 percent of annual capital expenditures for an average large manufacturer, while capital conversion costs are 278 percent of annual capital expenditures for an average small manufacturer. Small manufacturers may have greater difficulty obtaining credit, or may obtain less favorable terms than larger competitors when financing the equipment necessary to meet the amended standard.

Manufacturers indicated that many design options evaluated in the engineering analysis (*e.g.,* higher efficiency lighting, motors, and compressors) would force them to purchase more expensive components. Due to smaller purchasing volumes, small manufacturers typically pay higher prices for components, while their large competitors receive volume discounts. At the amended standard, small businesses will likely have greater increases in component costs than large businesses and will thus be at a pricing disadvantage.

To estimate how small manufacturers would be impacted, DOE used the market share of small manufacturers to estimate the annual revenue, earnings before interest and tax (EBIT), R&D expense, and capital expenditures for a typical small manufacturer. DOE then compared these costs to the required capital and product conversion costs at each TSL for both an average small manufacturer (Table VI.1) and an average large manufacturer (Table VI.2). The conversion costs in these tables are presented relative to annual financial metrics for the purposes of comparing impacts of small versus large manufacturers. In practice, these conversion costs will likely be spread out over a period of multiple years. TSL 3 represents the level adopted in today's final rule:

TABLE VI.1—COMPARISON OF AN AVERAGE SMALL COMMERCIAL REFRIGERATION EQUIPMENT MANUFACTURER'S CONVERSION COSTS TO ANNUAL EXPENSES, REVENUE, AND PROFIT

TSL	Capital conversion cost as a percentage of annual capital expenditures	Product conversion cost as a percentage of annual R&D expense	Total conversion cost as a percentage of annual revenue	Total conversion cost as a percentage of annual EBIT
TSL 1	20	45	1	13
TSL 2	20	71	2	18
TSL 3	330	278	11	129
TSL 4	913	428	26	296
TSL 5	2838	622	70	792

[82] ''D&B √ Business Information √ Get Credit Reports √ 888 480–6007.''. Dun & Bradstreet (Available at: *www.dnb.com*) (Last accessed October 10, 2011). See *www.dnb.com/.*

[83] ''Hoovers √ Company Information √ Industry Information √ Lists.'' D&B (2013) (Available at: See *http://www.hoovers.com/*) (Last accessed December 12, 2012).

[84] 32nd Annual Portrait of the U.S. Appliance Industry. *Appliance Magazine.* September 2009. 66(7).

TABLE VI.2—COMPARISON OF AN AVERAGE LARGE COMMERCIAL REFRIGERATION EQUIPMENT MANUFACTURER'S CONVERSION COSTS TO ANNUAL EXPENSES, REVENUE, AND PROFIT

TSL	Capital conversion cost as a percentage of annual capital expenditures	Product conversion cost as a percentage of annual R&D expense	Total conversion cost as a percentage of annual revenue	Total conversion cost as a percentage of annual EBIT
TSL 1	3	49	1	10
TSL 2	3	49	1	10
TSL 3	46	49	2	20
TSL 4	128	49	3	40
TSL 5	398	49	9	104

Small firms would likely be at a disadvantage relative to larger firms in meeting the amended energy conservation standard for commercial refrigeration equipment. The small businesses face disadvantages in terms of access to capital, the cost of re-tooling production lines and investing in redesigns, and pricing for key components. As a result, DOE could not certify that the amended standards would not have a significant impact on a significant number of small businesses.

3. Duplication, Overlap, and Conflict With Other Rules and Regulations

DOE is not aware of any rules or regulations that duplicate, overlap, or conflict with the rule being adopted today.

4. Significant Alternatives to the Rule

The discussion above analyzes impacts on small businesses that would result from DOE's amended standards. In addition to the other TSLs being considered, the rulemaking TSD includes a regulatory impact analysis (RIA). For commercial refrigeration equipment, the RIA discusses the following policy alternatives: (1) No change in standard; (2) consumer rebates; (3) consumer tax credits; and (4) manufacturer tax credits; (5) voluntary energy efficiency targets; and (6) bulk government purchases. While these alternatives may mitigate to some varying extent the economic impacts on small entities compared to the standards, DOE determined that the energy savings of these alternatives are significantly smaller than those that would be expected to result from adoption of the amended standard levels. Accordingly, DOE is declining to adopt any of these alternatives and is adopting the standards set forth in this rulemaking. (See chapter 17 of the final rule TSD for further detail on the policy alternatives DOE considered.)

C. Review Under the Paperwork Reduction Act

Manufacturers of commercial refrigeration equipment 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 refrigeration equipment, 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 refrigeration equipment. (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 rule fits within the category of actions included in Categorical Exclusion (CX) B5.1 and otherwise meets the requirements for application of a CX. See 10 CFR part 1021, App. B, B5.1(b); § 1021.410(b) and Appendix B, B(1)–(5). The rule fits within the category of actions because it is a rulemaking that establishes energy conservation standards for consumer products or industrial equipment, and for which none of the exceptions identified in CX B5.1(b) apply. Therefore, DOE has made a CX determination for this rulemaking, and DOE does not need to prepare an Environmental Assessment or Environmental Impact Statement for this rule. DOE's CX determination for this rule is available at *http://cxnepa.energy.gov/.*

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism.'' 64 FR 43255 (Aug. 10, 1999) imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of today's final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' imposes on Federal agencies the general duty to adhere to the

following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. 61 FR 4729 (February 7, 1996). Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For an amended regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *http://energy.gov/gc/office-general-counsel.*

DOE has concluded that this final rule would likely require expenditures of $100 million or more on the private sector. Such expenditures may include: (1) Investment in research and development and in capital expenditures by commercial refrigeration equipment 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 refrigeration equipment, starting at the compliance date for the applicable standard.

Section 202 of UMRA authorizes a Federal agency to respond to the content requirements of UMRA in any other statement or analysis that accompanies the final rule. 2 U.S.C. 1532(c). The content requirements of section 202(b) of UMRA relevant to a private sector mandate substantially overlap the economic analysis requirements that apply under section 325(o) of EPCA and Executive Order 12866. The **SUPPLEMENTARY INFORMATION** section of the notice of final rulemaking and the ''Regulatory Impact Analysis'' section of the TSD for this final rule respond to those requirements.

Under section 205 of UMRA, the Department is obligated to identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a written statement under section 202 is required. 2 U.S.C. 1535(a). DOE is required to select from those alternatives the most cost-effective and least burdensome alternative that achieves the objectives of the rule unless DOE publishes an explanation for doing otherwise, or the selection of such an alternative is inconsistent with law. As required by 42 U.S.C. 6295(d), (f), and (o), 6313(e), and 6316(a), today's final rule would establish energy conservation standards for commercial refrigeration equipment that are designed to achieve the maximum improvement in energy efficiency that DOE has determined to be both technologically feasible and economically justified. A full discussion of the alternatives considered by DOE is presented in the ''Regulatory Impact Analysis'' chapter 17 of the TSD for today's final rule.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has concluded that today's regulatory action, which sets forth energy conservation standards for commercial refrigeration equipment, is not a significant energy action because the amended standards are not likely to have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects on the final rule.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (the Bulletin). 70 FR 2664 (January 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions. 70 FR 2667.

In response to OMB's Bulletin, DOE conducted formal in-progress peer reviews of the energy conservation standards development process and analyses and has prepared a Peer Review Report pertaining to the energy conservation standards rulemaking analyses. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. The ''Energy Conservation Standards Rulemaking Peer Review Report'' dated February 2007 has been disseminated and is available at the following Web site: *www1.eere.energy.gov/buildings/appliance_standards/peer_review.html*.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

VII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of today's final rule.

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation, Incorporation by reference, Reporting and recordkeeping requirements.

Issued in Washington, DC, on February 28, 2014.

David T. Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE amends 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 431.62 is amended by adding in alphabetical order a definition for ''Service over counter'' to read as follows:

§ 431.62 Definitions concerning commercial refrigerators, freezers and refrigerator-freezers.

* * * * *

Service over counter means equipment that has sliding or hinged doors in the back intended for use by sales personnel, with glass or other transparent material in the front for displaying merchandise, and that has a height not greater than 66 inches and is intended to serve as a counter for transactions between sales personnel and customers. ''*Service over the counter, self-contained, medium temperature commercial refrigerator*'', also defined in this section, is one specific equipment class within the service over counter equipment family.

* * * * *

■ 3. Section 431.66 is amended by:
■ a. Revising paragraph (a)(3);
■ b. Revising paragraph (b)(1) introductory text;
■ c. Revising paragraph (c);
■ d. Revising paragraph (d) introductory text; and
■ c. Adding paragraph (e).

The revisions and addition read as follows:

§ 431.66 Energy conservation standards and their effective dates.

(a) * * *

(3) For the purpose of paragraph (d) of this section, the term ''TDA'' means the total display area (ft^2) of the case, as defined in ARI Standard 1200–2006, appendix D (incorporated by reference, see § 431.63). For the purpose of paragraph (e) of this section, the term ''TDA'' means the total display area (ft^2) of the case, as defined in AHRI Standard 1200 (I–P)–2010, appendix D (incorporated by reference, see § 431.63).

(b)(1) Each commercial refrigerator, freezer, and refrigerator-freezer with a self-contained condensing unit designed for holding temperature applications manufactured on or after January 1, 2010 and before March 27, 2017 shall have a daily energy consumption (in kilowatt-hours per day) that does not exceed the following:

* * * * *

(c) Each commercial refrigerator with a self-contained condensing unit designed for pull-down temperature applications and transparent doors manufactured on or after January 1, 2010 and before March 27, 2017 shall have a daily energy consumption (in kilowatt-hours per day) of not more than 0.126V + 3.51.

(d) Each commercial refrigerator, freezer, and refrigerator-freezer with a self-contained condensing unit and without doors; commercial refrigerator, freezer, and refrigerator-freezer with a remote condensing unit; and commercial ice-cream freezer manufactured on or after January 1, 2012 and before March 27, 2017 shall have a daily energy consumption (in kilowatt-hours per day) that does not exceed the levels specified:

* * * * *

(e) Each commercial refrigerator, freezer, and refrigerator-freezer with a self-contained condensing unit designed for holding temperature applications and with solid or transparent doors; commercial refrigerator with a self-contained condensing unit designed for pull-down temperature applications and with transparent doors; commercial refrigerator, freezer, and refrigerator-freezer with a self-contained condensing unit and without doors; commercial refrigerator, freezer, and refrigerator-freezer with a remote condensing unit; and commercial ice-cream freezer manufactured on or after March 27, 2017, shall have a daily energy consumption (in kilowatt-hours per day) that does not exceed the levels specified:

(1) For equipment other than hybrid equipment, refrigerator/freezers, or wedge cases:

Equipment category	Condensing unit configuration	Equipment family	Rating temp. °F	Operating temp. °F	Equipment class designation *	Maximum daily energy consumption kWh/day
Remote Condensing Commercial Refrigerators and Commercial Freezers.	Remote (RC)	Vertical Open (VOP) ...	38 (M)	≥32	VOP.RC.M ..	0.64 × TDA + 4.07.
			0 (L)	<32	VOP.RC.L ...	2.2 × TDA + 6.85.
		Semivertical Open (SVO).	38 (M)	≥32	SVO.RC.M ..	0.66 × TDA + 3.18.
			0 (L)	<32	SVO.RC.L ...	2.2 × TDA + 6.85.
		Horizontal Open (HZO)	38 (M)	≥32	HZO.RC.M ..	0.35 × TDA + 2.88.
			0 (L)	<32	HZO.RC.L ...	0.55 × TDA + 6.88.
		Vertical Closed Transparent (VCT).	38 (M)	≥32	VCT.RC.M ...	0.15 × TDA + 1.95.
			0 (L)	<32	VCT.RC.L	0.49 × TDA + 2.61.
		Horizontal Closed Transparent (HCT).	38 (M)	≥32	HCT.RC.M ...	0.16 × TDA + 0.13.
			0 (L)	<32	HCT.RC.L	0.34 × TDA + 0.26.
		Vertical Closed Solid (VCS).	38 (M)	≥32	VCS.RC.M ...	0.1 × V + 0.26.
			0 (L)	<32	VCS.RC.L	0.21 × V + 0.54.
		Horizontal Closed Solid (HCS).	38 (M)	≥32	HCS.RC.M ..	0.1 × V + 0.26.
			0 (L)	<32	HCS.RC.L ...	0.21 × V + 0.54.
		Service Over Counter (SOC).	38 (M)	≥32	SOC.RC.M ..	0.44 × TDA + 0.11.
			0 (L)	<32	SOC.RC.L ...	0.93 × TDA + 0.22.
Self-Contained Commercial Refrigerators and Commercial Freezers Without Doors.	Self-Contained (SC) ...	Vertical Open (VOP) ...	38 (M)	≥32	VOP.SC.M ...	1.69 × TDA + 4.71.
			0 (L)	<32	VOP.SC.L ...	4.25 × TDA + 11.82.
		Semivertical Open (SVO).	38 (M)	≥32	SVO.SC.M ...	1.7 × TDA + 4.59.
			0 (L)	<32	SVO.SC.L ...	4.26 × TDA + 11.51.
		Horizontal Open (HZO)	38 (M)	≥32	HZO.SC.M ...	0.72 × TDA + 5.55.
			0 (L)	<32	HZO.SC.L	1.9 × TDA + 7.08.
Self-Contained Commercial Refrigerators and Commercial Freezers With Doors.	Self-Contained (SC) ...	Vertical Closed Transparent (VCT).	38 (M)	≥32	VCT.SC.M ...	0.1 × V + 0.86.
			0 (L)	<32	VCT.SC.L	0.29 × V + 2.95.
		Vertical Closed Solid (VCS).	38 (M)	≥32	VCS.SC.M ...	0.05 × V + 1.36.
				<32	VCS.SC.L	0.22 × V + 1.38.
		Horizontal Closed Transparent (HCT).	38 (M)	≥32	HCT.SC.M ...	0.06 × V + 0.37.
			0 (L)	<32	HCT.SC.L	0.08 × V + 1.23.
		Horizontal Closed Solid (HCS).		≥32	HCS.SC.M ...	0.05 × V + 0.91.
			0 (L)	<32	HCS.SC.L	0.06 × V + 1.12.
		Service Over Counter (SOC).		≥32	SOC.SC.M ..	0.52 × TDA + 1.
			0 (L)	<32	SOC.SC.L ...	1.1 × TDA + 2.1.
Self-Contained Commercial Refrigerators with Transparent Doors for Pull-Down Temperature Applications.	Self-Contained (SC) ...	Pull-Down (PD)	38 (M)	≥32	PD.SC.M	0.11 × V + 0.81.
Commercial Ice-Cream Freezers.	Remote (RC)	Vertical Open (VOP) ...	−15 (I)	≤−5**	VOP.RC.I	2.79 × TDA + 8.7.
		Semivertical Open (SVO).			SVO.RC.I	2.79 × TDA + 8.7.
		Horizontal Open (HZO)			HZO.RC.I	0.7 × TDA + 8.74.
		Vertical Closed Transparent (VCT).			VCT.RC.I	0.58 × TDA + 3.05.

Equipment category	Condensing unit configuration	Equipment family	Rating temp. °F	Operating temp. °F	Equipment class designation *	Maximum daily energy consumption kWh/day
	Self-Contained (SC) ...	Horizontal Closed Transparent (HCT).			HCT.RC.I	0.4 × TDA + 0.31.
		Vertical Closed Solid (VCS).			VCS.RC.I	0.25 × V + 0.63.
		Horizontal Closed Solid (HCS).			HCS.RC.I	0.25 × V + 0.63.
		Service Over Counter (SOC).			SOC.RC.I	1.09 × TDA + 0.26.
		Vertical Open (VOP) ...			VOP.SC.I	5.4 × TDA + 15.02.
		Semivertical Open (SVO).			SVO.SC.I	5.41 × TDA + 14.63.
		Horizontal Open (HZO)			HZO.SC.I	2.42 × TDA + 9.
		Vertical Closed Transparent (VCT).			VCT.SC.I	0.62 × TDA + 3.29.
		Horizontal Closed Transparent (HCT).			HCT.SC.I	0.56 × TDA + 0.43.
		Vertical Closed Solid (VCS).			VCS.SC.I	0.34 × V + 0.88.
		Horizontal Closed Solid (HCS).			HCS.SC.I	0.34 × V + 0.88.
		Service Over Counter (SOC).			SOC.SC.I	1.53 × TDA + 0.36.

* The meaning of the letters in this column is indicated in the columns to the left.

** Ice-cream freezer is defined in 10 CFR 431.62 as a commercial freezer that is designed to operate at or below −5 °F *(−21 °C) and that the manufacturer designs, markets, or intends for the storing, displaying, or dispensing of ice cream.

(2) For commercial refrigeration equipment with two or more compartments (*i.e.,* hybrid refrigerators, hybrid freezers, hybrid refrigerator-freezers, and non-hybrid refrigerator-freezers), the maximum daily energy consumption for each model shall be the sum of the MDEC values for all of its compartments. For each compartment, measure the TDA or volume of that compartment, and determine the appropriate equipment class based on that compartment's equipment family, condensing unit configuration, and designed operating temperature. The MDEC limit for each compartment shall be the calculated value obtained by entering that compartment's TDA or volume into the standard equation in paragraph (e)(1) of this section for that compartment's equipment class. Measure the CDEC or TDEC for the entire case as described in § 431.66(d)(2)(i) through (iii), except that where measurements and calculations reference ARI Standard 1200–2006 (incorporated by reference, see § 431.63), AHRI Standard 1200 (I–P)–2010 (incorporated by reference, see § 431.63) shall be used.

(3) For remote condensing and self-contained wedge cases, measure the CDEC or TDEC according to the AHRI Standard 1200 (I–P)–2010 test procedure (incorporated by reference, see § 431.63). For wedge cases in equipment classes for which a volume metric is used, the MDEC shall be the amount derived from the appropriate standards equation in paragraph (e)(1) of this section. For wedge cases of equipment classes for which a TDA metric is used, the MDEC for each model shall be the amount derived by incorporating into the standards equation in paragraph (e)(1) of this section for the equipment class a value for the TDA that is the product of:

(i) The vertical height of the air curtain (or glass in a transparent door) and

(ii) The largest overall width of the case, when viewed from the front.

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Part IV

Federal Communications Commission

47 CFR Part 20
Wireless E911 Location Accuracy Requirements; Proposed Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[PS Docket No. 07–114; FCC 14–13]

Wireless E911 Location Accuracy Requirements

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this *Third Further Notice of Proposed Rulemaking,* the Federal Communications Commission (Commission) proposes to revise its regulatory framework to require delivery of accurate location information to PSAPs for wireless 911 calls placed from indoors. In the near term, it proposes to establish interim indoor accuracy metrics that will provide approximate location information sufficient to identify the building for most indoor calls. It also proposes to add a requirement for provision of vertical location (z-axis or elevation) information that would enable first responders to identify floor level for most calls from multi-story buildings. In the long term, the Commission proposes to develop more granular indoor location accuracy standards, consistent with the evolving capabilities of indoor location technology and increased deployment of in-building communications infrastructure. These standards would provide for delivery to PSAPs of in-building location information at the room or office suite level. The Commission also proposes measures to strengthen existing location accuracy requirements. The Commission requests comment on these proposals to improve location accuracy for wireless 911 calls.

DATES: Submit comments on or before May 12, 2014 and reply comments by June 11, 2014. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before May 27, 2014.

ADDRESSES: Submit comments to the Federal Communications Commission, 445 12th Street SW., Washington, DC 20554. Comments may be submitted electronically through the Federal Communications Commission's Web site: *http://fjallfoss.fcc.gov/ecfs2/.* In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to the Federal Communications Commission via email to *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via email to *Nicholas_A._Fraser@omb.eop.gov* or via fax at 202–395–5167. For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document. Parties wishing to file materials with a claim of confidentiality should follow the procedures set forth in § 0.459 of the Commission's rules. Confidential submissions may not be filed via ECFS but rather should be filed with the Secretary's Office following the procedures set forth in 47 CFR 0.459. Redacted versions of confidential submissions may be filed via ECFS.

FOR FURTHER INFORMATION CONTACT: Dana Zelman of the Policy and Licensing Division of the Public Safety and Homeland Security Bureau, (202) 418–0546 or *dana.zelman@fcc.gov.* For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Judith Boley-Herman, (202) 418–0214, or send an email to *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Third Further Notice of Proposed Rulemaking in PS Docket No. 07–114, released on February 21, 2014. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW., Washington, DC 20554, or online at *http://www.fcc.gov/document/proposes-new-indoor-requirements-and-revisions-existing-e911-rules.*

Summary of the Third Further Notice of Proposed Rulemaking

I. Introduction and Executive Summary

1. The wireless landscape has changed significantly since the Commission first adopted its wireless Enhanced 911 (E911) location accuracy rules in 1996, and even since the last significant revision of these rules in 2010. Consumers are increasingly replacing traditional landline telephony with wireless phones, and a majority of wireless calls are now made indoors. This increase in wireless usage is reflected in how Americans call for help when they need it: today, the majority of 911 calls come from wireless phones. In light of these circumstances, it is increasingly important for Public Safety Answering Points (PSAPs) to have the ability to accurately identify the location of wireless 911 callers regardless of whether the caller is located indoors or outdoors. For purposes of this notice, we use the terms ''mobile'' and ''wireless'' interchangeably. These terms do not encompass, for example, cordless telephones such as those using the DECT standard or PBX handsets using Wi-Fi connectivity.

2. We believe the time has come to propose specific measures in our E911 location accuracy rules to ensure accurate indoor location information. In this *Third Further Notice of Proposed Rulemaking* (*Third Further Notice*), we propose to revise our regulatory framework to require delivery of accurate location information to PSAPs for wireless 911 calls placed from indoors. We limit the scope of this proceeding and the applicability of the proposed requirements set forth in this *Third Further Notice* to CMRS providers (and in limited instances, to their E911 System Service Providers, as discussed below) subject to § 20.18 of the Commission's rules, 47 CFR 20.18(a). Our proposal includes both near- and long-term components. In the near term, we propose to establish interim indoor accuracy metrics that will provide approximate location information sufficient to identify the building for most indoor calls. We also propose to add a requirement for provision of vertical location (z-axis or elevation) information that would enable first responders to identify floor level for most calls from multi-story buildings. In the long term, we seek comment on how to develop more granular indoor location accuracy requirements, consistent with the evolving capabilities of indoor location technology and increased deployment of in-building communications infrastructure. These requirements would provide for delivery to PSAPs of in-building location information at the room or office suite level.

3. In particular, we seek comment on the following proposals, and potential alternatives to these proposals, with respect to indoor location accuracy:

- CMRS providers would be required to provide horizontal location (x- and y-axis) information within 50 meters of the caller for 67 percent of 911 calls placed from indoor environments within two years of the effective date of adoption of rules, and for 80 percent of indoor calls within five years.
- CMRS providers would be required to provide vertical location (z-axis) information within 3 meters of the caller for 67 percent of indoor 911 calls within three years of the adoption of rules, and for 80 percent of calls within five years.
- As is the case of our existing E911 location rules, CMRS providers would

be required to meet these indoor requirements at either the county or PSAP geographic level.

• CMRS providers would demonstrate compliance with indoor location accuracy requirements through participation in an independently administered test bed program modeled on the indoor test bed administered by the Communications Security, Reliability, and Interoperability Council (CSRIC), but providers would have the option to demonstrate compliance through alternative means so long as they provide the same level of test result reliability.

• PSAPs would be entitled to seek Commission enforcement of these requirements within their jurisdictions, but only so long as they have implemented location bid/re-bid policies that are designed to obtain all 911 location information made available by CMRS providers pursuant to our rules.

4. In addition, we examine whether there are additional steps the Commission should take to strengthen our existing E911 location accuracy rules to ensure delivery of more timely, accurate, and actionable location information for all 911 calls. We also seek comment on whether we should revisit the timeframe established by the Commission in 2010 for replacing the current handset- and network-based accuracy requirements with a unitary requirement, in light of the rapid proliferation of Assisted Global Navigation Satellite Systems (A–GNSS) technology in wireless networks and the prospect of improved location technologies that will soon support 911 communication over LTE networks.

5. Specifically, we seek comment on whether to implement the following measures:

• Adopt a 30-second requirement for the maximum time period allowed for a CMRS provider to generate a location fix (''time to first fix'') in order for the 911 call to be counted towards compliance with location accuracy requirements.

• When measuring compliance with location accuracy requirements, allow CMRS providers to exclude short 911 calls (*e.g.,* calls lasting 10 seconds or less) that may not provide sufficient time to generate a location fix.

• Standardize the content and the process for delivery of confidence and uncertainty data that is generated by CMRS providers for each wireless 911 call and delivered to PSAPs on request.

• Require CMRS providers to inform PSAPs of the specific location technology or technologies used to generate location information for each 911 call.

• Accelerate the previously established timeframe for replacing the current handset- and network-based accuracy requirements with a unitary requirement.

• Require that CMRS providers periodically report E911 Phase II call tracking information, indicating what percentage of wireless 911 calls include Phase II location information.

• Establish a separate process by which PSAPs or state 911 administrators could raise complaints or concerns regarding the provision of E911 service.

• Require CMRS providers to conduct periodic compliance testing.

6. In setting forth these proposals, we emphasize that our ultimate objective is that all Americans using mobile phones—whether they are calling from urban or rural areas, from indoors or outdoors—have technology that is functionally capable of providing accurate location information so that they receive the support they need in times of an emergency. We seek comment on whether our proposals in this notice are the best way to achieve this objective, and we encourage industry, public safety entities, and other stakeholders to work collaboratively to develop alternative proposals for our consideration.

II. Background

A. E911 Regulatory History

7. In 1996, the Commission first adopted rules to require CMRS providers to implement basic 911 and E911 services. The Commission divided its wireless E911 service requirements into two stages. The initial stage—Phase I—required CMRS providers to deliver, by April 1998, E911 service that includes the telephone number of the wireless 911 caller and the location of the cell site or base station that received the call. Phase II requires delivery, under a phased-in schedule extending until January 2019, of E911 service that includes the latitude and longitude of the 911 call within specific accuracy and reliability parameters, depending on the location technology that the carriers have chosen: (1) For network-based technologies, within 100 meters for 67 percent of calls, and 300 meters for 90 percent of calls; (2) for handset-based technologies, within 50 meters for 67 percent of calls, and 150 meters for 90 percent of calls.

8. The Commission's E911 Phase II requirements do not distinguish between indoor and outdoor 911 calls. In 2000, the Office of Engineering and Technology (OET) published Bulletin No. 71, providing testing guidelines for wireless licensees to comply with the location accuracy requirements set by the Commission. Later that same year, the Commission noted that the guidelines expressed a preference for basing testing on locations from which 911 calls actually are placed. Further, the Commission construed the OET guidelines as confirming that, for testing accuracy performance, carriers could exclude areas where wireless calls cannot be completed, such as inside high-rise buildings and parking garages. The Commission later clarified that its Phase II requirements apply to outdoor measurements only.

B. CSRIC Indoor Location Accuracy Test Bed Report

9. In June 2012, the CSRIC III Working Group 3 (WG3) released a report concerning its goals and recommendations for an indoor location accuracy test bed WG3 indicated that the purpose of such a test bed would be to provide insight into which technologies are technically feasible and economically reasonable for providing indoor location for wireless emergency calls. WG3 conducted the indoor location test bed during the winter of 2012–2013. The test bed examined whether indoor location technologies could achieve the location result needed for improved public safety response—''actionable location'' with dispatchable address within a tight search ring—for the representative environments (morphologies) where wireless devices are expected to be used, *i.e.,* urban, dense urban, suburban, and rural.

10. WG3 selected the San Francisco Bay Area because it included a variety of different environments within a fairly limited geographic area. The area chosen included several building types (steel, glass, concrete, and masonry) and different building heights that were representative of urban and dense urban environments. WG3 tested the indoor location capability of three technologies: (1) AGPS/AFLT by Qualcomm, (2) RF fingerprinting by Polaris, and (3) network beacon technology by NextNav. The first two technologies are currently commercially available. The third technology is an in-building beacon technology that is independent of the CMRS provider's wireless network and uses calibrated, atmospheric pressure sensors in handsets to provide vertical location information.

11. In March 2013, WG3 issued a report discussing the results of the test bed and making recommendations about how best to move forward on indoor location accuracy (*CSRIC Indoor Location Test Bed Report*). In general, WG3 found that for the four

representative environments analyzed, the test bed results ''show significant promise with respect to high yield, relatively high confidence factors and reliability,'' and ''the ability to achieve improved search rings in the horizontal dimension (often identifying the target building, or those immediately adjacent).'' WG3 concluded that ''additional development is required to ensure'' the provision of an ''actionable location,'' especially in urban and dense urban environments. Moreover, the test bed found ''substantial progress'' in the beacon technology's capability to provide vertical (z-axis) location information, providing approximate floor-level accuracy in a significant percentage of calls.

12. Accuracy results varied by technology and the particular environment.

TABLE 1—CSRIC SAN FRANCISCO TEST BED—LOCATION ACCURACY RESULTS BY TECHNOLOGY

[in meters]

Morphology	Technology					
	NextNav		Polaris		Qualcomm	
Percent of Calls	*67%*	*90%*	*67%*	*90%*	*67%*	*90%*
Dense Urban	57	102	117	400	156	268
Urban	63	141	198	448	227	449
Suburban	29	53	232	421	75	205
Rural	28	45	576	3005.1	48	210

13. Following the WG3 test bed in San Francisco, TruePosition, which did not participate in the test bed, commissioned TechnoCom to test TruePosition's indoor location solution, which is based on hybrid technology consisting of UTDOA and assisted Global Positioning System (A–GPS). In February and early March 2013, TechnoCom conducted the testing, utilizing similar testing standards and methodology as used in the CSRIC test bed. In the urban setting, 67 percent of calls were located within 87.3 meters and 90 percent of calls were located within 140.7 meters. For the suburban environment, 67 percent of test calls were located within 66.1 meters and 90 percent of test calls were located within 116.2 meters.

C. Recent Comments on E911 Phase II Location Accuracy and Call Tracking Data

14. In August 2013, the California chapter of the National Emergency Number Association (CALNENA) filed an *ex parte* with the Commission in PS Docket No. 07–114 raising concerns about what it noted to be a ''significant decrease in the percentage of wireless 9–1–1 calls that delivered Phase II location information'' to its PSAPs. According to CALNENA, California State 911 Office data indicated that more than 55% of the over 1.5 million wireless 911 calls throughout the state in the month of March 2013 did not include Phase II location information. CALNENA noted that this phenomenon was much worse in urban areas, ''possibly suggesting that whatever 9–1–1 technologies the wireless carriers may be using lately are not working for wireless calls placed in or near high rise buildings.''

15. The Commission subsequently received E911 Phase II call tracking data sets from several other state and local public safety entities that either oversee or administer E911 service, which in some cases also indicated a decrease in the percentage of calls to PSAPs that included Phase II location. In September 2013, the Commission's Public Safety and Homeland Security Bureau (Bureau) announced that it would host a public workshop to discuss the issues raised by CALNENA and other E911 Phase II call tracking data sets, as well as recent developments in wireless location technology. The Bureau also invited interested parties to file comments on the E911 call tracking data and related topics for discussion, including current trends that may be affecting the provision and quality of E911 location information delivered to PSAPs.

16. Twenty-two parties filed comments, including four CMRS providers, nine public safety organizations and entities, and eight vendors of location technologies, Next Generation system components, or PSAP consumer premises equipment. On November 18, 2013, the Bureau hosted the E911 Phase II Location Accuracy Workshop.

17. Providers uniformly attribute the declining rates of delivery of Phase II data observed by some PSAPs primarily to PSAPs' not ''rebidding,'' *i.e.,* affirmatively seeking to ''pull'' the data from its source location, to obtain the Phase II data that the carriers are, in fact, providing. Carriers indicate that while Phase II data is not always available to the PSAP on call set-up, it is subsequently delivered to the Mobile Positioning Center (MPC) (for GSM networks) or the Gateway Mobile Location Center (GMLC) (for CDMA networks) and is available for PSAPs through the ''rebidding'' process. Other commenters contend, however, that even if PSAPs were to rebid more frequently, a 30-second delay in obtaining Phase II information is highly undesirable, given that a large percentage of 911 calls are under 30 seconds.

18. There was general agreement among public safety commenters that the majority of calls to 911 are now coming from wireless phones, that this trend is increasing, and that a large number of these calls are made from indoor environments. Vendors argue that indoor location technology has since evolved considerably, suggesting the provision of indoor location information may be within reach.

III. Proposed Indoor Location Accuracy Requirements

19. The record in this proceeding demonstrates that circumstances affecting wireless location accuracy have changed dramatically since the Commission adopted its original Phase II location accuracy rules. As discussed below, the great majority of calls to 911 now originate on wireless phones, and the majority of wireless calls now originate indoors. These changes elevate the importance of ensuring that indoor 911 calls can be accurately located.

20. While PSAPs and CMRS providers may be able to address some of the challenges through technological and operational improvements, the record also indicates that the outdoor-oriented focus of the Commission's Phase II rules to date has created a regulatory ''gap'':

By focusing on outdoor measurements for verifying compliance, our rules provide no remedy to address poor performance of location technologies indoors.

21. In addition to changes in wireless usage, there has also been recent progress in the development of technologies that could support improved indoor location accuracy. The CSRIC test bed results, together with parties' representations that they have since been working on improvements to indoor location technologies, suggest that it is likely that location technologies can begin to be deployed in the near term that would deliver 50-meter location accuracy for many indoor environments with a high degree of reliability. The record also contains data suggesting the feasibility of using barometric pressure sensors in mobile devices to provide rough z-axis information when calls are placed from multi-story buildings. Finally, providers assert that the deployment of LTE networks will be accompanied by improvements in location technology that could drive improved performance for both indoor and outdoor calls, but they also express concern about whether they can realistically meet the proposed requirements based on currently available technology.

22. We believe that it is now appropriate to propose measures designed to address public safety's critical need for obtaining indoor location information, and to ensure that wireless callers receive the same protection whether they place a call indoors or outdoors. In the following discussion, we propose a regulatory framework for addressing indoor location accuracy for wireless calls to 911 from indoors that includes a near-term requirement to achieve approximate indoor location information, comprised of horizontal (x- and y-axis) and vertical (z-axis) location information. We also seek comment on how to formulate a long-term requirement with an increased degree of location accuracy, sufficient to identify the caller's specific address, floor level, and suite/room number within a building. We discuss below the achievability of these technical requirements on our proposed time frames, the potential benefits and costs of our proposed indoor location accuracy requirements, a proposed compliance testing framework, and possible exclusions from the proposed requirements to ensure they are imposed in a way that maximizes the rules' effectiveness while mitigating the potential burdens on CMRS providers. We also seek comment on alternative approaches and, in this regard, invite relevant stakeholders—including public safety and industry—to propose a consensus approach that would help ensure that consumers placing wireless calls to 911 from indoor environments receive the same protections as callers in outdoor environments.

A. Costs and Benefits of Indoor Location Accuracy

23. In developing a regulatory framework for indoor location accuracy, our objective is to implement rules that serve the public safety goals established by Congress. While we acknowledge the potential difficulty of quantifying benefits and burdens, we seek to measure how the availability of indoor location information will benefit the public through reduced emergency response times. We also seek to maximize these benefits, while taking into consideration the burden of compliance to carriers. These costs and benefits can have many dimensions and affect many parties, including, for example, more efficient use of public safety resources; cost and revenue implications for the communications industry; health and financial benefits to the public; as well as other less tangible benefits, such as the value of any reduced or avoided pain and suffering, or the apprehension of criminal suspects. Providing accurate E911 information is particularly important in instances where a caller cannot provide information directly—either because they do not know or cannot communicate their location. We therefore request comment on a wide range of questions that will enable us to weigh the costs and benefits associated with the rules we propose in this *Third Further Notice.*

24. First, in order to assess the potential scope of benefits from our proposed rules, we think it is relevant to assess the scope of current wireless usage, both indoors and outdoors. Overall wireless usage has increased substantially since the Commission adopted its E911 location accuracy rules in 1996. At that time, there were approximately 33 million cellular subscribers in the United States. By the end of 2012, there were more than 326 million wireless subscriber connections. At the end of 2007, only 15.8 percent of American households were wireless only. During the first half of 2013, that number had increased to 39.4 percent (nearly two in every five American homes). Furthermore, certain subsets of American consumers are more likely to use wireless phones—for example, adults living in poverty (54.7 percent) were more likely to be living in households with only wireless phones than adults living near poverty (47.5 percent) and higher income adults (35.3 percent). In addition, younger Americans are more likely to live in households with only wireless phones.

25. Significantly, the majority of 911 calls also now come from wireless phones. In January 2011, *Consumer Reports* reported that 60 percent of 911 calls were placed through wireless phones. More recently, the California Office of Emergency Services indicates that the percentage of 911 calls that came from wireless devices increased from 55.8 percent in 2007 to 72.7 percent as of June 2013. Furthermore, an increasing percentage of wireless calls are placed from indoors. A 2011 study showed that an average of 56 percent of wireless calls were made from indoors, up from 40 percent in 2003. That number is even higher for smartphone users, who represent the majority of wireless phone owners, as 80 percent of smartphone usage occurs inside buildings.

26. The large increase in indoor wireless usage over the last decade has made indoor location accuracy increasingly important. Accordingly, we seek more granular information regarding the percentage of wireless calls placed from indoors and, to the extent available, the percentage of wireless calls to 911 from indoors. We also seek data on the types of indoor environments 911 calls are placed, *e.g.,* in the caller's own home, his or her work location or in public accommodations such as airports, schools and movie theaters. Is it possible to identify the type of building morphology where current location technologies routinely fail to provide accurate location information?

27. We know that indoor locations pose particular challenges for first responders in finding the caller. Indoor incidents are often not visible to the first responder, and a city block in an urban environment could potentially contain thousands of apartments. We seek comment on whether and how the increase in wireless calls to 911 from indoors has affected the delivery of E911 information and the ability of public safety officials to respond to calls for help. Has there been a market failure in the provision of E911 information for wireless calls originating indoors? We seek comment on this issue.

28. We believe that requiring location information for wireless calls to 911 from indoors will result in significant public interest benefits, most importantly in ''promoting safety of life and property.'' As the Association of Public-Safety Officials (APCO) notes, in

''the absence of accurate location data associated with a wireless call, the caller must be questioned in detail to provide verbal information regarding their location. This process can be time consuming and callers are sometimes unable to speak or provide correct information.'' A number of public safety commenters state that virtually any improvements in indoor location capabilities would be desirable, even if relatively modest or incremental.

29. We seek comment on the extent to which such improvements would result in tangible benefits with respect to safety of life and property. A study examining 73,706 emergency incidents during 2001 in the Salt Lake City (*Salt Lake City Study*) area found that on average, a one-minute decrease in ambulance response times reduced the likelihood of 90-day mortality from 6 percent to 5 percent, *i.e.,* a 17 percent reduction in the total number of deaths. This implies that, in the Salt Lake City area, a one-minute reduction in response times would have resulted in an annual saving of 746 lives. If we assume that this outcome is reasonably reflective of the country as a whole, we estimate that the location accuracy improvements we propose could save approximately 10,120 lives annually, for an annual benefit of approximately $92 billion. The Commission has also previously relied on a 2002 study focusing on cardiac emergencies in Pennsylvania (*Cardiac Study*), which showed that when location information was provided contemporaneously with a 911 call, the reduction in response time correlated with an over 34 percent reduction in mortality rates from cardiac arrest within the first 48 hours following the incident. Based on this study, we estimate that for cardiac incidents alone, the proposed indoor location rules may well save at least 932 lives nationwide each year, yielding an annual benefit of almost $8.5 billion. Furthermore, as location information quality improves and latency declines, we expect it will result in an even greater improvement in patient medical outcomes. We seek comment on the reasonableness of our analyses of these studies and our underlying assumptions. We also seek comment on whether the time benefit of vertical location, given the spread in horizontal location, is likely to be more, less, or comparable to the estimated gains in the *Salt Lake City Study* and the *Cardiac Study,* when moving from basic 911 to enhanced 911 services.

30. We also believe that improving location accuracy for wireless calls to 911, including from indoor environments, is particularly important for persons with disabilities and for those who may not be able to provide their address or otherwise describe their location. We seek comment on the increased value and benefits of providing more accurate location information to certain populations, such as people with disabilities, victims of crime, senior citizens and children. All such groups may have less ability to identify and relate to a 911 call-taker where they are located, especially in an emergency situation. In such circumstances, accurate, automatically-generated location information can be critical to saving lives. We seek comment regarding the value and scope of benefits that improved location accuracy would provide in such circumstances.

31. We understand that implementation of indoor location accuracy will likely impose significant costs on providers. We seek comment generally on the costs of indoor location accuracy requirements. The *CSRIC Indoor Location Test Bed Report* indicates that while CSRIC attempted to provide some initial insight into costs associated with implementation of these new technologies, it did not attempt to quantify cost to deploy, cost to operate and maintain, and cost impact to the handset. According to the report:

> Some technologies have relatively low costs upfront to deploy but are relatively costly to operate and maintain. Others have relatively high upfront costs and have lower operational/maintenance costs. Some methods have cost implications in the handset, some to the wireless network, and some impact both. Others require infrastructure development independent of the wireless network. Some require the development and maintenance of various databases to operate. . . . Overall, each location technology requires substantial investment in both time and resources.

We seek detailed information on all of the costs providers estimate our proposed indoor location rules would impose on them, including how these costs were determined.

32. We anticipate that providers may implement different solutions to determine a caller's indoor location, and that each of these solutions may present unique costs. We seek comment on what universal costs would be necessary across all indoor location technologies, as well as on any specific costs that are unique to different technologies. We understand that the specific manner in which we implement any indoor location accuracy requirement, including the degree of accuracy required and the timeframe for implementing any such requirement, potentially would affect providers' costs of compliance. We seek comment on these specific factors and how they might affect costs. Additionally, we seek comment on whether additional costs would be passed on to consumers, resulting in higher rates. If costs are likely to be passed on to consumers, we request information regarding how much rates would increase.

33. Finally, we believe that any costs imposed by our rules might be mitigated, at least to some degree, by the fact that providers are already undertaking significant indoor location technology research and development on their own for commercial, non-911 reasons. We seek further comment on the degree to which commercial development—unrelated to any Commission indoor location capability requirement—could be leveraged to mitigate the costs of compliance. What additional costs would be imposed by the potential indoor location requirements set forth in this *Third Further Notice* above and beyond the costs that commercial carriers would already have in implementing indoor location capabilities for commercial purposes?

B. Near-Term Indoor E911 Location Accuracy Requirements

34. As discussed in greater detail below, we propose that after a reasonable implementation period, CMRS providers subject to § 20.18 of the Commission's rules, 47 CFR 20.18, must (1) locate callers within 50 meters for 67 percent and 80 percent of indoor calls within two years and five years of the effective date of adoption of rules, respectively, and (2) provide vertical (z-axis) data, within 3 meters accuracy, for 67 percent and 80 percent of indoor calls within three years and five years of the effective date of adoption of rules, respectively. We propose that these indoor location accuracy requirements be implemented nationwide. Finally, we propose the institutionalization of an indoor location accuracy test bed for purposes of demonstrating compliance with these requirements and ask about other approaches to validating compliance.

35. We seek to promote several key objectives through these proposed rules: (1) Make indoor location as widely available as technically and economically feasible, tracking recent improvements in location technology; (2) help CMRS providers, public safety entities, and the Commission to monitor performance and compliance; and (3) adopt rules that are technology-neutral, cost-efficient, and easy to understand and administer. We seek comment on how our proposed approach, as well as any potential alternatives—particularly

any consensus proposals from industry and public safety stakeholders—might promote these objectives most effectively. We also seek comment on whether there are any other engineering or other issues, not raised in this *Third Further Notice,* that the Commission should consider with regard to promoting the location accuracy goals in this rulemaking proceeding.

1. Horizontal Location Information

36. *Background.* Prior to the *CSRIC Indoor Location Test Bed Report,* the record generally reflected a consensus that it was premature to impose indoor location accuracy requirements. More recently, after CSRIC's submission of its indoor location test bed report and recommendations in March 2013, some public safety groups and technology vendors now urge the Commission to require some level of accuracy for indoor 911 calls. At the same time, however, some industry representatives suggest that ''future progress [is] needed to meet the expressed needs of the public safety community.'' However, as discussed above, CMRS providers express concern about the ability to move forward with indoor location accuracy requirements at this time.

37. WG3 concluded approximately a year ago that ''additional development is required to ensure'' the provision of an ''actionable location,'' especially in urban and dense urban environments. However, participants in the WG3 test bed have indicated that they were then in the process of making improvements to their technologies. Other parties submit that recent developments in hybrid technologies and solutions show that improvements in location accuracy are being implemented. Some industry representatives note the possibility for improved indoor accuracy with the implementation of small cell networks.

38. *Discussion.* We propose a near-term requirement to achieve ''rough'' indoor location information. We propose to require CMRS providers subject to § 20.18 of the Commission's rules, 47 CFR 20.18, to provide horizontal (x- and y-axis) information for wireless 911 calls that originate indoors. Specifically, we propose to require CMRS providers to identify an indoor caller's horizontal location within 50 meters. We propose that CMRS providers must satisfy this accuracy requirement for 67 percent of calls within two years from the effective date of the adoption of any rules, and for 80 percent of calls within five years from the effective date of the adoption of any rules. Under this proposal, the requirement would apply uniformly to all indoor calls and would be technology-neutral; CMRS providers could use any location technology or combination of location technologies to meet this requirement.

39. We believe that a search radius of 50 meters will provide meaningful information while being attainable in the near-term. A larger search ring, while easier to implement, would not yield sufficiently granular information to be of use to first responders. In the longer term, location information should be sufficiently granular to provide a specific residential or business address, including floor and suite or apartment information. Nevertheless, based on existing technological considerations and the needs of the public safety community, we find that the public safety and interest would be better served by adopting this requirement in the near term rather than allowing a regulatory gap to grow. We agree with CSRIC's observation that the objective should ''be for the smallest possible search ring,'' and we seek comment on our proposed location accuracy requirement of 50 meters.

40. The *CSRIC Indoor Location Test Bed Report* also observed that the participating vendors are currently working on improvements to their location technologies that show promise toward achieving more precise accuracy performance. Additionally, the record and the *CSRIC Indoor Location Test Bed Report* indicate that other vendors are actively working on advances in improving location technologies. We seek comment on the extent to which mandating a 50-meter accuracy requirement to indoor calls—after a reasonable period of time—would encourage CMRS providers to work with location and device vendors to implement the advances being made in indoor location technology.

41. As noted above, the CSRIC test bed examined the RF fingerprinting, A–GPS/AFLT, and beacon technologies of Polaris, Qualcomm, and NextNav, respectively. Horizontal location accuracy varied by technology and the representative environments—dense urban, urban, suburban, and rural. For each environment, CSRIC evaluated the accuracy of each technology for 67 percent and 90 percent of the total number of calls tested. While we acknowledge that the test bed results indicate that further improvement is necessary, we are encouraged that, at least in suburban and rural environments, a 50-meter (or less) search ring can already be produced by existing technology. Further, even if technology currently cannot satisfy the proposed near-term 50-meter accuracy requirement in more challenging indoor environments, the adoption of more stringent requirements for indoor location accuracy, together with a reasonable implementation timeframe, would afford CMRS providers with sufficient time and incentive to develop the necessary technology to enable compliance with the proposed requirement regardless of the environment.

42. We propose to combine the 50-meter accuracy requirement with a reliability threshold of 67 percent in two years and 80 percent in five years. With this requirement, the center point of the uncertainty circle should fall within 50 meters of the true location 67 or 80 percent of the time, as applicable, and must be delivered within 30 seconds. Thus, under the first two-year benchmark, up to 33 percent of calls may either have location outside the accuracy threshold or location data that arrives after a delay of more than 30 seconds. We seek comment on whether the proposed two-stage reliability thresholds of 67 and 80 percent would be useful to public safety entities and technically feasible for CMRS providers to achieve. Under the current E911 requirements based on outdoor measurements, CMRS providers using handset-based location technologies must satisfy a reliability requirement of 67 percent for 50 meters. We also note that CSRIC tested for location accuracy based on the reliability percentages of 67 percent and 90 percent of the total number of calls tested. In proposing this two-stage reliability requirement, we seek comment on whether a reliability metric of 67 percent is adequate to meet the needs of public safety in the current environment. CSRIC considered that the public safety entities need reliable, ''consistent caller location information'' for indoor locations; would a 67 percent requirement provide sufficiently reliable indoor location information? We note that CSRIC's analysis of accuracy measurements versus reliability percentages indicates that an 80 percent reliability requirement for indoor calls, while not achievable now, may be attainable with a 50-meter accuracy requirement in the proposed near-term period. We seek comment on whether two-stage approach to adopting reliability requirement would adequately address public safety needs, and seek comment on any alternative approaches.

43. We also seek comment on whether the proposed two-stage reliability requirements are feasible in light of the types of specific challenges that CMRS providers may confront in indoor environments, such as the proliferation

of signal boosters within buildings. We seek comment on the extent to which these types of indoor-specific challenges may affect a providers' ability to deliver location information in compliance with our proposed reliability thresholds for indoor calls.

44. At the same time, we recognize that certain in-building systems and access devices—such as a Distributed Antenna System (DAS) network—could be programmed to provide specific location information, including building address and floor level information, for the origination of the indoor call. In addition to our proposed 50-meter accuracy requirement, should we consider adopting an alternative indoor location requirement that CMRS providers can satisfy by delivering a caller's building address and floor information? Such a requirement would be consistent with our long-term indoor location objective, which is the delivery of ''dispatchable address'' information, including the caller's building address, floor level, and suite/room number.

45. Further, we propose that the combined 50-meter accuracy and 67- and 80-percent reliability requirements comprise the sole ring for testing indoor location accuracy. We seek comment on this proposal. We note that, in the context of E911 location accuracy based on outdoor measurements, our rules include a ''dual search ring'' system, with different reliability thresholds for 50-meter and 150-meter accuracy. While a dual search ring requirement was a reasonable approach based on outdoor measurements, a search ring larger than 50 meters is unlikely to yield sufficiently granular information to prove useful to public safety in the context of locating a caller indoors.

46. We also seek comment on the costs of imposing a 50-meter accuracy requirement (versus some other benchmark), and a two-stage reliability requirement of 67 and 80 percent (or some other reliability benchmark or dual ring system). We anticipate that a more precise horizontal 50-meter accuracy requirement would come at a higher cost than a less precise accuracy requirement, but to what extent? We seek comment on what any cost differential might be, and whether such costs could be mitigated. For example, would a single 50-meter/67 or 80 percent requirement be more costly to CMRS providers than a dual search ring? For example, would a 50-meter/67 percent, 150-meter/80–90 percent requirement (similar to our existing Phase II E911 requirements based on outdoor measurements for handset-based location solutions) serve to reduce costs?

47. We seek comment on alternative approaches to implementing indoor location accuracy and reliability requirements. For example, a potential alternative approach would be to extend the existing E911 Phase II location accuracy requirements, which currently apply to outdoor measurements only, to indoor environments. While this approach would permit providers to simply apply existing outdoor location accuracy requirements to indoor calls, such an approach could be inconsistent with the Commission's intent to progress towards more granular location data for all wireless calls to 911, and, as discussed above, would be unlikely to result in a sufficiently narrow search ring to be of use to public safety in indoor environments. Further, we think that a uniform indoor accuracy requirement, independent from any existing outdoor location requirements, acknowledges that indoor environments are distinct from outdoor environments. In the *CSRIC Indoor Location Test Bed Report,* CSRIC recommended that the Commission treat indoor location accuracy separately from outdoor location accuracy due to differences in testing and technologies. We seek comment on this analysis and our proposed approach.

48. We also invite alternative approaches that would best weigh the costs and benefits of implementing an indoor location requirement with technical feasibility, timing, and other implementation concerns. In particular, we invite industry and public safety stakeholders to propose consensus-based, voluntary commitments that would address the public safety goals set forth in this proceeding and facilitate closing the regulatory gap between indoor and outdoor location accuracy without the need to adopt regulatory requirements. We seek comment on whether there has been a market failure in the provision of E911 information and, if not, whether the market could be relied upon to address indoor location issues on its own, and within a reasonable period of time. Could voluntary commitments, in conjunction with Commission monitoring of indoor location accuracy developments and actual performance, be sufficient and effective in satisfying the public safety objectives of this proceeding? We invite comment on the potential for voluntary commitments and other consensus-based proposals to address these issues.

49. *Timeframe.* In light of recent developments in wireless technology and usage trends, we believe it is critical to address the gap in our existing E911 regulatory framework regarding indoor location accuracy as quickly as possible. Accordingly, we propose a two-stage implementation timeframe from the effective date of an order adopting indoor E911 location accuracy requirements and seek comment on whether such a timeframe would be technically feasible and economically reasonable. We recognize that the extent to which a provider is able to satisfy a specific accuracy or reliability requirement will be linked to the timeframe allowed for implementation of such requirements.

50. The record, to date, is divided regarding whether location accuracy technology is sufficiently developed to support the near-term implementation of an indoor location accuracy requirement. However, evidence in the record suggests that technology is sufficiently developed to support the implementation of an indoor location accuracy requirement in the near term. For example, CSRIC observed that the participating vendors are currently working on improvements to their location technologies that show promise toward achieving more precise accuracy performance. These results also indicate that at least one indoor location technology is already close to achieving the indoor accuracy requirement equivalent to the existing outdoor handset-based location requirement (50 meters for 67 percent of calls). The record and the *CSRIC Indoor Location Test Bed Report* indicate that other vendors are actively working on advances in improving location technologies. In addition, recent filings suggest that the technology is sufficiently developed to support a near-term indoor location accuracy requirement.

51. We seek comment on whether a two-year timeframe is sufficient for CMRS providers to satisfy the horizontal (x- and y-axis) component of the indoor location accuracy requirement discussed above for 67 percent of indoor 911 calls. We believe that the significant public interest benefits of providing indoor location as soon as possible, combined with the current pace of technological developments, suggest that an expedited timeframe may be feasible and warranted. The CSRIC test bed results, which tested three different technologies—all of which provided reasonably accurate indoor measurements—and subsequent testing by others of their indoor location technology with similar results, suggests that location technology, with further advancements, could satisfy our proposed accuracy requirement within this timeframe. Furthermore, as described above, at least two of the indoor location technologies tested in

the CSRIC test bed are commercially available already, while TruePosition asserts that its solution is already in use by two of the nationwide CMRS providers and ''can easily be paired with existing AGPS capabilities, used by many cell phone networks, in a hybrid solution.'' We seek comment on our analysis. In what timeframe could technologies meet the proposed 50-meter requirement for 67 percent of all indoor calls? Is a five-year timeframe appropriate for technologies to meet the proposed 50-meter requirement for 80 percent of all indoor calls? How long would standards bodies need to develop any necessary standards? What else should the Commission consider with regard to the proposed timeframes?

52. We also seek comment on how any necessary network and handset upgrades would impact the proposed timeline. How long would it take CMRS providers to deploy location accuracy systems capable of meeting the proposed requirements throughout their networks? How long would providers need to obtain the hardware necessary for upgrading handsets to work with newly deployed location accuracy systems? How much time would be necessary for upgraded handsets to enter the marketplace to sufficiently penetrate the marketplace, such that providers could meet the proposed 67 and 80 percent reliability requirements?

53. Some commenters suggest a longer implementation timeframe is necessary, but we believe that the establishment of firm timeframes—together with a clear accuracy requirement—will provide the regulatory certainty necessary for parties to dedicate resources to improving location accuracy technology. Further, the extent and pace of recent advancements in indoor location technology suggests that technical feasibility will not prove to be a barrier to implementation of a near-term, two-year indoor location requirement of 50 meters for 67 percent of calls. Given that there are several different indoor location technology solutions already deployed or under development, we think that a two-year timeframe would allow for the development of technological alternatives and encourage competition among location technology vendors, so that CMRS providers would have a choice of solutions to implement. Two years would also allow time necessary to establish the indoor location accuracy test bed.

54. We also seek comment on alternatives to using the effective date of rules as the trigger for the timeline to comply with proposed indoor location accuracy requirements. For example, to address potential uncertainty in the development of technology, should we consider initiating the compliance timeline only after the test bed administrator certifies that a technology has met the proposed accuracy standards in the test bed? Would any process be necessary or appropriate for opportunity for comment on and Commission review of such a determination? If we used technology certification as the timeline trigger, should we require availability of competitive technology options? Should we retain the two- and five-year timelines proposed above or should they be shortened? Would linkage of the timeline to technology certification reduce the incentive to invest in technological development or create incentives to delay testing in the test bed? What other factors should we consider with regard to the impact of test bed certification on proposed timelines?

55. As another alternative, if the timeline is triggered by the adoption of rules, we seek comment on whether the Commission should consider reevaluating the compliance timeline at some interim point to evaluate the status of testing of location technology. For example, a year after the rules go into effect, the Commission could require the test bed administrator to report to the Commission on the results of technology testing, at which point the Commission could consider whether any adjustments to the timeline are necessary based on how technologies have performed in the test bed. Such an approach would enable the Commission to evaluate progress made during testing while retaining control over implementation timeframes and ensuring that testing efforts proceed in a timely manner. We seek comment on this alternative.

56. We invite parties who disagree with this proposed timeframe to provide specific reasons why more time is necessary, including the steps necessary to implement horizontal requirements and the time necessary to satisfy each step. We also seek comment on whether there have been sufficient advancements in location technology since the CSRIC test bed results. We also understand that additional capital investment may be necessary to meet any new proposed indoor testing requirements. We seek detailed and concrete data regarding the costs of implementing horizontal indoor location accuracy requirements within a two-year timeframe. We also seek comment on alternative reliability standards, as well as on whether we should phase in different reliability standards in conjunction with staged implementation timeframes, or different requirements for specific types of mobile devices (*e.g.,* only 4G-capable devices). Alternatively, would likely development timetables and cost considerations warrant a longer implementation timeframe that would permit integration of the vertical location capability proposed below on the same schedule?

57. *Facilitating Network Migrations and NG911 Transitions.* Whether we adopt the proposed requirements or another approach, we seek to encourage CMRS providers to invest in the near-term as a pathway to achieving more precise indoor accuracy in the long term. We also believe that any near-term indoor location accuracy requirements should take into account long-term E911 and NG911 objectives to avoid requiring significant investment in technologies that could become stranded. In our view, a technology-neutral indoor accuracy requirement should allow CMRS providers flexibility to adopt an indoor location accuracy solution that best fits with their long-term business and technology plans.

58. We seek comment on how best to structure a near-term requirement so that it will promote our longer-term objectives. For instance, what approach would provide incentives to providers to leverage existing investments in implementing technologies in the near-term to facilitate their efforts to meet a long-term accuracy requirement? What effect if any would it have on their ability and incentive to accelerate deployment of the vertical location accuracy goals discussed below? On the transition to NG911? How would the adoption of a near-term 50-meter requirement affect the costs, deployment, and operation of the network upgrades that providers currently are making to deploy 4G technologies? Would the proposed near-term requirements have an adverse impact on current and future requirements work that could also serve to achieve meeting a long-term accuracy requirement? In this regard, we note that CSRIC concluded that more standards work will be required ''to allow practical implementation of many emerging location technologies for emergency services use.''

2. Vertical Location Information

59. *Background.* While horizontal location information is a critical element to locating a 911 caller, a third dimension of location information—a vertical, or ''z-axis'' component—would greatly enhance location accuracy. Vertical location information on a caller's floor height would substantially

benefit first responders trying to locate callers in multi-story buildings.

60. CSRIC II's Working Group 4C (WG4C) was responsible for examining E911 and public safety location technologies in use today, identifying current performance and limitations for use in next generation public safety applications, examining emerging E911 public safety location technologies, and recommending options to CSRIC for the improvement of E911 location accuracy timelines. Among other findings, WG4C identified several challenges with providing a vertical location data, noting in particular that ''[c]urrent data formats for sending location to a PSAP do not support transmission of Z-height, and therefore a change to the relevant standards is required.'' Finally, WG4C recommended that there be an in-depth analysis in the future of z-axis data and how it could be transmitted to PSAP securely.

61. The Commission later tasked CSRIC II with additional investigation of location accuracy. Subsequently, as discussed above, in 2012–2013, CSRIC III's WG3 conducted an indoor location test bed to explore further currently available and future indoor location technologies. Although it did not specifically focus on technologies that could provide z-axis information, one participating vendor, NextNav, tested its indoor location technology for vertical location accuracy in the CSRIC test bed. NextNav provided vertical location accuracy within 2.9 meters and 4.8 meters for the 67th and 90th percentiles, respectively. NextNav's second-generation technology was tested again in 2013 and demonstrated improvements on the results reported in the 2012 test bed, including z-axis performance.

62. WG3 noted that ''[p]ublic safety recognizes that additional work remains before actionable altitude measurements can be broadly provided and utilized to aid first responders, including standardization, commercial availability, and deployment of such technologies.'' However, the record indicates that other vendors have been developing this capability, suggesting that z-axis technology has taken significant strides toward commercial viability since the Commission last considered it. For example, several commenters noted the feasibility of indoor and vertical location and have strongly urged the Commission to develop indoor location accuracy requirements.

63. *Discussion.* In light of advancements in indoor location technologies with vertical capabilities, and the growing use of smartphones with features such as barometric pressure sensors, we believe that vertical location technology has sufficiently matured to propose the near-term inclusion of z-axis location information for wireless 911 calls placed from indoors. Specifically, we propose to require CMRS providers to deliver z-axis location information within 3 meters of the caller's location, for 67 percent and 80 percent of indoor wireless 911 calls within three years and five years of the effective date of adoption of rules, respectively. By using a 3-meter measurement, we are effectively requiring floor level information. A vertical search ring greater than 3 meters from the caller could lead to mistaken floor identification.

64. We think a 3-meter vertical location accuracy requirement is technically feasible. Significantly, based on the test bed report and filings in the record to date, at least one vendor has developed vertical location technology that already can locate callers to within 2.9 meters at the 90th percentile, and others estimate having similar granular capabilities within three to five years. Below, we seek comment on whether an initial deployment requirement of three years from the effective date of our new rules would be achievable, including whether such a timeframe ensures that CMRS providers have sufficient competitive choices of vendors and time to incorporate, test, and deploy their technology of choice, and whether setting such a timetable would spur the advancement of vertical location solutions already in development.

65. We also seek comment on the potential costs associated with a vertical location requirement. If a provider were to modify handsets to incorporate barometers in handsets, for example, what would be the cost per handset? We seek comment on how best to structure a vertical location accuracy requirement to mitigate potential costs to providers while still ensuring PSAPs obtain useful vertical location information. We note that our proposed requirement is technology-neutral, and our proposed approach affords providers with the flexibility to choose the most cost-effective means of integrating vertical location technology into their networks.

66. We also seek comment on whether PSAPs are ready to make use of z-axis location information. In recent testimony before the Senate Commerce Committee, NENA stated that the existing location databases have data fields capable of capturing other location elements, such as z-axis readings. NENA opined that many PSAPs are prepared to accept an extended range of data, once the provider has the capability to capture such data. We note that elevation and floor level information have been an optional component of ALI standards for several years. Polaris Wireless, however, notes that ''PSAP call takers must be able to visualize vertical location information in computer-aided design (''CAD'') or other display formats in order to dispatch personnel to the correct place'' and that ''significant challenges lie ahead in designing and upgrading public safety equipment, databases, and procedures in preparing for future availability of vertical information.'' In addition, NextNav states that ''many PSAPs are not presently prepared to fully utilize Z-axis data in the emergency dispatch process because they do not have accurate mapping systems to convert Z-axis data into floor-level dispatchable information.'' To the extent that PSAPs must take additional measures to be capable of receiving z-axis information, we seek comment on what steps must be taken and any corresponding costs, as well as the timeframe in which these steps reasonably could be completed.

67. *Timeframe.* We seek comment on a reasonable timeframe for provision of vertical (z-axis) information. We recognize that the development of vertical location technology, the incorporation of these capabilities into a sufficient number of consumer handsets, and the development of any necessary industry standards, may take additional time. We therefore propose that CMRS providers must deliver z-axis information for 67 percent of calls within a three-year timeframe and for 80 percent of calls within a five-year timeframe. We seek comment on whether this would afford a sufficient implementation period. We seek comment on any necessary developments that must take place in order for the delivery of z-axis information would be feasible.

68. Commenters should explain what the path to implementation of a z-axis requirement would look like, including specific steps and corresponding timeframe estimates. We note that only one vendor participating in CSRIC's indoor location accuracy test bed provided location information with a z-axis component. In this regard, CSRIC states that, ''even the best location technologies tested have not proven the ability to consistently identify the specific building and floor, which represents the required performance to meet Public Safety's expressed needs. This is not likely to change over the next 12–24 months.'' Several commenters also argue that vertical

location technology is not yet sufficiently developed or widely enough available to reasonably require providers to support this capability at present.

69. At the same time, however, based on the CSRIC test bed results and on filings in the record to date, at least one vendor has developed vertical location technology that already can locate callers to a more granular degree than what we propose here, and others estimate having similar granular capabilities within three to five years. In addition, nearly all smartphones are now equipped with sensors that can determine speed, compass direction, and movement. Thus, many devices can now gauge direction, turns, speed, and height above sea level, and thereby generate a three-dimensional view of the user's location. We believe that this trend will continue. We seek comment on these developments, and how these trends should affect the ability of CMRS providers to provide z-axis information for 67 percent of calls within three years and 80 percent of calls within five years. As discussed above, we also seek comment on whether test bed certification should serve as a triggering date rather than the effective date of the adoption of rules. Alternatively, if the timeline is triggered by the adoption of rules, should the Commission consider reevaluating the compliance timeline at some interim point to evaluate the status of testing of location technology?

70. Finally, we seek comment on the timeframe in which a significant fraction of PSAPs would be capable of receiving and processing z-axis information, and how that should impact the timeframe in which a z-axis requirement could reasonably be imposed on CMRS providers, or whether PSAPs are ready to accept z-axis information today. In addition, we seek comment on any technical, operational, manufacturing, or other issues that may impact CMRS providers' ability to implement the proposed requirement in the near future.

3. Implementation Issues

a. Compliance Testing for Indoor Location Accuracy Requirements

71. *Background.* As noted above, our current Phase II location accuracy rules contain no requirement for testing compliance with the standards or for reporting the results thereof. Despite the acknowledged difficulties with indoor testing, the International Association of Chiefs of Police suggested that the Commission nevertheless formulate a testing regime that requires periodic indoor testing to verify compliance. NENA and APCO concurred. Location technology vendors also supported indoor location testing. Many commenters also urged the Commission to consider the standard developed by ATIS (ATIS–0500013), in collaboration with public safety entities, to assess the performance of indoor wireless location technologies. *See* ''Approaches to Wireless E9–1–1 Indoor Location Performance Testing,'' ATIS Technical Report 0500013.

72. *Discussion.* We believe that WG3 demonstrated the feasibility of establishing a test bed for purposes of evaluating the accuracy of different indoor location technologies across various indoor environments. Accordingly, we propose that a test bed approach, representative of real-life call scenarios, would be the most practical and cost-effective method for testing compliance with indoor location accuracy requirements. Specifically, we propose a rule requiring CMRS providers to participate in an independently administered test bed program that is representative of real-life call scenarios and that includes, but is not limited to, the following testing components:

- Testing in representative indoor environments based on standards adopted by an industry standards body group;
- Testing for the following performance attributes: location accuracy, latency (Time to First Fix), and reliability (yield);
- Requiring CMRS providers to show that the indoor location technology used for purposes of its compliance testing is the same technology (or technologies) that it is deploying in its network, and is being tested as it will actually be deployed in the network.

As an alternative, however, we also propose that CMRS providers may use other testing methods that may better suit their particular business plans or practices. In order to maintain the same level of test result reliability, however, CMRS providers must demonstrate that their alternative methodology and testing procedures are at least equivalent to the testing methodology and procedural standards used in the independently administered indoor location accuracy test bed. In using alternative testing methods, CMRS providers would need to provide the same information about the location technologies' effectiveness, and also show that the indoor location technology used in the test bed is the same technology deployed in their network.

73. Certification under either the proposed test bed or an alternative test methodology (of equivalent reliability) would provide a safe harbor to demonstrate that the CMRS provider meets the indoor location accuracy requirement Under our safe harbor proposal, a technology that meets the location requirements in the test bed, upon certification by the CMRS provider that it has been deployed in a manner consistent with the test bed parameters, would be presumed to comply with the Commission's rules, without the need for the provider to conduct indoor testing in all locations where the technology is actually deployed. We seek comment on the practical effect of this safe harbor. What factual showing would be necessary to overcome the presumption of compliance? If a compliance issue arises that overcomes the presumption, should we afford the provider an opportunity to resolve the issue before considering initiation of enforcement action? If the provider can demonstrate that it is using best efforts to meet the accuracy requirements, but is prevented from doing so by circumstances beyond its control, should we limit the scope of potential enforcement activity? We seek comment on these issues.

(i) Test Bed Methodology

74. We propose that CMRS providers may demonstrate compliance with indoor location accuracy requirements by participating in an independently administered test bed program. Certification by the test bed administrator would provide CMRS providers a ''safe harbor'' that they meet any indoor accuracy requirements we may adopt in this proceeding. As part of the test bed participation, CMRS providers must show that the indoor location technology used in the test bed is the same technology deployed in their networks, with similar parameters, such as beacon or cell tower density and topology. We believe that such an independently administered program would provide an objective platform for testing the accuracy of the provider's chosen indoor location technology in a variety of representative indoor environments and building types, without requiring ubiquitous in-building testing, and that such an approach would mitigate the potential costs of compliance testing.

75. Based on the record and the methodology used by WG3 for its test bed, we propose certain minimal test bed requirements. Specifically, the test bed must (1) include testing in representative indoor environments; (2) test for certain performance attributes (discussed in greater detail below); and (3) require CMRS providers to show that

the indoor location technology used for purposes of its compliance testing is the same technology (or technologies) that it is deploying in its network, and is being tested as it will actually be deployed in the network. We discuss each of these proposed requirements below. We also seek comment on which aspects of the testing process—administrative, technical, and operational—should be set forth in our rules and which are better left to the discretion of the test bed administrator.

76. *Representative Environment.* First, we propose that the test bed should reflect, to the extent possible, a representative sampling of the different real world environments in which CMRS providers will be required to deliver indoor location information. We seek comment on whether, by doing so, the test bed could provide reliable information about how location technologies perform in different circumstances, without necessitating ubiquitous testing in real-world environments. Both WG3 and commenters note that the industry standards body group, ATIS, has adopted indoor testing standards incorporating representative test environments rather than ubiquitous testing. The CSRIC WG3 test bed used dense urban, urban, suburban and rural morphologies, as defined by the ATIS–0500013 standard. We seek comment on whether these morphologies are sufficiently representative and inclusive of the variety of indoor environments in which wireless 911 calls are made, or whether there are different environments that should be included.

77. *Performance Attributes.* We propose that any location accuracy test bed must evaluate a CMRS provider's choice of location accuracy technology in light of several key performance requirements: Location accuracy, latency (TTFF), and reliability (yield). For purposes of determining compliance with the location accuracy and TTFF requirements, we propose to follow the methodology used by WG3 in its test bed. For location accuracy, the CSRIC test bed computed ''the error in estimating the location of the device under test by comparing each vendor's reported horizontal position . . . to the surveyed ground truth position of the test location (determined through a precise land survey).'' Further, ''[e]ach test call (or equivalent) was assumed to be independent from prior calls and accuracy was based on the first location delivered by the vendor after 'call initiation.' '' With regard to latency, the CSRIC test bed calculated TTFF by ''establishing the precise time for call initiation (or an equivalent initiation event if the vendor's test configuration did not support the placement of an emulated emergency test call).'' More specifically, we propose to measure latency from the time the user presses SEND after dialing 9–1–1, to the time the location fix appears at the location information center.

78. We propose that providers measure yield in the test bed for purposes of testing whether a location technology satisfies that proposed reliability requirement. With respect to yield, the CSRIC test bed defined the ''yield of each technology . . . as the [percentage] of calls with delivered location to overall 'call attempts' at each test point.'' As with indoor calls in real-world scenarios, however, not all test call attempts will actually connect with the testing network established for the test bed and therefore constitute ''completed'' calls. In view of the difficulties that WG3 encountered in testing indoor locations, we propose a modified definition of yield for purposes of determining compliance with the proposed 67 and 80 percent reliability requirements in the test bed. We therefore suggest that the yield percentage be based on the number of test calls that deliver a location in compliance with any applicable indoor location accuracy requirements, compared to the total number of calls that successfully connect to the testing network. We propose to exclude calls that are dropped or otherwise disconnected in 10 seconds or less, for which providers do not get a Phase II fix, from calculation of the yield percentage (both the denominator and numerator). We seek comment on this proposed calculation of yield.

79. For purposes of assessing yield, we propose that CMRS providers should satisfy the 67 and 80 percent reliability requirements for each individual indoor location morphology (dense urban, urban, suburban, and rural) in the test bed, and based upon the specific type of location technology that the provider intends to deploy in real-world areas represented by that particular morphology. We believe this approach is consistent with our proposal that providers must satisfy the location accuracy requirement at the PSAP- or county-level. We seek comment on this approach.

80. Finally, we seek comment on whether the foregoing metrics are sufficient for assessing each performance requirement and our proposed indoor location requirements as a whole. What other performance requirements, if any, should we require to determine compliance with our proposed location accuracy requirements?

81. *Testing to Emulate Actual Network Deployment.* We propose that a CMRS provider must show both (1) that the indoor location technology used for purposes of its compliance testing is the same technology that will be deployed in its network, and (2) that this technology is being tested as it will actually be deployed in the CMRS provider's network. The CSRIC test bed tested both commercially available technologies as well as new and emerging technologies. Accordingly, two of the three participating vendors could not test their technology as it would be deployed in a provider's network to provide an end-to-end E911 location solution. For this reason, technical performance in the test bed was necessarily different than what could be achieved in an actual production implementation. We seek comment on our proposal to require testing of the indoor location technology to be used as it will actually be deployed in CMRS provider's network. Moreover, we seek comment on the feasibility of establishing a test bed that addresses our concerns that any compliance test bed provide a close simulation of real-world indoor calling scenarios. Are there factors such as beacon or cell tower density and topology that may cause the test bed results to differ materially from performance for actual 911 calls outside the test bed? Should the test bed be constrained to a small geographic area, similar to the CSRIC IV example, or should the selection of test points change periodically or cover a larger geographic area?

82. *Test Bed Approach.* In order to accommodate a technology-neutral approach and to encourage advancements in indoor location technology, as well as to avoid the costs of unnecessary testing requirements in a given situation, we think it appropriate to allow for some flexibility in compliance testing procedures. For this reason, we propose allowing the indoor test bed administrator sufficient discretion to determine the actual test approaches to be used, *e.g.,* the number of test points, number of test calls, and the best combination of devices to test simultaneously per technology. We seek comment on this proposal.

83. *Test Bed Administration.* WG3 indicated that a competent and reliable administration is necessary in order to establish and operate an effective test bed. There are multiple administrative issues inherent in setting up any test bed for purposes of compliance testing, including (1) selecting an independent

test bed administrator; (2) establishing a test bed funding mechanism; (3) finding an acceptable third-party test house or houses; (4) establishing and maintaining the test bed, including maintenance of any data and data confidentiality, and (5) establishing and administering a certification process for CMRS providers to demonstrate compliance with the Commission's indoor location accuracy requirements. We seek comment on these views and on whether there are any other such administration issues that we should consider.

84. The Commission recently renewed the CSRIC charter for an additional two years, asking CSRIC IV WG1 to examine many of the foregoing issues. Its report on these issues is due in June 2014. While CSRIC IV WG1 is not considering requirements for the establishment and administration of an ongoing test bed for the specific purpose of assessing compliance with location accuracy requirements, we expect that its recommendations will be informative. As such, we direct the Bureau to seek further comment on them in this proceeding. These comments should address whether the test bed being developed by CSRIC IV WG1 would be sufficient for the purpose of compliance testing for indoor location accuracy.

85. We also note that the test bed CSRIC IV WG1 is developing would not include a certification component. Is such a certification requirement necessary or appropriate? Are there other Commission compliance regimes (such as for equipment authorizations pursuant to part 2 of our rules) that may serve as appropriate models? We seek comment on how any compliance certification process should work for the indoor location accuracy compliance test bed. We also ask commenters to provide us with cost estimates for the certification component of the indoor location accuracy compliance test bed.

(ii) Alternative Testing Methods

86. As an alternative to the test bed method outlined above, we propose to allow CMRS providers to demonstrate compliance with our indoor location accuracy requirements through alternative means. We believe this would serve the public interest by allowing CMRS providers the flexibility to test their indoor location accuracy solution in a manner that suits their particular business needs while, at the same time, maintaining the same level of test result reliability. We also propose that CMRS providers could combine resources to develop their own test methodology. We propose, however, that CMRS providers choosing an alternative approach must demonstrate in any certification requirement that their methodology and testing procedures are at least equivalent to the rigor and standards used in the independent location accuracy test bed approach discussed above. Thus, they would have to provide the same information about the technologies' effectiveness and also show that the indoor location technology used in the test bed is the same technology deployed in their network.

87. What is the feasibility of allowing CMRS providers to develop such an alternative mechanism for testing indoor location accuracy? For example, how should the Commission determine whether CMRS providers choosing to forego the test bed have demonstrated that their methodology and testing procedures are at least equivalent to the rigor and standards used in the test bed approach discussed above? Should we require providers electing to use an alternative testing approach to file their proposed approach with the Commission in advance, in order to allow us to review their proposed methodology? What further requirements, if any, are appropriate and necessary to ensure that a provider using an alternative testing approach is satisfying our accuracy requirements? Finally, should the Commission leave it to the industry to determine whether and how to establish any jointly used program in order to save costs?

(iii) Test Frequency

88. We seek comment regarding the extent to which CMRS providers should be required to re-test the accuracy of their indoor location technologies. For example, as CMRS providers make material upgrades to their networks and handsets to incorporate new or updated system and location technologies, further testing might be appropriate to show that the system continues to satisfy any indoor location accuracy requirements. What types of changes would be substantive enough to warrant re-testing? Alternatively, should we require periodic re-testing, regardless of whether a provider has made any significant updates to its network? We also seek comment on any alternative methods that might best ensure that indoor location technologies continue to comply with our requirements.

(iv) Confidentiality of Test Results

89. Under the WG3 test bed regime, all parties agreed that raw results would be made available only to the vendors whose technology was to be tested, participating wireless providers, and the third-party testing house. In order to protect vendors' proprietary information, only summary data was made available to all other parties. Should these restrictions be carried forward to the proposed indoor location accuracy test regime? Or should some or all test data also be made available to the Commission, or to requesting PSAPs and other 911 authorities? We note that APCO states that ''test results need to be shared with relevant PSAPs,'' and that ''PSAPs may also want to conduct independent tests to verify accuracy data.'' Moreover, given the extent to which mobile wireless communications services are becoming increasingly central to the day-to-day lives of Americans, should this data also be available, at least to some extent, to the public? Can and should the Commission's location accuracy requirements and enforcement of compliance therewith preempt any state or local determinations to the contrary, absent agreements between CMRS providers and PSAPs for more stringent requirements?

(v) Cost/Benefit Analysis

90. We also seek comment on the costs and benefits of all of our proposed compliance testing measures, as well as on additional ways to reduce the costs of compliance testing, without adversely impacting the reliability and accuracy of the test results. CSRIC reported that the 2013 test bed cost approximately $240,000. We anticipate that the costs of the proposed indoor test bed program may exceed that amount for several reasons. CSRIC noted that its test bed costs were for only the limited San Francisco Bay area, tested with a limited number of test points. If a single test bed remains sufficient for determining compliance with our indoor location accuracy requirements, we anticipate that costs will not increase substantially in this regard. However, larger or additional test beds may be necessary for purposes of compliance testing, which would increase costs. A larger number of test points and the participation of more CMRS providers and location technology vendors could also increase costs. Further, CSRIC noted that, in some instances, the test bed process did not include testing the end-to-end E911 solution as it would be deployed in a carrier's network, which may increase costs.

91. Nevertheless, we believe that the broader test bed approach proposed here, based on testing in representative environments, is likely to cost significantly less than ubiquitous in-building testing. Both the record and CSRIC's report indicate that ubiquitous in-building testing is likely to be both costly and impractical due to security

and permission issues that make it difficult to access private buildings. Based on CSRIC's recommendation to test in representative environments and on initial CMRS industry comments supporting CSRIC's and standards body processes, we find that, by avoiding the need for ubiquitous testing, our proposed test bed process would significantly lower costs. Moreover, it would reduce the costs of participation by CMRS providers, by providing them the opportunity to share costs for the test bed. We also propose that CMRS providers may choose an alternative testing means. This may afford a way for CMRS providers to test their indoor location technology in a more cost-effective manner, depending upon their particular business plans. We seek specific cost data, where available, and comment on all of the foregoing, and any other, factors related to the implementation costs of an indoor location accuracy compliance test bed.

b. Applicability of Indoor Location Accuracy Requirements

92. We propose to apply the indoor location accuracy requirements on a nationwide-basis, across all geographic areas. As noted earlier, one of our key objectives is to make indoor location as widely available as is technologically and economically feasible. While we recognize that certain indoor environments are more likely to present challenges in identifying a caller's location, other indoor environments may not present greater challenges than outdoor environments. Based on the CSRIC test bed results, as well as additional information regarding the ability of location-based technologies to perform indoors, we believe that existing location-based technology is sufficient to identify a caller's location in a number of indoor environments already, and that providers might be capable of satisfying indoor location requirements nationwide within a reasonable period of time. CMRS providers also confirm that A–GPS technology works well in most indoor locations, and U.S. Census data suggests that the majority of indoor environments are likely to be the types of structures that are suitable for A–GPS location-based solutions. A 2011 peer-reviewed journal article, which presented the results of a study evaluating the ability of GPS- and A–GPS-enabled mobile phones to identify reference locations with known coordinates in an indoor two-story structure, found that whenever a valid GPS position fix was obtained, the maximum positional error never exceeded 100 meters, even when considering the indoor tests. *See* P. A. Zandbergen and S. J. Barbeau, ''Positional Accuracy of Assisted GPS Data from High-Sensitivity GPS-enabled Mobile Phones,'' 64 *Journal of Navigation* 3, pp. 381–399 (July 2011). We anticipate that additional improvements in location technologies since that time, together with advancements that will take place over the new few years, will reduce this potential for error even further. For example, additional global navigation satellite systems are being deployed or activated, such as GLONASS, Galileo and Compass.

93. Given the ability of A–GPS to perform well across a large number of indoor environments, together with the fact that the majority of CMRS providers are already using handset-based, A–GPS solutions, we believe that only a limited number of environments would require additional infrastructure in order for CMRS providers to comply with our proposed indoor accuracy requirements. We therefore believe that indoor location across all areas is technologically feasible, as well as economically reasonable. We seek comment on this analysis.

94. Alternatively, we ask whether we should apply our proposed indoor location accuracy requirement in a more targeted fashion, and if so, how? For example, would it be more effective to phase in application of the indoor location accuracy requirements, by first focusing on areas throughout the nation with the largest volume of indoor calls? If so, should we limit the application of our horizontal indoor location accuracy requirements to urban areas? The Census Bureau defines ''urban'' as ''[c]ore census block groups or blocks that have a population density of at least 1,000 people per square mile (386 per square kilometer) and surrounding census blocks that have an overall density of at least 500 people per square mile (193 per square kilometer).'' ATIS also provides definitions of ''urban'' and ''dense urban'' areas. *See* ATIS, Define Topologies & Data Collection Methodology Technical Report (ATIS–0500011). We seek comment on whether the Census Bureau or ATIS definitions would provide a useful basis for defining and focusing the application of indoor location requirements.

95. As another alternative, we seek comment on whether we should allow certain exclusions from the indoor location requirements. For example, should we exclude certain geographic areas from the indoor location requirements and if so, what areas should be excluded and why? What other potential distinctions might be appropriate? Should, for example, different considerations apply in with respect to vertical accuracy? Rather than establishing exclusions, should any exclusions be reported on a case-by-case basis? Our current E911 regulatory framework currently allows providers to file reports noting certain exclusions, such as areas with dense forestation. We also seek comment on how compliance based on one or more test beds, as discussed above, would affect the definition of areas to exclude. We also seek comment on whether we should establish any exceptions for smaller wireless providers and, if so, why. Rather than excluding certain areas from indoor location requirements, would it be more appropriate to apply a different accuracy threshold (for example, 100 meters instead of 50 meters) in certain indoor environments?

96. As noted above, we anticipate that the z-axis requirement should be applied co-extensively, in the same geographic areas, with any x- and y-axis indoor requirements. In the alternative, we seek comment on whether we should apply the z-axis requirement to only a subset of those environments where we apply the horizontal indoor location requirement, or otherwise apply the z-axis requirement in a manner that is independent from the application of horizontal indoor location requirements.

97. Finally, we seek comment on any other alternative approaches that would enable us to focus the application of indoor location requirements in the most effective and cost-efficient way possible. We recognize that the implementation of any indoor location accuracy requirements will impose costs on CMRS providers, and seek comment on the ways in which any implementation requirements could be designed to mitigate those costs to the extent possible, without sacrificing our important public safety objectives. We seek detailed comment on the costs associated with each of the proposed alternatives. We also seek comment on how we these different approaches may affect smaller CMRS providers and whether there are particular measures we should take to minimize the potential burdens on these smaller providers.

c. County/PSAP-Level Measurements; Enforcement Tied to PSAP Readiness

98. Under § 20.18(h) of the Commission's rules, 47 CFR 20.18(h), licensees subject to § 20.18(h) must satisfy the existing E911 Phase II requirements at either a county-based or PSAP-based geographic level. We propose to adopt this standard here, and

require CMRS providers to satisfy the proposed indoor location accuracy requirements on a PSAP-level or county-level basis. This geographic requirement has been in place since 2010, and we believe that it continues to provide a sufficient degree of accuracy to PSAPs in most cases. We also believe that extending this requirement to indoor location accuracy requirements would be most efficient and cost-effective for CMRS providers, by allowing them to choose which requirement best meets their needs based on individualized factors like natural and network topographies. We recognize, however, that a county- or PSAP-based requirement may be difficult to verify if testing is performed within a more geographically constrained test bed, as proposed above. We seek comment on this proposal.

99. We intend that CMRS providers' investment in and deployment of improved indoor location capabilities are targeted towards those PSAPs or counties that are capable of utilizing this location information. In this regard, PSAPs would be entitled to seek Commission enforcement of these requirements within their jurisdictions, but as a precondition would be required to demonstrate that they have implemented bid/re-bid policies that are designed to obtain all 911 location information made available to them by CMRS providers pursuant to our rules. In this manner, we also intend to ensure we receive consistent and reliable E911 call tracking data, based on all available E911 information, in connection with any claims for enforcement action. We note that the accurate and reliable delivery of E911 location information depends upon the willingness and readiness of PSAPs and CMRS providers to work together. We seek comment on this proposal.

d. Liability Protection

100. *Background.* In general, liability protection for provision of 911 service is governed by state law and has traditionally been applied only to LECs. However, Congress has expanded the scope of state liability protection by requiring states to provide parity in the degree of protection provided to traditional and non-traditional 911 providers, and more recently, to providers of NG911 service.

101. *Discussion.* We recognize that adequate liability protection is needed for CMRS providers to proceed with implementation of the indoor location accuracy requirements. The recent NET 911 Act and Next Generation 9–1–1 Advancement Act have significantly expanded the scope of this liability protection, and we believe this provides sufficient liability protection for CMRS providers. Nevertheless, we seek comment on whether there are additional steps the Commission could or should take—consistent with our regulatory authority—to provide additional liability protection to CMRS providers. Do CMRS providers have sufficient liability protection under current laws to implement our proposed indoor location accuracy requirements, or is additional protection still necessary or desirable? Have there been instances where this liability protection has proven to be insufficient?

102. More specifically, we seek comment on liability concerns that may be raised in conjunction with the possible adverse effect on indoor location accuracy from signal boosters. At the time of the *Signal Booster Report and Order,* 28 FCC Rcd 1663 (2013), the Commission noted that its existing E911 location accuracy requirements do not apply to calls placed indoors, where we expect the vast majority of multiple dwelling unit calls will be placed. Because we now propose to apply location accuracy requirements to indoor calls, we seek comment regarding any liability concerns with regard to the operation of signal boosters, and in satisfying our proposed indoor location accuracy requirements. CMRS providers commenting in the *Signal Booster Report and Order* were especially concerned about liability for location accuracy when those capabilities are affected by signal booster use. Have these liability concerns abated in any way, in light of technological developments that might improve location accuracy or based on liability protection afforded by existing laws? If not, what position, if any, could and should the Commission take regarding potential liability for interference with location accuracy technology from signal booster use, whether in the multiple dwelling unit context or otherwise?

e. Waiver Process

103. We seek comment on whether we should adopt a specific waiver process for CMRS providers who seek relief from our indoor location accuracy requirements. As discussed above, we seek to adopt cost-efficient, technology-neutral rules that are easy to understand and administer. In doing so, we intend to allow CMRS providers flexibility to comply with any indoor location accuracy requirements in a manner that suits their particular business plans and technology choices. At the same time, however, we recognize that there may be instances where a provider may require limited relief. In general, the Commission's rules may be waived for good cause shown. In the context of its E911 Phase II requirements, the Commission recognized that technology-related issues or exceptional circumstances could delay providers' ability to comply with the requirements, and that such cases could be dealt with through individual waivers as these implementation issues were more precisely identified.

104. We seek comment on whether our existing waiver processes are sufficient for purposes of any indoor location accuracy requirements, or whether we should adopt a waiver process that is specific to indoor location accuracy. In the event that commenters believe a specific waiver process would serve the public interest, we seek comment on how such a specific waiver process would be implemented. Furthermore, should we establish criteria for a streamlined process for waiver relief? For example, under one potential approach, providers who believe they cannot comply with a particular indoor location accuracy benchmark, despite their good faith efforts, may submit a certification to this effect six months prior to the applicable benchmark. The certification must include an alternative timeframe for satisfying the benchmark, as well as an explanation of how they will achieve compliance within this alternative timeframe. In the event a provider submits such a certification, and provided the certification is not false and the alternative timeframe is not unreasonable, should we defer enforcement action during the pendency of the alternative timeframe? What additional criteria, if any, might be warranted to justify a waiver or extension of time to satisfy an indoor location accuracy benchmark? We seek comment on how best to structure a waiver process that ensures providers take their obligation to satisfy indoor location accuracy requirements seriously, while at the same time acknowledging that unforeseeable circumstances might arise that would justify limited relief.

C. Long-Term Indoor E911 Location Accuracy Requirements

105. In developing a framework for E911 location accuracy, we seek comment on how any potential near-term requirements would operate in a NG911 environment, as well as how these requirements could facilitate the Commission's long-term location accuracy objectives. The accuracy requirements discussed above only provide for a ''rough'' approximation of

a wireless 911 caller's location. The proposed requirements for horizontal location within 50 meters and z-axis information within 3 meters could still result in building misidentification, and are insufficiently granular to provide room or apartment-level location. We agree with commenters who assert that public safety would be best served through the delivery of a dispatchable address. Commscope, however, notes that delivering location information in the form of a civic address may be better addressed in the context of NG911, because NG911 architecture allows for the explicit communication of floor and building address information, rather than conventional Phase II E911.

106. Over the long term, we seek comment on how to formulate requirements that would require sufficiently granular location information to provide PSAPs with ''dispatchable'' address information, which would include a building address as well as specific floor and suite/room number information for indoor calls. We seek comment on this goal, including its costs and benefits. We also seek comment on what technologies might facilitate the delivery of dispatchable address information, and within what timeframe. We also seek comment on what future location-based solutions and NG911 technologies may make the provision of dispatchable address information easier. In the following sections, we seek comment on ways in which we can take steps towards achieving our long-term indoor location objectives.

1. Leveraging Indoor Network Access Technologies

107. We seek comment on ways in which we can take steps towards achieving our long-term indoor location objectives by leveraging measures that CMRS providers are already taking to expand and enhance their networks. For instance, to account for technical difficulties of urban and indoor environment, CMRS providers are already deploying both small cells and DAS to improve and expand their network coverage and speed. In its report on leveraging location-based services for E911 purposes, CSRIC noted that ''[a]s cell sizes shrink, the location of the serving cell itself may suffice for a position estimate for both E9–1–1 call routing and first responder dispatch [because] the base station itself can be a Phase II positioning technology.'' *See* CSRIC III WG3, Leveraging LBS and Emerging Location Technologies for Indoor Wireless E9–1–1 (March 14, 2013) (*CSRIC LBS Report*).

108. We seek comment on whether small cells and DAS could be leveraged to provide critical location information for public safety entities responding to emergencies located indoors, and if so, how. In particular, we seek comment on whether, as part of a long-term indoor location solution, CMRS providers should be subject to a requirement to program all small cell and geographically identifiable DAS extensions of their CMRS networks with address information at the time of installation and/or prior to the commencement of commercial service using the small cell or DAS. We also ask whether wireless providers should also program existing small cell and DAS deployments with location information whenever those sites and system are upgraded or replaced.

109. We seek comment on the technical feasibility of programming both small cells and DAS with location information, as well as the feasibility of installing A–GPS chips within small cell nodes and DAS antennae. We note that Navanu, a location technology vendor, submits that its technology incorporates a passive RF analyzer that can also be ''embedded within . . . a DAS system . . . or any wireless broadband access point'' and ''can isolate a signal from a mobile [device] and map the device location.'' Can CMRS providers currently configure small cells, DAS, and industrial signal boosters to provide this information? If not, what additional developments must be made? Would additional work be necessary to develop industry standards? We also seek comment on whether configuring DAS and industrial signal boosters to identify the address of the building from which the 911 call originated might compensate for any potential adverse effect on determining location information through network-based methods that otherwise might arise from the use of signal boosters and DAS. Finally, we seek comment on whether CMRS providers could retroactively program existing small cells, DAS, and industrial signal boosters to contain specific address information.

110. We seek comment on the potential costs to CMRS providers to program small cell nodes with dispatchable address information. We also seek comment on the potential costs of configuring DAS to perform the same function. We believe that leveraging actions that CMRS providers are already undertaking should lower the potential costs for providers to achieve more granular location information that is consistent with our long-term E911 objectives.

111. We also seek comment on what steps, if any, PSAPs would need to take to incorporate and use this additional information. Could existing information fields be used to display additional address information, like floor and apartment number? If not, what additional upgrades would be necessary to PSAP equipment? What modifications to PSAP operating procedures would be necessary to accommodate any additional information from small cell deployments?

2. Differentiating Between Indoor and Outdoor Calls

112. CMRS providers generally have indicated that it is not possible to differentiate between indoor and outdoor calls to 911. We seek comment on whether technology has evolved such that CMRS providers are able now, or will be able in the foreseeable future, to determine whether a call originates from indoors and make this information available to PSAPs. If not, what additional technological advancements need to take place in order to differentiate between calls that originate indoors versus outdoors? In what timeframe would these advancements likely take place?

113. We suggest that one way in which indoor and outdoor calls could be differentiated is by using location information provided by small cell and DAS infrastructure. If dispatchable address information from a small cell or DAS node is available to the PSAP, this information would include the floor and suite/room number, thereby signifying the call originated indoors. Similarly, to the extent that providers convey z-axis information that indicates that a call originated above a certain height above ground, it could be reasonable to infer that a wireless call originated indoors. Furthermore, consistent with the observations in the *CSRIC LBS Report,* CMRS providers may be able to use certain commercial location-based services on a device to provide a reasonable estimate of the device's location and whether the device is located indoors. We seek comment on these methods, as well as on any other ways that CMRS providers could use to determine whether a call originates from indoors. In addition, what costs would be associated with developing this capability? What steps would CMRS providers have to take, if any, to make information on whether a call originated from indoors available in its location information center?

114. We also seek comment on whether identifying a wireless 911 call as originating indoors versus outdoors,

by itself, would be useful information to public safety entities. Would it be sufficient to provide public safety entities with more granular location information, which presumably would identify whether a call originated indoors within a certain search radius? We also seek comment on whether existing PSAP equipment could readily make use of this information. What costs could be associated with a PSAP's ability to use this kind of information?

3. Leveraging Commercial Location-Based Services, Emerging Technologies, and other Sources of Location Information

115. Commercial location-based services (LBS) are applications that CMRS providers load, or consumers download, onto their phones, and are independent of any solutions that CMRS providers might be required to adopt to comply with our location accuracy requirements. Such applications, which typically combine GPS and Wi-Fi, are currently implemented in all major commercial mobile operating systems. In a prior proceeding, the Commission noted that these commercial LBS could potentially permit service providers and applications developers to provide PSAPs with more accurate 911 location information, and sought comment on whether it should encourage mobile service providers to enable the use of commercial LBS for emergency purposes. It also sought comment on the value of operational benchmarks to assist consumers in evaluating the ability of carriers to provide precise location information for emergency purposes based on the location-based capabilities of devices. The Commission tasked WG3 with investigating how commercial location-based services might be leveraged for indoor wireless E911 service.

116. Numerous commenters supported investigation by CSRIC of the use of commercial LBS by public safety, though some commenters suggested that further study beyond the CSRIC report—then pending—would be necessary. CTIA and AT&T urged the Commission to allow the industry to come up with best practices for using location-based services. Several commenters noted that industry standards work would be necessary before commercial LBS would be a viable option for 911 purposes. Several commenters cautioned against using commercial LBS.

117. WG3's final report in March 2013 investigated commercial LBS and emerging location technologies for indoor wireless E911 use, and made recommendations on how they could be best leveraged for E911 purposes. While the report concluded that few of these technologies are presently available for indoor E911 use, it found that ''good progress is being made'' in addressing challenges to such use. At the same time, the *CSRIC LBS Report* highlights several concerns with regard to leveraging commercial LBS for 911. The *CSRIC LBS Report* recommends further evaluation of LBS.

118. Since the Commission last sought comment on leveraging commercial LBS for 911 purposes, considerable developments have been made. Industry bodies have already created wireless E911 standards that support a range of technologies that can provide indoor location information. Moreover, there is increasing commercial interest in developing LBS, particularly services that rely on indoor location, for a range of different applications. Indeed, indoor location technology has become such a large market that it is bigger than its outdoor counterpart, if commercial buildings are included.

119. Indoor location solutions are also being developed that use Wi-Fi and similar in-building technology to locate calls. Cisco's technology, for example, uses RF fingerprinting to determine location over a Wi-Fi network using signal strength and time of arrival lateration techniques. Cisco indicates that, with respect to indoor environments, ''location data today is generally available in enterprise [Wi-Fi] networks and is technologically feasible in residential Wi-Fi networks.'' At the same time, however, Cisco acknowledges that ''significant work remains'' on generating civic addresses (including floor numbers) and location data for Wi-Fi enabled devices that are not authenticated to the Wi-Fi access points. Also, Cisco noted that current standards efforts should be ready for Wi-Fi Alliance certification some time in 2015. Cisco indicated that implementation of Wi-Fi protocols will provide 10 feet of accuracy on a horizontal x/y axis 90% of the time.

120. Location-based technologies are also already being rolled out in conjunction with consumer application and device offerings. Indeed, commercial location technologies, typically combining GPS and Wi-Fi, currently are implemented in all major commercial mobile operating systems, with multiple independent Wi-Fi access location databases, maintained by Google, Apple, and Skyhook, among others. The use of Bluetooth beacon technology is also potentially attractive for indoor location although, at present, such technology is less developed than that for Wi-Fi. At a recent consumer electronics trade show and the 2014 Super Bowl, Bluetooth low energy (LE) beacons were demonstrated. Moreover, essentially all smartphones now sold have Wi-Fi and Bluetooth network interfaces. As noted earlier, these capabilities also provide a means of determining indoor location. In fact, indoor location applications are now mainstream for iPhone and Android devices, which together cover about 80 percent of the smartphone market.

121. Furthermore, almost all smartphones sold today are equipped with multiple sensors that can determine acceleration, magnetic fields (compass direction) and movement (gyroscope), which also provide a means of determining the operating environment. In addition, a number of large mobile device vendors have started to include barometric pressure sensors in their devices, which can calculate z-axis information. In light of the fact that 61 percent of CMRS subscribers owned a smartphone as of May 2013, the majority of wireless subscribers already have access to some form of indoor location-based technology. Moreover, the performance reached by such indoor location technologies has now surpassed GPS for the outdoors, with an average accuracy of a few square feet compared to several tens of square feet for GPS. We seek comment on these developments and on how they may relate to potential location accuracy requirements.

122. Recent data shows that adults are increasingly using location-based services and data networks. We seek comment on how providers could use commercial LBS to provide or enhance E911 location information, assuming CMRS providers can obtain usable location information from commercial LBS applications. To what extent can CMRS providers access and provide this supplemental information, where available, to the location information center for retrieval by the PSAP, now or in the foreseeable future? Could smart phones be programmed in such a manner that, when the phone initiates a voice call to 911, a separate and additional query within the handset is made for information on the device's last known location, with all location information then being sent to the provider's location information center? Moreover, what technical and operational challenges, if any, do PSAPs face in receiving location accuracy information from LBS services, and in what timeframe could they be addressed? What are the associated costs, if any, to meeting those challenges?

123. What privacy concerns, if any, might be implicated by sharing location information obtained through commercial LBS with CMRS providers, in order to enhance the accuracy of E911 location information? Many commercially deployed location information systems have privacy settings to restrict the amount of information shared by a smartphone user. CSRIC noted, however, that despite user privacy controls over location data, ''for 9–1–1 calls, GPS or other location methods are activated regardless of the user's privacy setting.'' CSRIC added that ''[i]t is therefore imperative that any new location technology . . . adhere to the same privacy principles,'' and that ''location technology cannot be downloaded in the form of an application, which would be subject to the user's privacy settings.'' Could location software application programming interfaces (APIs) be more tightly integrated into the user equipment's lower level services, such that location capabilities remained activated despite user privacy settings or create a separate privacy setting for ''911-only'' restricted-use location data, or would it be necessary to require that smartphone users affirmatively ''opt in'' to permit the disclosure of this information? What other privacy issues should the Commission take into account?

124. We recognize that commercial LBS may present trade-offs. For example, location information from LBS applications on the phone may be inaccurate and untimely, as the user could have terminated any active location-based services session well before that user dials 911. Furthermore, continuously maintaining active sessions with location-based applications could have practical implications for users, including a negative effect on the battery life of a user's device and increased data usage fees. Nevertheless, given the increasing usage of commercial LBS and the importance of determining a 911 caller's location, we believe it should be considered as a potential resource for E911 purposes.

125. *Institutional and Enterprise-based Location Systems.* We also seek comment on how institutional and enterprise location systems could be leveraged to provide location data for E911. For example, Cisco Systems has demonstrated possible use cases for its location technologies for hotels, hospitals, higher education campuses, and large enterprise settings. Cisco indicates that it ''will be capable of producing 10 feet of accuracy on a horizontal X/Y axis 90% of the time although more accurate data is possible depending upon implementation and the use of 'angle of arrival' data.'' Cisco also states ''the client can query the network for its own location for use in applications such as emergency services,'' but that ''the architecture that would allow the delivery of location data to a PSAP is still being studied by industry.'' Furthermore, in 2013, Guardly released its Indoor Positioning System, a subscription-based mobile security system for businesses, school campuses, apartment buildings and parking garages which Guardly states can provide ''the building name, floor, and room number of the wireless caller in less than 5 seconds'' to emergency and/or security personnel.

126. Because of the numerous commercial and operational incentives for location technology in these settings, we anticipate that the number of deployed institutional and enterprise-based location systems will increase in the near future. We seek comment on whether location information from these systems could be provided to CMRS providers and, ultimately, made available to public safety entities together with other E911 location information. Cisco states that per existing standards, ''the client can query the network for its own location for use in applications such as emergency services,'' but that ''the architecture that would allow the delivery of location data to a [PSAP] is still being studied by industry.'' Today many such location systems can only interact with—and therefore provide emergency location information for—devices that have Wi-Fi or Bluetooth capabilities. Do any indoor location systems already make this information available to CMRS providers, and if so, what are they? What modifications to Wi-Fi hotspots, location beacons, or devices with location information would be necessary to enable the transmission of location information to CMRS providers?

127. *Smart Building Technology.* Indoor location positioning is in high demand for commercial uses, and major industry stakeholders are investing in the development of indoor positioning technologies for applications in retail, health, gaming, entertainment, and advertising. Many of these systems are designed to assist smartphone users in finding specific locations and estimating walking time, as well as to assist retailers with precise marketing and advertising based on a customer's movement. Though some ''smart building'' technology is already commercially available, its deployment has been largely limited to public settings, given the cost of the necessary in-building supporting infrastructure. Nevertheless, some residential ''smart building'' technologies are available today, which could potentially be registered with dispatchable address information, including Wi-Fi-enabled home security systems, door locks, and thermostats. We seek comment on how Bluetooth or Wi-Fi-enabled locks, thermostats, smoke detectors, lighted exit signs, security systems and other residential ''smart building'' technologies could be registered with dispatchable address information and, if so, how it could be achieved.

IV. Improving the Delivery of Phase II Location Information

128. In the following sections, we seek comment on measures to ensure that PSAPs receive Phase II information in a swift and consistent format. We also seek comment on whether CMRS providers should differentiate between the type of location technology used to generate a location fix. Further, we seek comment on whether recent technological developments, including the proliferation of GPS-enabled smartphones capable of providing more granular location information, warrants strengthening our current E911 Phase II requirements to provide location information within 50 meters for all wireless 911 calls. We also propose periodic Phase II call tracking requirements, measures to facilitate the swift resolution of PSAP Phase II concerns, and compliance testing requirements to ensure that we can monitor and ensure compliance with our E911 rules. Through these measures, we seek to ensure that PSAPs receive the full breadth of information they need to respond swiftly and effectively to emergency calls, and that this information is provided in a way that is clear and useful.

A. Time to First Fix (TTFF)

129. *Background.* The Commission's current E911 location accuracy rules do not require CMRS providers to test for and meet a specific Time to First Fix (TTFF). Previously, the Commission tasked CSRIC with the making recommendations concerning cost-effective and specific approaches to testing requirements, methodologies, and implementation timeframes, including appropriate updates to OET Bulletin 71. In response, CSRIC WG3 noted that, while the OET Bulletin No. 71 ''suggests an acceptable time limit [Time to First Fix] for delivering the location estimate of 30 seconds,'' the OET guideline is ''generally accepted as

the *de facto* standard for maximum latency in E9–1–1 location delivery.''

130. The record shows that with current location technologies, there is a trade-off between the accuracy of the location information and the time to complete a location fix. This trade-off depends in part on the location technology a carrier employs. For instance, the time for A–GPS technologies to generate a location fix is typically longer than the time needed for network-based location solutions. However, while CMRS providers using A–GPS technologies acknowledge that the time to generate an initial location fix based on GPS satellite signals may take longer than five seconds, they submit that, generally, they can deliver Phase II location fixes within 12–15 seconds.

131. *Discussion.* We propose that, as part of our existing Phase II E911 requirements as well as our proposed indoor requirements, CMRS providers must deliver E911 location information, with the specified degree of accuracy, within a maximum period of 30 seconds to the location information center. We believe this proposal is consistent with the record, both in terms of addressing a need for the Commission to take action regarding latency, as well as what is technically feasible. Public safety commenters call for improvements in TTFF. Similarly, Mission Critical Partners emphasizes that ''[a]ny improvements to the yield, accuracy, and time to first fix (TTFF) of locations would be welcomed by PSAPs nationwide.'' The E911 Location Accuracy Workshop also shed light on the need for CMRS providers to deliver Phase II location fixes with a level of accuracy and within a short time frame, *e.g.,* 30 seconds, in order to be useful to PSAPs, depending on the re-bidding practices of each jurisdiction.

132. The record evidences trends and technological developments that may reduce the time in which CMRS providers can obtain and transmit location fixes. First, as CSRIC notes and as discussed above, there are ongoing developments in hybrid location technologies. As CMRS providers refine and deploy hybrid technologies to achieve better location accuracy indoors, is it technically feasible for providers to leverage those hybrid deployments for wireless 911 calls from outdoor environments to achieve improved yield and TTFF? On the one hand, the record indicates that implementing hybrid or ''fall-back'' location technologies may result in longer TTFFs and less accuracy. TruePosition asserts that in challenging environments, whether outdoors or indoors, fall-back technologies are unlikely to deliver Phase II compliant information as quickly as PSAPs need it. Typically, however, providers using A–GPS have built their networks to deliver a location fix using hybrid location or ''fall-back'' technologies only if their systems cannot obtain an A–GPS fix within a TTFF of 30 seconds. For example, Verizon indicates that it has taken ''steps . . . to improve the location information delivered to PSAPs,'' such as ''[m]aking caller location information available within an average of 12–15 seconds, and within 25 seconds for 99 percent of all calls for which the information is available.'' Will hybrid technologies, complemented by beacon technologies, DAS networks, and small cells, make it possible to achieve improvements in TTFF in challenging environments?

133. The second major factor that is likely to improve the delivery of location information is the migration by CMRS providers to 4G VoLTE networks, which the record indicates can achieve swifter times to first fix. Consequently, we seek comment on how the migration to 4G VoLTE might affect a requirement for the specific TTFF level that we propose as well as timetables for compliance.

134. Further, we recognize that wireless 911 calls may terminate after a short period of time, before CMRS providers' networks can generate a location fix. Therefore, we propose to exclude wireless 911 calls that are dropped or disconnected in 10 seconds or less, and in which CMRS networks have not yet delivered a location fix to the location information center, for purposes of determining compliance. We seek comment on whether 10 seconds is the right cut-off for an exclusion for short calls. Alternatively, should we base the exclusion on some other timeframe (*e.g.,* should we instead exclude calls shorter than 15 seconds, 20 seconds, or 30 seconds)? If we were to adopt an exclusion for short calls, are there other measures to provide the best available information, even if the location information is not a full Phase II fix? For instance, should CMRS providers share with PSAPs Class of Service (COS) information, *e.g.,* whether the location fix is Phase I- or Phase II-compliant, in order to alert PSAPs of information that might not be Phase II-compliant but may be helpful in the emergency? For example, the record indicates that with wider deployment of micro-cells, Phase I may be more helpful than PSAPs have recently viewed it.

135. Additionally, we propose that, based on the outdoor testing procedures recommended by WG3, CMRS providers should implement periodic testing procedures to ensure that they meet a TTFF requirement. We seek comment on both the costs of implementing a 30-second TTFF, as well as for compliance testing. We would expect providers to measure and test for such compliance with the proposed TTFF at the appropriate point in their E911 networks. The record shows that CMRS providers already test for and collect data on yield and TTFF. We seek comment on whether this would mitigate any potential costs of compliance testing. We recognize that WG3 found that costs for testing can be high. We seek comment on whether this magnitude of costs is accurate. How would the cost ranges in WG3's data be affected by the transition to 4G VoLTE networks? Would the cost of TTFF improvements likely be incorporated into the 4G network upgrades and the roll-out of 4G VoLTE? Would costs decrease after providers have fully deployed such networks? Additionally, what would the cost burdens be for the regional and smaller CMRS carriers who are also planning to migrate to 4G VoLTE networks using A–GPS technologies, to meet and test for the proposed TTFF of 30 seconds?

136. Alternatively, we seek comment on whether voluntary efforts are sufficient to improve latency, such that it is unnecessary to impose any additional regulations at this time. For instance, would more frequent coordination between CMRS providers and PSAPs be sufficient to address concerns regarding TTFF performance levels, without regulatory metric or testing requirements for TTFF?

B. Confidence and Uncertainty Data

137. *Background.* Our current rules require CMRS providers presently subject to the Commission's E911 requirements to provide confidence and uncertainty (C/U) data on a *per-call* basis upon PSAP request. *See* 47 CFR 20.18(h)(3). C/U data reflects the level of confidence that a specific 911 caller is within a specified distance of the location that the carrier provides. Confidence data is expressed as a percentage, indicating the statistical probability that the caller is within the area defined by the ''uncertainty'' statistical estimate, while uncertainty is expressed as a radius in meters around the reported position.

138. Public safety entities have indicated that C/U data play a meaningful role in assessing the quality of the location information that accompanies a wireless 911 call. The record also suggests, however, that C/U

data is not always perceived as useful by PSAPs. The record suggests that, to the extent public safety entities do not request or use C/U data, it may be due to the variable way in which such information is generated or presented.

139. Given this lack of uniformity in the delivery of C/U data, NENA states that it is ''critical that the Commission establish a *uniform* standard for the delivery of such information to PSAPs and for the meaning of the data delivered.'' NextNav suggests that ''the Commission may wish to follow the guidance of the ATIS Emergency Services Interconnection Forum (ESIF), which recommends 90 percent be used as a standard required confidence level.'' T-Mobile likewise indicates that this ''90% confidence level is recommended by ESIF and public safety.''

140. *Discussion.* We believe that C/U data is a critical component in helping PSAPs understand the quality of the location information they receive from providers, whether the 911 calls are made indoors or outdoors. We seek to develop a better understanding of why C/U data is not always utilized by PSAPs. What are the problems PSAPs have encountered with its use? How could C/U data be provided in a more helpful fashion?

141. We also seek comment on NextNav's suggestion to incorporate ESIF's recommended 90 percent confidence level as a requirement. Is it important that all CMRS providers subject to Commission's E911 requirements use the same confidence level when calculating C/U data? If a standard confidence level is desirable across Phase II data, is 90 percent the correct level? Why or why not? Moreover, if not, should the Commission nevertheless still require CMRS providers to use the same confidence level? If so, what should that level be and why? What potential costs would be associated with implementing this requirement? In the event we establish a uniform confidence level, should CMRS providers be required to demonstrate compliance with that confidence level to the FCC, and if so, how?

142. We seek comment regarding the format in which C/U data is provided to the PSAPs. What are the various formats in which this data is presently provided? Is the fact that horizontal uncertainty is expressed either as a circle or an ellipse problematic? Should the Commission require that C/U data be provided in a standard, uniform format? If so, what should that format be? What are the potential costs involved in standardizing C/U data for all stakeholders involved? What additional measures, if any, should the Commission take to increase the usefulness of C/U data for PSAPs?

143. Finally, we anticipate that any requirements we adopt regarding standardization of the delivery and format of C/U data would apply in conjunction with the delivery of both indoor and outdoor location information. Is there any reason why the format of C/U requirements should differ for indoor versus outdoor calls? We seek comment on this issue as well.

C. Identifying the Type of Technology Used to Deliver the E911 Location Fix

144. *Background.* Typically, when a wireless caller initiates a call to 911, CMRS providers first attempt to locate the caller using A–GPS. In the event that A–GPS fails to provide a sufficiently accurate location fix within the 30 second timeframe recommended in OET Bulletin 71, CMRS providers then rely on ''fall-back'' technologies, which provide location information that may be less accurate. The record shows that providers using network-based location solutions also first attempt to locate callers with GPS-capable handsets using A–GPS, but then ''fall back'' if necessary to a hybrid of A–GPS and Round Trip Time (RTT), which calculates the distance between the handset and the nearest base station, and subsequently, will attempt a location fix using RTT only.

145. Each location technology presents a trade-off between accuracy and latency. For example, though A–GPS can locate wireless 911 callers within 10–20 meters, it is dependent on whether the device can reach four or more satellites, and it often takes 30 seconds or more to generate a precise location, though shorter times are possible. On the other hand, a location fix via RTT may provide location information within a short period of time, but is significantly less accurate.

146. *Discussion.* To ensure that PSAPs can understand and make educated assessments regarding the quality of Phase II location information, we seek comment on whether to require CMRS providers to identify the technology used to determine a location fix and to provide this information to PSAPs that have the capability to receive this information. We seek comment regarding the technical feasibility of determining the type of technology used to identify a caller's location on a call-by-call basis. What potential costs might a provider incur to implement a requirement that it differentiate between the types of technology used to provide a location fix?

147. We also seek comment on the usefulness of this additional information to PSAPs, and whether the benefits of this information would exceed any potential costs that might be necessary to make use of this information. If PSAPs were aware of the type of location fix received, would they be able to assess whether it is necessary to re-bid for better location information? To what extent would C/U data already reflect sufficient information on this score, since that data would generally reflect discounted certainty? Could existing information fields be used to display information on the type of location fix that? If not, would it be possible to add an information field to the PSAP console with a software update, or would more substantial upgrades of hardware or CPE be necessary? Could CPE be programmed to automatically rebid if it receives Phase II location information from a fall-back technology? We seek comment on whether and to what extent PSAPs might need to reconfigure their call-taking processes and console displays in order to make use of this information, and whether the benefits of receiving this information would outweigh any costs that might be entailed.

D. Updating the E911 Phase II Requirements Based on Outdoor Measurements

148. *Background.* Among other actions, in 2010 the Commission required CMRS providers to satisfy location accuracy requirements over an eight-year implementation period, ending in 2019, with interim benchmarks. At that time, certain CMRS providers exclusively used network-based location technology to identify Phase II location. Accordingly, the Commission established E911 requirements and exclusions specific to network-based providers, and provided a path by which these providers would eventually migrate to handset-based technologies. The Commission agreed with T-Mobile that as carriers transition to A–GPS, they will also transition from network-based accuracy standards to handset-based standards, moving toward a *de facto* unified standard. Because it had recently adopted the existing E911 benchmarks, however, the Commission decided that it was premature to seek comment on a sunset date, but tentatively concluded that the network-based standard should sunset at an appropriate point after the end of the eight-year implementation period.

149. *Discussion.* We seek comment on whether there have been sufficient advancements in technology and a sufficient number of handsets with A–

GPS capabilities in the consumer subscriber base to warrant modification of our existing Phase II requirements as they apply to outdoor calls. We note that CMRS providers are increasingly turning to handset-based technologies, namely A–GPS, to provide E911 Phase II information, which would support a more granular location accuracy requirement. When the current rules were adopted, the CMRS providers that used network-based location technology on their GSM networks had already begun to migrate to 4G and LTE networks, using handset-based location technologies. These CMRS providers have continued to migrate away from networks requiring network-based location technology. We also note that nearly all handsets are now GPS-enabled.

150. The record suggests that the migration to handset-based technologies can provide more accurate location fixes. In response to the E911 Phase II Location Accuracy Workshop, King County submits that ''[i]n particular, the wireless carriers that use a network-based location technology that have recently added A–GPS location technology to their Phase II solutions have shown dramatic improvement in accuracy since 2005.'' AT&T adds that the migration to A–GPS has resulted in ''increased accuracy in the Phase II location information provided, especially in rural areas where the number and location of cell sites made trilateration-based location data less reliable,'' as well as in lower costs. On the other hand, TruePosition contends that ''[t]here is no direct relationship between a carrier's transition from 2G to 3G or 4G network technology and . . . the E911 location accuracy that the same carrier can deliver.'' In any case, the record indicates that CMRS providers and technology vendors have been working steadily to improve A–GPS performance.

151. In particular, and in light of any recent improvements or advancements in A–GPS technology, we seek comment on whether all CMRS providers reasonably could comply with a 50-meter accuracy/67 percent reliability requirement within two years, such that we could adopt a unitary requirement for both indoor and outdoor calls. Establishing such a unitary requirement for all calls would help standardize the information afforded to public safety entities while raising the level of accuracy across all calls, both indoors and outdoors. Would it be feasible for all CMRS providers to comply with a 50-meter accuracy/67 percent reliability (single search ring) requirement in two years? Or is there a benefit in continuing to allow a dual search ring requirement? In the event we were to sunset network-based requirements in two years and require a 50-meter accuracy requirement (with either an 80 percent or 67 percent reliability requirement), should we adopt any exceptions for certain providers who might be adversely affected, such as smaller or rural CMRS providers, or allow them a longer implementation timeframe? Alternatively, would our existing waiver process be sufficient?

E. Monitoring E911 Phase II Call Tracking Data

152. *Background.* As discussed earlier in this *Third Further Notice,* CALNENA filed E911 call tracking data with the Commission that suggests there may be a decline in the percentage of wireless 911 calls that include Phase II location information. In addition, several other state and local public safety entities filed similar E911 call tracking data, also suggesting a potential decline in the percentage of wireless calls that include Phase II location information. As noted above, however, various providers responded that CALNENA's reports mischaracterized the E911 data, and suggest that PSAPs are not rebidding to obtain, or ''pull'' the location data.

153. *Discussion.* We seek comment on whether the Commission should require providers to periodically report E911 Phase II call tracking information, similar to the call data provided in conjunction with the recently held E911 Location Accuracy Workshop. Would such a requirement help promote the delivery of Phase II E911 information? In the event we were to require periodic reporting of Phase II E911 call tracking data, we seek to implement a requirement that provides meaningful data while minimizing the potential burden on providers. We seek comment regarding the scope of information required in the reports. What information should be provided in Phase II call tracking reports? How frequently should providers be required to report Phase II E911 call tracking data? We also seek comment on any alternative measures that could ensure that providers are delivering Phase II E911 information. Could we rely instead on periodic certifications of compliance with Commission requirements based on the test bed or alternative measurements described above? Are there other ways that the Commission could monitor Phase II E911 data without imposing a requirement on CMRS providers?

154. We realize that a reporting requirement would impose a cost on providers. We seek comment on the estimated costs of such a requirement. Could existing call monitoring mechanisms be leveraged for this purpose? We also seek estimates regarding how these costs might vary, depending on the nature of the reporting obligations and the size of the representative sample of the provider's coverage area that is subject to these requirements.

F. Monitoring and Facilitating Resolution of E911 Compliance Concerns

155. Our objective in proposing indoor location accuracy requirements, as well as testing metrics and reporting requirements, is to ensure that public safety providers have consistent and reliable access to accurate location information on a call-by-call basis, as well as for the Commission and public safety entities to have sufficient information to monitor E911 performance more generally. Filings submitted in conjunction with the E911 Location Accuracy workshop, as well as statements made at the workshop itself, indicate there have been instances in which public safety believes it is receiving inadequate location information and where the Commission can help foster a dialogue between CMRS providers and public safety entities to help address PSAP concerns and promote a better understanding of E911 practices. We seek comment on whether we should establish a separate process by which PSAPs or state 911 administrators could file an informal complaint specific to the provision of a CMRS provider's E911 service, and if so, how the complaint procedure should be structured in light of our existing informal complaint process. We propose that, in connection with the filing of any informal complaint, PSAPs would be required to demonstrate that they have implemented bid/re-bid policies that are designed to obtain all 911 location information made available to them by CMRS providers pursuant to our rules.

156. We also recognize that public safety organizations such as NENA or APCO might be well-suited to monitor and facilitate resolution of PSAP concerns. We seek comment on additional measures the Commission could take to help facilitate discussion and the swift resolution of public safety concerns, whether it is through establishment of an informal Commission process or through continued coordination with public safety organizations such as NENA or APCO.

G. Periodic Outdoor Compliance Testing and Reporting

157. *Background.* In 2010, the Commission held that once a wireless service provider has established baseline confidence and uncertainty levels in a county or PSAP service area, ongoing accuracy shall be monitored based on the trending of uncertainty data and additional testing shall not be required. In the 2011, however, the Commission found that periodic testing is important to ensure that test data does not become obsolete as a result of environmental changes and network reconfiguration. The Commission tasked CSRIC with the making recommendations concerning cost-effective and specific approaches to testing requirements, methodologies, and implementation timeframes, including appropriate updates to OET Bulletin 71, issued in 2000.

158. CSRIC's *Outdoor Location Accuracy Report* examined several issues concerning testing methodologies and procedures and concluded that technical reports issued by ATIS since the publication of OET Bulletin No. 71 provided more useful, updated methods for CMRS providers to conduct initial and periodic testing. *See* CSRIC III Working Group 3, E9–1–1 Location Accuracy Final Report—Outdoor Location Accuracy (Mar. 14, 2012) (*Outdoor Location Accuracy Report*). Based on the ATIS technical reports, CSRIC Working Group 3 (WG3) made several recommendations for both initial testing and periodic testing.

159. Further, WG3 found that several standards adopted by ATIS since the issuance of OET Bulletin No. 71 ''generally provide more current and relevant procedures and guidelines than are available in OET 71.'' WG3 made several recommendations for performance and maintenance testing, including ''key performance indicators'' (KPIs) that CMRS providers would routinely monitor and archive to assess system performance and determine when further testing and system improvements are needed at the local level. WG3 further indicated that, while the costs for empirical testing can be expensive, alternative techniques, such as monitoring KPIs, are more cost-efficient.

160. *Discussion.* Consistent with the Commission's prior reasons and conclusions, we believe that periodic testing is necessary as providers upgrade their networks and migrate to handset-based technologies. We seek comment on the recommendations in WG3's report. We also invite industry and public safety stakeholders to submit a consensus proposal that addresses WG3's recommendations, and that provides a technically feasible path forward for periodic compliance testing and reporting. The *CSRIC Outdoor Location Accuracy Report* identifies a suite of five ATIS technical reports, and we seek comment on whether these reports collectively represent the best practices for outdoor location accuracy. *See* ATIS Technical Report numbers 0500001 (High Level Requirements for Accuracy Testing Methodologies), 0500009 (High Level Requirements for End-to-End Functional Testing), 0500011 (Define Topologies & Data Collection Methodology), 0500010 (Maintenance Testing), and 0500013 (Approaches to Wireless Indoor Location). These ATIS standards will be available for review and download on the ATIS Web site during the pendency of the period for filing comments at *http://www.atis.org/fcc/locationaccuracy.asp*. Paper copies will also be available for review (but not photocopying) at Commission headquarters upon request by contacting Dana Zelman at 202–418–0546 or *dana.zelman@fcc.gov.* The *CSRIC Outdoor Location Accuracy Report* also identifies several alternative testing concepts developed in ATIS–05000010 to provide a useful technical foundation for maintenance testing. The record demonstrates that providers already have processes in place that are capable of testing for yield and TTFF. Should the Commission consider any other alternative testing concepts not included in ATIS–05000010? To the extent we adopt a rule specifying that a particular ATIS technical standard, methodology, or suite of ATIS technical standards should be used by CMRS providers for purposes of periodic maintenance testing of outdoor location accuracy, we propose to accommodate future updates of that standard by delegating rulemaking authority to the Chief of the Public Safety and Homeland Security Bureau. We seek comment on this approach.

161. In addition, WG3 recommends that ''[a]lternative testing methods replace full compliance testing every'' 24 months. We seek comment on whether 24 months is an appropriate timeframe for conducting periodic tests. We also invite comment on what enforcement mechanisms would be appropriate to ensure compliance with any required timeframe for periodic testing.

162. Finally, we recognize that our current rules allow the monitoring of ongoing accuracy based on the trending of uncertainty data. We propose to remove this provision, in light of our proposed periodic testing requirement. As NENA has noted, confidence and uncertainty trends are not sufficient proxies for location accuracy testing because ''[r]eported confidence and uncertainty data are themselves subject to systemic error.'' We seek comment on this proposal.

163. *Reporting Requirements and Confidentiality Safeguards.* We recognize that imposing reporting requirements may implicate CMRS providers' proprietary information. Accordingly, we seek comment on what safeguards should be implemented to ensure that confidential information is protected. Under the CSRIC indoor test bed regime, all parties agreed that raw results would be made available only to the vendors whose technology was to be tested, participating wireless providers, and the third-party testing house; only summary data was made available to other parties. Would it be sufficient for CMRS providers to report only summary data to the Commission, PSAPs within their service areas, and state 911 offices in the states or territories in which they operate, in order to demonstrate compliance with the Commission's requirements? If so, what data should be included in the summary? We seek comment on whether public safety's need for improvements in yield and TTFF components supports the inclusion of specific reporting metrics, such as those that WG3 described in its CSRIC *Outdoor Location Accuracy Report.* Given the extent to which mobile wireless communications services are becoming increasingly central to the day-to-day lives of Americans, should this data also be available, at least to some extent, to the public? If so, what data would be useful to the public? For instance, would public disclosure of location accuracy test results provide consumers with a reasonable ''yardstick'' regarding competing providers' abilities to provide Phase II location information in the counties or PSAP service areas where they are likely to make a wireless 911 call? Finally, should the confidentiality safeguards in this regard mirror those that we might adopt in relation to the indoor location accuracy compliance testing requirement?

H. Roaming Issues

164. In 2007, the Commission sought comment on location accuracy while roaming. The Commission expressed concern that a wireless caller whose carrier employs one type of location technology may not be provided Phase II service at all when roaming on the network of another carrier that relies on a different technology, or when there is

no roaming agreement between carriers using compatible technologies. In 2011, CSRIC II's Working Group 4C similarly noted that ''[t]he ability to support Phase II location for roamers may be limited in some carriers' networks.''

165. We seek comment on whether the provision of Phase II information for roamers continues to be a concern, or whether this concern has been addressed by the evolution of location technology since the Commission last examined this issue. In earlier comments, NENA noted that ''carriers are now migrating to network-assisted GNSS positioning solutions, though not all carriers have yet adopted this technology,'' and asked the Commission to ''seek input from carriers on how best to ensure that E9–1–1 calls in a roaming environment are completed.'' AT&T indicated that ''at least in the case of GSM carriers, there is no clear problem in locating roamers that requires a regulatory solution,'' and stated that it ''can support locating roaming handsets as long as the handsets support compatible spectrum.'' Verizon similarly stated that it can provide Phase II location for all Code Division Multiple Access (CDMA) roamers using location-capable handsets ''in the same manner as for our subscribers.'' However, Verizon also noted that it is unable to provide Phase II location capability to customers using handsets that are not location-capable (*i.e.,* without a GPS chip) or that use a different air interface.

166. The record suggests that in most cases, handset-based carriers and network-based carriers can support Phase II location for roamers on their networks because roamers typically use compatible technologies. In addition, potential incompatibility in location technology used by roamers may be reduced further as both handset and network-based carriers migrate to A–GPS and move forward with the planned implementation of VoLTE. We seek comment on this analysis. Notwithstanding these technology trends, are there circumstances in which accurate location of roamers could continue to be hindered by technological incompatibilities? Could implementation of our indoor location proposals create any challenges in the roaming context that the Commission should address?

V. Procedural Matters

A. Ex Parte Rules

167. The proceeding of which this *Third Further Notice* is a part is a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule § 1.1206(b). In proceedings governed by rule § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

B. Comment Filing Procedures

168. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments should be filed in PS Docket No. 13–75. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

1. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.

2. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

3. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

C. Accessible Formats

169. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

D. Paperwork Reduction Analysis

170. This document contains proposed new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

VI. Initial Regulatory Flexibility Analysis

171. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact of the proposals described in the attached *Third Further Notice of Proposed Rulemaking (Third Further Notice)* on

small entities. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments in the *Third Further Notice.* The Commission will send a copy of the *Third Further Notice of Proposed Rulemaking,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *Third Further Notice* and IRFA (or summaries thereof) will be published in the **Federal Register**. The full text of the IRFA is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW., Washington, DC 20554, or online at *http://www.fcc.gov/document/proposes-new-indoor-requirements-and-revisions-existing-e911-rules*.

A. Need for, and Objectives of, the Proposed Rules

172. In this *Third Further Notice,* we propose rules that would update and expand the Commission's wireless Enhance 911 (E911) location accuracy requirements to include indoor environments and to reflect patterns in modern wireless usage and advancements in location-based technology. Specifically, we propose that all CMRS providers subject to § 20.18(a) of the Commission's rules must provide the caller's horizontal (x- and y-axis) location within 50 meters and vertical (z-axis) data within 3 meters for 67 percent of 911 calls placed from indoor environments, within two and three years of the effective date of the rules, respectively. Within five years of the effective date of the rules, all CMRS providers subject to § 20.18(a) of the Commission's rules must provide the caller's horizontal (x- and y-axis) location within 50 meters and vertical (z-axis) data within 3 meters for 80 percent of 911 calls placed from indoor environments. All CMRS providers would be required to meet these indoor requirements at either the county or PSAP geographic level. Over a longer period (to be determined), indoor requirements would be strengthened to provide for delivery of ''dispatchable'' indoor location, i.e., room-level identification. We propose that compliance with any indoor location requirements would be measured through testing in an independently administered test bed program, or through alternative testing mechanisms of equivalent reliability. Public Safety Answering Points (PSAPs) would be entitled to seek Commission enforcement of these requirements, provided they have implemented re-bid policies that are designed to obtain all 911 location information made available to them by CMRS providers. We also seek comment on whether we should adopt a specific waiver process for those providers who seek relief from our indoor location accuracy requirements.

173. Additionally, we seek comment on whether to implement various measures for modifying our existing E911 rules for indoor and outdoor 911 calls. Specifically, we seek comment on whether to adopt a metric for time to first location fix (in order to count towards compliance of the location accuracy requirements, a location fix must be generated within 30 seconds). We note that our proposal would exclude short calls (*i.e.,* calls lasting 10 seconds or less) that may not provide sufficient time to generate a fix. We also seek comment on whether to standardize the content and delivery of confidence/uncertainty data generated for wireless 911 calls. We seek comment on whether CMRS providers should inform PSAPs of the specific location technology used to generate location information for each call. We also seek comment on whether to require CMRS providers to inform PSAPs of their specific location technology, accelerate the currently established timeframe for establishing a unitary compliance requirement for measuring location accuracy for outdoor calls, and require CMRS providers to track and periodically report aggregate data on E911 performance. We also seek comment on whether to establish a process by which PSAPs can report concerns regarding the provision of E911 services and whether CMRS providers should be required to conduct periodic compliance testing for indoor and outdoor calls.

174. In proposing an indoor location regulatory framework, as well as measures to ensure that our existing E911 requirements continue to keep pace with technological developments and changing consumer and public safety needs, we emphasize that our ultimate objective is that all Americans—whether they are calling from urban or rural areas, from indoors or outdoors—receive the support they need in times of an emergency. Recent data reveals that overall wireless usage has increased significantly since the Commission's adoption of E911 location accuracy rules, and further, that the majority of 911 calls also are now placed from wireless phones. Additionally, current trends indicate that a significant percentage of Americans resides in urban areas where there are high concentrations of multi-story buildings. Therefore, improvements to indoor location accuracy have become increasingly important. At the same time, we seek comment on whether our proposals in this notice are the best way to achieve this objective, and we encourage industry, public safety entities, and other stakeholders to work collaboratively to develop alternative proposals for our consideration.

B. Legal Basis

175. Sections 1, 2, 4(i), 7, 10, 201, 214, 222, 251(e), 301, 302, 303, 303(b), 303(r), 307, 307(a), 309, 309(j)(3), 316, 316(a), and 332, of the Communications Act of 1934, 47 U.S.C. 151, 152(a), 154(i), 157, 160, 201, 214, 222, 251(e), 301, 302, 303, 303(b), 303(r), 307, 307(a), 309, 309(j)(3), 316, 316(a), 332; the Wireless Communications and Public Safety Act of 1999, Pub. L. 106–81, 47 U.S.C. 615 note, 615, 615a, 615b; and section 106 of the Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. 111–260, 47 U.S.C. 615c.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Would Apply

176. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

177. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* Our action may, over time, affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive, statutory small entity size standards. First, nationwide, there are a total of approximately 27.9 million small businesses, according to the SBA. In addition, a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 2007, there were approximately 1,621,315 small organizations. Finally, the term ''small governmental jurisdiction'' is defined generally as ''governments of cities,

towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' Census Bureau data for 2011 indicate that there were 89,476 local governmental jurisdictions in the United States. We estimate that, of this total, as many as 88,506 entities may qualify as ''small governmental jurisdictions.'' Thus, we estimate that most governmental jurisdictions are small.

1. Telecommunications Service Entities

a. Wireless Telecommunications Service Providers

178. Pursuant to 47 CFR 20.18(a), the Commission's 911 service requirements are only applicable to Commercial Mobile Radio Service (CMRS) ''[providers], excluding mobile satellite service operators, to the extent that they: (1) Offer real-time, two way switched voice service that is interconnected with the public switched network; and (2) Utilize an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls. These requirements are applicable to entities that offer voice service to consumers by purchasing airtime or capacity at wholesale rates from CMRS licensees.''

179. *Wireless Telecommunications Carriers (except satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular phone services, paging services, wireless Internet access, and wireless video services. The appropriate size standard under SBA rules is for the category Wireless Telecommunications Carriers. The size standard for that category is that a business is small if it has 1,500 or fewer employees. The Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities that may be affected by our proposed action. In addition, the SBA has developed a small business size standard for wireless firms within the two broad economic census categories of ''Paging'' and ''Cellular and Other Wireless Telecommunications.'' Under both categories, the SBA deems a wireless business to be small if it has 1,500 or fewer employees. For the census category of Paging and associated small business size standard, the majority of firms can be considered small. For the census category of Cellular and Other Wireless Telecommunications, the majority of firms can, again, be considered small.

180. *Incumbent Local Exchange Carriers (Incumbent LECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. The Commission estimates that most providers of local exchange service are small entities that may be affected by the rules and policies proposed in the Notice. Thus under this category and the associated small business size standard, the majority of these incumbent local exchange service providers can be considered small.

181. *A Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. The Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by rules adopted pursuant to the Notice.

182. *Broadband Personal Communications Service.* The broadband personal communications services (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission initially defined a ''small business'' for C- and F-Block licenses as an entity that has average gross revenues of $40 million or less in the three previous calendar years. For F-Block licenses, an additional small business size standard for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These small business size standards, in the context of broadband PCS auctions, have been approved by the SBA. No small businesses within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that claimed small business status in the first two C-Block auctions. A total of 93 bidders that claimed small business status won approximately 40 percent of the 1,479 licenses in the first auction for the D, E, and F Blocks. On April 15, 1999, the Commission completed the reauction of 347 C-, D-, E-, and F-Block licenses in Auction No. 22. Of the 57 winning bidders in that auction, 48 claimed small business status and won 277 licenses.

183. On January 26, 2001, the Commission completed the auction of 422 C and F Block Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in that auction, 29 claimed small business status. Subsequent events concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant. On February 15, 2005, the Commission completed an auction of 242 C-, D-, E-, and F-Block licenses in Auction No. 58. Of the 24 winning bidders in that auction, 16 claimed small business status and won 156 licenses. On May 21, 2007, the Commission completed an auction of 33 licenses in the A, C, and F Blocks in Auction No. 71. Of the 12 winning bidders in that auction, five claimed small business status and won 18 licenses. On August 20, 2008, the Commission completed the auction of 20 C-, D-, E-, and F-Block Broadband PCS licenses in Auction No. 78. Of the eight winning bidders for Broadband PCS licenses in that auction, six claimed small business status and won 14 licenses.

184. *Narrowband Personal Communications Services.* To date, two auctions of narrowband personal communications services (PCS) licenses have been conducted. For purposes of the two auctions that have already been held, ''small businesses'' were entities with average gross revenues for the prior three calendar years of $40 million or less. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. To ensure meaningful participation of small business entities in future auctions, the Commission has adopted a two-tiered small business size standard in the Narrowband PCS Second Report and Order. A ''small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A ''very small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more

than $15 million. The SBA has approved these small business size standards.

185. *AWS Services (1710–1755 MHz and 2110–2155 MHz bands (AWS–1); 1915–1920 MHz, 1995–2000 MHz, 2020–2025 MHz and 2175–2180 MHz bands (AWS–2); 2155–2175 MHz band (AWS–3)).* For the AWS–1 bands, the Commission has defined a ''small business'' as an entity with average annual gross revenues for the preceding three years not exceeding $40 million, and a ''very small business'' as an entity with average annual gross revenues for the preceding three years not exceeding $15 million. In 2006, the Commission conducted its first auction of AWS–1 licenses. In that initial AWS–1 auction, 31 winning bidders identified themselves as very small businesses. Twenty-six of the winning bidders identified themselves as small businesses. In a subsequent 2008 auction, the Commission offered 35 AWS–1 licenses. Four winning bidders identified themselves as very small businesses, and three of the winning bidders identified themselves as a small business. For AWS–2 and AWS–3, although we do not know for certain which entities are likely to apply for these frequencies, we note that the AWS–1 bands are comparable to those used for cellular service and personal communications service. The Commission has not yet adopted size standards for the AWS–2 or AWS–3 bands but has proposed to treat both AWS–2 and AWS–3 similarly to broadband PCS service and AWS–1 service due to the comparable capital requirements and other factors, such as issues involved in relocating incumbents and developing markets, technologies, and services.

186. *Rural Radiotelephone Service.* The Commission has not adopted a size standard for small businesses specific to the Rural Radiotelephone Service. In the present context, we will use the SBA's small business size standard applicable to Wireless Telecommunications Carriers (except Satellite), i.e., an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that there are 1,000 or fewer small entity licensees in the Rural Radiotelephone Service that may be affected by the rules and policies adopted herein.

187. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses in the 2305–2320 MHz and 2345–2360 MHz bands. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these definitions. The Commission auctioned geographic area licenses in the WCS service. In the auction, which commenced on April 15, 1997 and closed on April 25, 1997, there were seven bidders that won 31 licenses that qualified as very small business entities, and one bidder that won one license that qualified as a small business entity.

188. *700 MHz Guard Band Licenses.* In the *700 MHz Guard Band Order,* the Commission adopted size standards for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A small business in this service is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $15 million for the preceding three years. SBA approval of these definitions is not required. An auction of 52 Major Economic Area (MEA) licenses commenced on September 6, 2000, and closed on September 21, 2000. Of the 104 licenses auctioned, 96 licenses were sold to nine bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced and closed in 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.

189. *Upper 700 MHz Band Licenses.* On January 24, 2008, the Commission commenced Auction 73 in which several licenses in the Upper 700 MHz band were available for licensing: 12 Regional Economic Area Grouping licenses in the C Block, and one nationwide license in the D Block. The auction concluded on March 18, 2008, with 3 winning bidders claiming very small business status (those with attributable average annual gross revenues that do not exceed $15 million for the preceding three years) and winning five licenses.

190. *Lower 700 MHz Band Licenses.* The Commission previously adopted criteria for defining three groups of small businesses for purposes of determining their eligibility for special provisions such as bidding credits. The Commission defined a ''small business'' as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years. A ''very small business'' is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $15 million for the preceding three years. Additionally, the lower 700 MHz Service had a third category of small business status for Metropolitan/Rural Service Area (MSA/RSA) licenses—''entrepreneur''—which is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA approved these small size standards. An auction of 740 licenses (one license in each of the 734 MSAs/RSAs and one license in each of the six Economic Area Groupings (EAGs)) was conducted in 2002. Of the 740 licenses available for auction, 484 licenses were won by 102 winning bidders. Seventy-two of the winning bidders claimed small business, very small business or entrepreneur status and won licenses. A second auction commenced on May 28, 2003, closed on June 13, 2003, and included 256 licenses. Seventeen winning bidders claimed small or very small business status, and nine winning bidders claimed entrepreneur status. In 2005, the Commission completed an auction of 5 licenses in the Lower 700 MHz band. All three winning bidders claimed small business status.

191. In 2007, the Commission reexamined its rules governing the 700 MHz band in the *700 MHz Second Report and Order.* An auction of A, B and E block 700 MHz licenses was held in 2008. Twenty winning bidders claimed small business status (those with attributable average annual gross revenues that exceed $15 million and do not exceed $40 million for the preceding three years). Thirty three winning bidders claimed very small business status (those with attributable average annual gross revenues that do not exceed $15 million for the preceding three years).

192. *Offshore Radiotelephone Service.* This service operates on several UHF television broadcast channels that are not used for television broadcasting in the coastal areas of states bordering the Gulf of Mexico. There are presently approximately 55 licensees in this service. We are unable to estimate at this time the number of licensees that would qualify as small under the SBA's small business size standard for the

category of Wireless Telecommunications Carriers (except Satellite). Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees. Under this category and the associated small business size standard, the majority of firms can be considered small.

193. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to *Trends in Telephone Service* data, 413 carriers reported that they were engaged in wireless telephony. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Therefore, more than half of these entities can be considered small.

194. The second category, *i.e.,* ''All Other Telecommunications,'' comprises ''establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or Voice over Internet Protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.'' The Commission estimates that the majority of All Other Telecommunications firms are small entities that might be affected by rules proposed in the *Third Further Notice.*

b. Equipment Manufacturers

195. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing which is: all such firms having 750 or fewer employees. Under this size standard, the majority of firms can be considered small.

196. *Semiconductor and Related Device Manufacturing.* These establishments manufacture ''computer storage devices that allow the storage and retrieval of data from a phase change, magnetic, optical, or magnetic/optical media. The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees storage and retrieval of data from a phase change, magnetic, optical, or magnetic/optical media.'' The majority of the businesses engaged in this industry are small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

197. The *Third Further Notice* proposes a regulatory framework to require delivery of accurate location information to PSAPs for wireless 911 calls placed from indoors. Our proposal includes both near- and long-term components. In the near term, the Commission proposes that CMRS providers subject to § 20.18 of the Commission's rules provide horizontal location information within 50 meters for 67 percent of 911 calls placed from indoor environments within two years of the effective date of the rules and provide vertical location information within 3 meters for 67 percent of 911 calls placed from indoor environments within three years. Within five years of the effective date of the rules, the Commission proposes that all CMRS providers subject to § 20.18(a) of the Commission's rules must provide the caller's horizontal (x- and y-axis) location within 50 meters and vertical (z-axis) data within 3 meters for 80 percent of 911 calls placed from indoor environments. These standards would apply nationwide. For the long term, we propose to develop more granular indoor location accuracy standards, consistent with the evolving capabilities of indoor location technology and increased deployment of in-building communications infrastructure that would provide for delivery to PSAPs of in-building location information at the room or office/suite level. Additionally, the *Third Further Notice* proposes that CMRS providers demonstrate compliance with indoor location accuracy requirements through a test bed or through other testing methods, provided that the methodologies are equivalent to the test bed approach. The *Third Further Notice* seeks comments on whether CMRS providers should certify compliance with the indoor location accuracy requirements.

198. The *Third Further Notice* also addresses several ways to improve the delivery of Phase II location information. The *Third Further Notice* proposes to require CMRS providers to deliver location information within 30 seconds to the location information center (but with a provision to exclude short calls of 10 seconds or less that may not provide sufficient time to generate a location fix) and identify the technology used to determine a location fix and to provide this information to the PSAP. The *Third Further Notice* seeks comment on whether the Commission should standardize the content and process for delivery of confidence and uncertainty data generated for each wireless 911 call. Additionally, the *Third Further Notice* seeks comment on whether it would be feasible to expedite the timeframe for implementing a unitary location accuracy standard for outdoor calls. The *Third Further Notice* also seeks comment on whether CMRS providers should track and periodically report information regarding the percentage of wireless calls to 911 that include E911 Phase II information, and conduct periodic compliance testing for both indoor and outdoor calls. The *Third Further Notice* also seeks comment on whether CMRS providers should track and periodically report E911 call information also seeks comment on what safeguards should be implemented to ensure that CMRS providers' confidential information is protected in relation to reporting requirements. The *Third Further Notice* also seeks comment on whether to adopt a process by which PSAPs or state 911 administrators could raise complaints or concerns regarding the provision of E911 service. Many of the foregoing requirements will likely require the use of professionals for compliance, *e.g.,* engineers and attorneys.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

199. The RFA requires an agency to describe any significant, specifically small business alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into

account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) and exemption from coverage of the rule, or any part thereof, for small entities.''

200. The *Third Further Notice* analyzes a variety of possible means of implementing various near- and long-term E911 location accuracy requirements, without imposing undue costs or regulatory burdens. The *Third Further Notice* recognizes that the implementation of any indoor location accuracy requirements will impose costs on CMRS providers and seeks comment on the ways in which any implementation requirements could be designed to mitigate those costs to the extent possible, without sacrificing important public safety objectives. The *Third Further Notice* seeks comment on how we different approaches may affect smaller CMRS providers and whether there are particular measures the Commission should take to minimize the potential burdens on these smaller providers. The *Third Further Notice* seeks comment on a wide range of questions that will enable the Commission to weigh the costs and benefits of its proposals, including whether to establish any exceptions for smaller wireless providers. The *Third Further Notice* suggests that costs of compliance are likely to be mitigated by the fact that providers are already undertaking various indoor location technology research and development efforts for their own commercial, non-911 related purposes.

201. The *Third Further Notice* proposes to offer CMRS providers flexibility in implementing the indoor location requirements. For example, the *Third Further Notice* proposes to allow CMRS providers to implement whatever location technology it chooses, and foresees that providers may implement different solutions to determine a caller's indoor location, each of which may present unique costs. The *Third Further Notice* seeks comment on the technical feasibility and specific challenges of its various proposals. The *Third Further Notice* also seeks comment on whether, in order to increase flexibility for CMRS providers, the Commission should adopt a specific waiver process for those providers who seek relief from our indoor location accuracy requirements. In addition, the *Third Further Notice* seeks comment on any other alternative approaches that would enable the Commission to focus the application of indoor location requirements in the most effective and cost-efficient way possible, and asking for possible voluntary approaches agreed upon between CMRS providers and public safety as an alternative to regulation. These or other alternatives in the comment record can help to reduce the compliance burden on small businesses.

202. The *Third Further Notice* also seeks comment on various Phase II E911 delivery issues. For example, the *Third Further Notice* seeks comment on requiring CMRS providers to satisfy a unitary E911 location accuracy standard (for outdoor calls) within an expedited timeframe. In doing so, the *Third Further Notice* seeks comment on how expediting the timeframe towards more granular location accuracy standards may affect smaller CMRS providers, and specifically seeks comment on the implementation timeframe, as well as the sufficiency of the Commission's existing waiver process to provide relief.

203. The *Third Further Notice* also invites industry and public safety stakeholders to collaborate to identify alternative proposals for improving indoor location accuracy, including a consensus-based, voluntary proposal to address the public safety goals detailed in this proceeding. Finally, the proposals in the *Third Further Notice* do not become effective until after the Commission seeks comment and adopts an order implementing them. We seek comment on the effect of the various proposals described in the *Third Further Notice,* as summarized above, will have on small entities, and on what effect alternative rules would have on those entities.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

204. None.

VII. Ordering Clauses

205. *It is further ordered,* pursuant to sections 1, 2, 4(i), 7, 10, 201, 214, 222, 251(e), 301, 302, 303, 303(b), 303(r), 307, 307(a), 309, 309(j)(3), 316, 316(a), and 332, of the Communications Act of 1934, 47 U.S.C. 151, 152(a), 154(i), 157, 160, 201, 214, 222, 251(e), 301, 302, 303, 303(b), 303(r), 307, 307(a), 309, 309(j)(3), 316, 316(a), 332; the Wireless Communications and Public Safety Act of 1999, Public Law 106–81, 47 U.S.C. 615 note, 615, 615a, 615b; and section 106 of the Twenty-First Century Communications and Video Accessibility Act of 2010, Public Law 111–260, 47 U.S.C. 615c, that this *Third Further Notice of Proposed Rulemaking* is hereby *adopted.*

206. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Third Further Notice of Proposed Rulemaking,* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 20

Communications common carriers, Communications equipment, Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed rules

For the reasons set forth in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 20 as follows:

PART 20—COMMERCIAL MOBILE SERVICES

■ 1. The authority citation for Part 20 is revised to read as follows:

Authority: 47 U.S.C. 151, 152(a), 154(i), 157, 160, 201, 214, 222, 251(e), 301, 302, 303, 303(b), 303(r), 307, 307(a), 309, 309(j)(3), 316, 316(a), 332, 615, 615a, 615b, 615c.

■ 2. Section 20.18 is amended by removing paragraph (h)(3), redesignating paragraphs (i) through (n) as paragraphs (l) through (q), adding new paragraphs (i) through (k), and revising newly redesignated paragraph (m)(l) to read as follows:

§ 20.18 911 Service.

* * * * *

(i) *Indoor Location Accuracy for 911 and testing requirements.* CMRS providers subject to this section must provide to the designated Public Safety Answering Point the location of 911 wireless calls, based on indoor measurements, within 50 meters (by longitude and latitude) no later than two years from [the effective date of the adoption of this rule], and, within 3 meters (vertical height) no later than three years from [the effective date of the adoption of this rule], for 67 percent of all such calls. No later than five years from the [effective date of the adoption of this rule], CMRS providers must comply with the 50 meter (by longitude and latitude) accuracy requirement and the 3 meter (vertical height) accuracy requirement, for 80 percent of all such calls. CMRS providers shall satisfy these indoor location accuracy standards on a PSAP-level or county-level basis, and may demonstrate compliance by either:

(1) Participating in an independently administered test bed program that includes a sampling of different

environments that is representative of real-life indoor call scenarios, employs the same technology or technologies actually employed in their networks, and relies on tests of how the technology or technologies will actually be so employed; or

(2) Using alternative testing methods, provided that CMRS providers demonstrate that their methodology and testing procedures are at least equivalent to the testing methodology and procedure standards used in the independently administered indoor location accuracy test bed under paragraph (i)(1) of this section.

(j) *Latency (Time to First Fix).* For purposes of measuring compliance with the outdoor location accuracy standards of paragraph (h) of this section and the indoor location accuracy standard of paragraph (i) of this section, a call will be deemed to satisfy the standard only if it provides the specified degree of location accuracy within a maximum period of 30 seconds (''Time to First Fix''), as measured at the location information center of the E911 network. For such purposes, CMRS providers may exclude 911 calls of a duration of 10 seconds or less.

(k) *Confidence and uncertainty data:* CMRS providers subject to this section shall provide for all wireless 911 calls, whether from outdoor or indoor locations, x- and y-axis (latitude, longitude) confidence and uncertainty information (C/U data) on a per-call basis upon the request of a PSAP. Such C/U data shall specify

(1) The caller's location within a specified confidence level, and

(2) The radius in meters from the reported position at that same confidence level. All entities responsible for transporting confidence and uncertainty between wireless carriers and PSAPs, including LECs, CLECs, owners of E911 networks, and emergency service providers, must enable the transmission of confidence and uncertainty data provided by wireless carriers to the requesting PSAP.

* * * * *

(m) * * *

(1) *Generally.* The requirements set forth in paragraphs (d) through (k) of this section shall be applicable only to the extent that the administrator of the applicable designated PSAP has requested the services required under those paragraphs and such PSAP is capable of receiving and utilizing the requested data elements and has a mechanism for recovering the PSAP's costs associated with them.

* * * * *

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